

PENAL CODE
OF THE STATE OF ERITREA

2015

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CODIFICATION OF THE PENAL CODE OF THE STATE OF ERITREA

The Government of Eritrea mandated the Ministry of Justice to draft a Penal Code for the State of Eritrea. The Ministry, to which the drafting and codification of laws is entrusted under Article 2(4)(5) of Legal Notice 14/1993, commenced the drafting process by assembling a team of international experts in the field of criminal law to work in tandem with a national Law Reform Committee composed of Eritrean legal professionals. The Law Reform Committee was instructed to prepare a draft code that was concise, accessible and consistent with the values and aspirations of the Eritrean people.

Countless meetings, correspondences, and studies of both customary law and practice in Eritrea and the experience of other nations culminated in the production of a preliminary draft penal code. Following the submission of the draft, the Ministry of Justice convened the principal stakeholders engaged in the administration of the criminal justice system in order to solicit comments and suggestions on the draft document.

This was followed up with a series of meetings involving Judges, Public Prosecutors, attorneys, law lecturers, police officials and other legal professionals before being presented for discussion and input at various consultative meetings.

As with all systems of law, this penal code will be amended and updated from time to time to be reflected in the society at large. But there can be little doubt that it provides a solid foundation for ensuring a secure, stable and peaceful Eritrea.

Fawzia Hashim
Minister of Justice
15 May 2015

PRELUDE

The Penal Code that was imposed on the Eritrean people more than half a century ago was alien to the values and traditions of the Eritrean society. That same Penal Code, has, however, remained the principal penal statute in Eritrea with the enactment of Proclamation No. 3/1991 which made modest efforts to introduced amendments to it and enacted same as the Transitional Penal Code of Eritrea.

We now have taken sufficient time to enact laws reflecting the values and norms of our society and enjoy the freedom to measure the advancement of our laws in light of contemporary world affairs. In this regard, therefore, it was inexorable that a new Penal Code rectifying the aforementioned gaps be put in place.

First and foremost, Eritrea is renowned for being a treasure-nation of age-old, self-advanced customary laws. These customary laws embodied, *inter alia*, principles of penal law, based on peaceful settlement of certain criminal acts, that we today have found to be fitting for incorporation into the penal law for independent Eritrea. It was, thus, imperative, over and above the 1991 amendments, that we review the Penal Code which was currently in force, in light of the traditions of our societies as revealed in the customary laws. This required us to embody the workable penal principles of our customary laws into the new Code.

Second, our penal laws needed to contain provisions for crimes sprouting out of advancements in technology and the complexity of human life in the new millennium. Notable in this context are computer crimes, crimes committed against aircrafts and advanced crimes related to narcotics. We had to provide for these and related offences.

Third, a notable feature in our penal laws has been the provision of a single, general definition for the offences without classifying

the offences into various degrees of gravities of their commission thereby creating difficulties in interpretation of the severity of the particular criminal act on trial. To this we had to stratify offences, whenever necessary, by the gravity of their commission.

Fourth, a feature related to the foregoing has been the wide, often very wide, range between the minimum and maximum punishments provided for the offences thereby leading to uneven, unpredictable and subjective sentencing patterns. The classification, in this new Code, of offences by the gravity among themselves and by the gravity of the manner of commission of the respective offences has, however, enabled the establishment of graduated levels of punishments of narrower ranges. Such stratification of punishments into various levels of narrower ranges, a principle also extant in the tradition of our customary laws, is believed to give way to a uniform, predictable and objective sentencing tradition in our benches.

Finally, the incorporation of offences of international impacts into our penal statutes necessitated paralleling the sentences contained in same statutes with the general trend of sentences provided to such offences in the community of nations in order that equivalent sentences may be in any of the nations with appropriate jurisdiction, Eritrea inclusive.

It is with hope, therefore, that it will contribute in securing the peace and order of our country and in establishing an equitable, predictable and consistent criminal justice system discernible by the general public that this *Penal Code of Eritrea* has been enacted.

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ANNEXES TO THE PENAL CODE

PREAMBLE

WHEREAS it is incumbent on the People and Government of Eritrea, as cemented in our values and traditions, to strive for the respect of law and order;

WHEREAS the prevention of crimes constitutes the provision of order, peace and security for the people of Eritrea;

WHEREAS it behooves upon us that justice and the respect of the integrity of the law abiding public shall be served by due punishment and just treatment of those who engage in criminal acts; and

WHEREAS the punishments provided by our criminal laws shall be equivalent to the varying gravity of the respective offences while at the same time similar offences shall carry similar punishments;

NOW, THEREFORE, it is issued as follows.

PENAL CODE OF THE STATE OF ERITREA

PART I - THE GENERAL PART

BOOK I - OFFENCES AND THE OFFENDER

Chapter 1. - Scope and Application

Art. 1. - Short Title and Repeal.

This Code may be cited as the *Penal Code of the State Eritrea*. The Transitional Penal Code of Eritrea is hereby repealed and replaced by this Penal Code of Eritrea.

Art. 2. - Purpose.

The purpose of criminal law is to ensure order, peace and the security of the State and its inhabitants.

This Code aspires at the prevention of offences by giving due notice of the offences and respective penalties prescribed by law and should this be ineffective by providing for the just treatment and punishment of offenders.

This Code aims at providing an effective, fair and reasonably uniform sentencing system by providing punishment proportional to the severity of offences.

Art. 3. - Entry into Force.

This Code shall come into force on the date of its publication in the *Gazette of Eritrean Laws* and, except as provided in Article 4, applies only to offences committed wholly or partly after that date.

Art. 4. - Transition.

- (1) Any offence committed wholly on a date or dates before this Code enters into force shall be prosecuted according to the law in force at the time of the offence, except that where the penalty for the offence under this Code for the same conduct is less severe an accused person shall have the benefit of the lesser penalty where found guilty of the offence
- (2) Upon the coming into force of this Code punishments shall be enforced as provided in this Code. This shall apply to the recovery of fines and the conditional release of prisoners.
- (3) Any conviction and punishment imposed for an offence committed wholly on a date or dates before this Code enters into force but that is no longer an offence under this Code shall no longer be enforceable and shall cease to have any effect. However where a sentence has been passed for the breach of a criminal law enacting a prohibition or an obligation limited to a given period of time for special reasons of a transitory nature, the expiration of the said period shall not bar the enforcement of the punishment, nor shall the prosecution be barred by such expiration.
- (4) Any period of limitations applicable to the right to prosecute and to enforce a penalty under this Code shall apply to offences committed prior to this Code coming into force. The time elapsed prior to the effective date of this Code shall be taken into account.
- (5) All offences that, under previous legislation were prosecuted upon preference of charges will be barred from prosecution, where such preference is

not exercised within a period of two years after the coming into force of this Code.

- (6) A prisoner who is undergoing a punishment at the time of the coming into force of this Code is found guilty of an earlier offence that remained unknown and was punishable by a penalty entailing loss of liberty the Court shall pass an aggregate sentence in accordance with the provisions relating to retrospective concurrence and shall take into account the provisions regarding the application of the more favourable law in sub-Article (1).

Art. 5. - Application to Other Laws.

- (1) Except as otherwise provided by this Code or any other Proclamation, the provisions of the General Part of this Code shall apply to all offences in this Code or any other law.
- (2) With respect to any offences established by any other law:
 - (a) the definition of the offences and the class thereof shall be that provided for the offences in this Code, if the offences are contained in Part II of this Code; and
 - (b) the respective penalties to be provided for the offences shall be set in the form of classes described in Article 65 hereof if the offences are not contained in Part II of this Code.

Art. 6. - Definitions and References.

- (1) In this Code:
- (a) “**agent**” means any person employed by or acting for another person or public or private entity or body;
 - (b) “**adulteration**” means to make goods, including medicines, impure or inferior in quality or standard, or to substitute, omit or abstract in whole or in part of any constituent of a product;
 - (c) “**bodily injury**” means physical pain, illness or any impairment of physical condition;
 - (d) “**building**” means an entire building or a structure or part thereof, whether portable or not, and its adjacent facilities;
 - (e) “**clergyman**” means a religious servant in any faith ordained to administer religious services;
 - (f) “**contaminate**” or “**contamination**” means to introduce or allow the introduction of any substance into air, water, land, medicine, medical equipment or goods, which is or can be injurious to the health of people, animals or plants;
 - (g) “**corruptly**” means acting out of a wrongful design to acquire for oneself or another some pecuniary or other advantage;
 - (h) “**deception**” means any deceit, falsehood or other fraudulent means by a person

through words or other conduct, as to fact or as to law, including: (i) a deception either by misleading statements, or by misrepresenting his status or situation, or by concealing facts which he had a duty to reveal; (ii) taking advantage of another person's erroneous beliefs; or (iii) conduct by a person that causes a computer system or any machine to make a response that the person is not authorized to cause it to do;

- (i) “**drug**”, unless the context dictates otherwise, means narcotics;
- (j) “**dwelling**” means a building or a structure or part thereof, whether portable or not, used, adapted or designed for habitation;
- (k) “**explosives**” means anything or any part thereof, used or intended to be used or adapted to cause or aid in causing an explosion and includes incendiary devices and imitations of explosives;
- (l) “**firearms**” means any barreled weapon from which any shot, bullet or other projectile can be discharged that is capable of causing serious bodily injury or death to a person and includes any frame or receiver of such a barreled weapon, anything that can be adapted for use as a firearm, and imitation firearms;
- (m) “**goods**” means any substance, whether or not for human consumption, natural or manufactured, and whether or not incorporated or mixed with other goods;

- (n) **“kidnapping”** or **“enforced disappearance”** means the unlawful seizure and removal of a person from one place to another, or the unlawful confinement of a person for a substantial period in a place of isolation;
- (o) **“looting”** means taking of property during the occasion of the breakdown or absence of duly constituted authority or on the occasion of a disaster;
- (p) **“minor”**, unless the reference to age expressly provides otherwise, means a natural person of under eighteen years of age;
- (q) **“motor vehicle”** means a vehicle that is drawn, propelled or driven by any means other than muscular power of a human being or animal, and includes railway equipment;
- (r) **“person”** means, as the context dictates, a natural or a legal person;
- (s) **“principal”** includes an employer and any public or private entity or body;
- (t) **“property”** includes anything of value, including personal and real property, tangibles and intangibles, contract rights, interests in or claims to wealth, admission or transportation tickets, credit cards, captured or domestic animals, crops, food and drink, electric, gas or other forms of power or utilities;

- (u) “**property belonging to another**” includes property, which any person owns, has any other proprietary right or interest in, or possesses or controls, and which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property;
- (v) “**public official**” means any member of the Legislative, Executive or Judicial branches, or any officer, employee or person acting, even if temporarily, in any official function, whether paid or not, for or on behalf of the Government of Eritrea, or any subdivision thereof, or for or on behalf of any other municipal, local, or other public agency, department or branch of government;
- (w) “**relative**” means blood relatives up to the seventh degree and as regards relation by affinity it shall be up to the third degree;
- (x) “**serious bodily injury**” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or loss or protracted impairment of the function of any bodily member or organ;
- (y) “**services**” includes labor, professional service, transportation, postal, telephone, telecommunication, power service whether gas, steam, electrical or from another energy source, water or any other public service, computer service, accommodation in hotels, restaurants or elsewhere, admission to movies, exhibitions or any

event charging admission, or use of vehicles or other movable property;

(z) “**telecommunications**” means any transmission, emission or reception of signs, signals, writing, images or sounds, or information of any nature by wire, radio, visual or other electro-magnetic system;

(aa) “**weapon**” means anything used, designed to be used or intended for use (a) in causing death or injury to any person, or (b) for the purpose of threatening or intimidating any person, and includes real and imitation weapons.

(2) In this Code references to any gender shall be interpreted to also apply to the opposite gender.

Chapter 2. - Principles of Criminal Liability

Art. 7. - Principles of Legality.

(1) No person shall be found guilty for conduct that, at the time of the conduct, was not prohibited by law. Courts may not impose penalties or measures other than those prescribed by law. Nor may a punishment not prescribed at the time of the commission of the offence be imposed.

(2) Courts may not create offences by analogy. However, nothing in this Article shall prevent interpretation of the law. In cases of doubt, Courts shall interpret the law according to its spirit and purpose, in accordance with the meaning intended by the legislature. A provision of this Code that is unclear and is capable of more than one reasonable

interpretation shall be interpreted in favour of the accused.

- (3) No person shall be tried for an offence if he has previously been finally acquitted of the same offence, and no person shall be tried or punished for an offence if he has previously been finally convicted of and punished for the same offence.

This principle shall be construed as contained in Article 6 of the Criminal Procedure Code of Eritrea.

- (4) No person shall be found guilty or sentenced for any offence unless the prosecution has proved at trial the guilt of that person beyond a reasonable doubt, or unless the court is satisfied that the person has voluntarily pleaded guilty for which the Court has determined that there is a factual basis.
- (5) No person accused of an offence shall be required to prove at trial any fact that is sufficient for acquittal, except where expressly provided by this Code or any other Proclamation.
- (6) Criminal law applies equally to all persons and no person may be discriminated against on account of race, ethnic origin, language, colour, gender, religion, disability, age, political view, or social or economic status.
- (7) No person accused of any offence punishable by criminal law shall be tried by any person or institution other than Courts constituted by law and no person convicted of committing an offence shall suffer any punishment other than those described in this Code. Unless otherwise expressly provided by law, no person other than Courts

constituted by law may, for any offence committed in violation of penal law, impose the penalties described in this Code.

Art. 8. - Principle of Personal Liability.

A person is only responsible for his conduct unless expressly provided otherwise in this Code.

Art 9. - Principle of Criminal Fault.

A person is responsible only for conduct committed with the element of fault required in the definition of the offence, unless otherwise expressly provided in this Code or another law.

Chapter 3. - Elements of Criminal Responsibility

Art. 10. - Elements of Conduct.

The definition of conduct in any offence shall include:

- (a) an unjustified act or omission to perform a duty imposed by law in this Code or any other law;
- (b) a state of affairs or a circumstance in which an unjustified act or omission occurs; or
- (c) a result of an unjustified act, omission or state of affairs.

Art. 11. - Causation.

A person causes a result only where the conduct in the normal course of things brings about its occurrence, and the conduct is not superseded by any other cause that is beyond that person's control, unforeseeable or extremely improbable, and sufficient in itself to produce the result.

Art. 12. - Elements of Criminal Fault.

- (1) No person shall be found guilty for an act penalized by law where it was performed or occurred without there being any criminal guilt on his part and was caused by force majeure, or occurred by accident.
- (2) Except where an offence is expressly defined as an offence of strict liability, the definition of a required element of fault in any offence shall include intent or negligence.
- (3) Unless expressly provided otherwise, the required element of fault in any offence applies to all elements of conduct in the definition of the offence.
- (4) Nothing in this Article shall be a bar to civil proceedings.

Art. 13. - Definition of Criminal Intent.

In this Code and in any other law that defines offences:

- (a) a person intentionally engages in conduct where the person means to engage in the conduct and where, in the case of an omission, the person knows of the circumstances giving rise to a duty to act;
- (b) conduct is engaged in intentionally in respect of a circumstance where the person is aware that the circumstance exists, or is aware that it is likely to exist; and
- (c) conduct is engaged in intentionally in respect of a result where the person engages in the conduct for the purpose of causing the result to occur or with an awareness that the conduct will likely cause the result to occur.

Art. 14. - Guilt in Case of Combination of Offences.

- (1) Where a given offence implying an injury to persons or property, or the use of arms, instruments or dangerous means, fires or explosives, poison or toxic substances, entails an injury whereby the elements constituting a second offence are materialized, whether it is bodily injury, injury to health, death of a human being or the destruction of a third persons property, the Court shall apply the following principles for determining the guilt and the penalty:
 - (a) where the result was intended, or foreseen and accepted by the offender (Article 13(c)), he shall be charged with both the principal offence and the resulting offence and aggravation shall apply in accordance with the relevant provision (Article 67), due regard being had to the combination of the elements constituting the two intentional offences;
 - (b) where the injurious result could and ought to have been foreseen in the circumstances of the case (Article 15) there shall be concurrence between the principal intentional act and the resulting offence due to negligence, and the Court shall increase the penalty accordingly.
- (2) Aggravation shall apply in particular where the criminal result was achieved by means of endangering public security, such as arson, explosion, use of explosives or where communications or public health are in danger as well as in the case of exposure of persons,

maltreatment, duels, abortion, rape or sexual outrages.

Art. 15. - Definition of Criminal Negligence.

- (1) In this Code and in the provisions of any law that defines offences:
 - (a) a person negligently engages in conduct where the conduct is a marked departure from the ordinary standard of reasonable care; and
 - (b) conduct is engaged in negligently in respect of a result or circumstance where it is a marked departure from the ordinary standard of reasonable care to take the risk that the result will come about or that the circumstance exists.
- (2) The standard of reasonable care shall be interpreted with regard to all the circumstances of the case, including the age, experience, education, occupation, rank and any other relevant characteristics of the accused.

Art. 16. - Express Requirement of Negligence.

- (1) Negligence may not suffice as an element of fault in any offence unless expressly provided in the definition of the offence.
- (2) Where proof of negligence is required for conviction, proof of intention will suffice.

Art. 17. - Strict Liability.

- (1) No offence shall be interpreted as an offence of strict liability unless it is expressly defined as such.
- (2) An offence of strict liability is one in which the prosecution need only prove the prohibited conduct and the only defenses available to the accused are that the accused did not commit the prohibited conduct, or that such conduct was beyond the control of the accused.

Chapter 4. - Absence of Criminal Responsibility

Art. 18. - Age of Responsibility.

Subject to Articles 100 and 101, no person shall be convicted of an offence committed while he was under twelve years of age.

Art. 19. - Involuntary Conduct.

- (1) Unless otherwise expressly included in this Code, no person shall be found guilty where that person's conduct was beyond his physical control for any reason that would cause an ordinary person to engage in the same conduct.
- (2) This Article does not apply where the conduct was beyond the person's control by reason of his negligence or self-induced intoxication.

Art. 20. - Intoxication.

- (1) It is not a defense that a person who engages in conduct specified in the definition of an offence lacked the required element of fault by reason of intoxication, except as described in sub-Article (2).

- (2) No person who lacks the required element of fault by reason of intoxication resulting from fraud, compulsion or reasonable mistake shall be found guilty.

Art 21. - Mental Impairment.

- (1) No person shall be found guilty where, by reason of mental impairment at the time of the relevant conduct, the person was incapable of appreciating the nature or consequences of the conduct or of appreciating that the conduct was wrong.
- (2) Where the Court finds that by reason of mental impairment at the time of the relevant conduct, the person is not fully capable appreciating the nature or consequences of the conduct or of appreciating that the conduct was wrong, the Court shall unrestrictedly reduce the penalty (Article 66).
- (3) Where, for purpose of the determinations under sub-arts (1) and (2), there is doubt as to the ability of the person's appreciation, the Court shall obtain expert evidence as described in the Evidence Code of Eritrea.
- (4) The expert evidence shall describe the diagnosed condition of the accused person at the time of the act in issue in relation to his present condition and the effect of the impairment in issue upon his faculties of judgment and free determination as well as explain the expediency and the nature of medical treatment or safety measures.

Art. 22. - Limitation on Consent.

The consent of the victim to the commission of a criminal offence against himself or a right he possesses does not relieve the offender of criminal liability.

Art. 23. - Mistake of Fact.

- (1) No person shall be found guilty whose conduct is not accompanied by the required element of fault by reason of mistake or ignorance as to relevant circumstances.
- (2) Sub-Article (1) shall not apply where the required element of fault is negligence and the person's mistake or ignorance results from that person's negligence.
- (3) Mistake as to a fact that constitutes a specified offence shall not exclude the punishment of the doer for another offence constituted by the act performed.
- (4) The offence is committed where there is a mistake as to the identity of the victim or the object of the offence.

Art. 24. - Ignorance of the Law.

- (1) Except where knowledge of the law is specifically required in the definition of an offence, ignorance of the law is not a defense.
- (2) Notwithstanding sub-Article (1), no person shall be found guilty where he engages in conduct by reason of a lack of knowledge of or mistake as to the law that reasonably results from:

- (a) the non-publication of a rule of law; or
 - (b) the advice of a competent official or administrative authority.
- (3) The person who committed the breach of the law shall remain civilly liable for the injury caused.

Art. 25. - Absolute Coercion

- (1) No person shall be found guilty where he commits an offence under an absolute physical coercion that he could not possibly resist.
- (2) The person who exercised the coercion shall be held criminally liable for the offence (Article 37(1)(c)).
- (3) Where the coercion was of a moral kind, the Court may unrestrictedly reduce the penalty (Article 66) or may impose no penalty.

Art. 26. - Resistible Coercion

- (1) Where the coercion was resistible and the person concerned was in a position to resist the coercion or avoid committing the act, he shall, as a general rule, be punishable.
- (2) The Court may however, reduce the penalty unrestrictedly (Article 66) taking into consideration the circumstances of the case, in particular the degree and nature of the coercion, as well as personal circumstances and the relationship of strength, age or dependency existing between the person who was subjected to coercion and the person who exercised it.

Art. 27. - Necessity.

- (1) No person shall be found guilty where he engages in conduct in order to avoid, death or immediate serious bodily injury to himself or to another person or damage to property, where such injury or damage:
 - (a) substantially outweighs the injury or damage resulting from the conduct; and
 - (b) could not have been avoided by using other means that would have resulted in less injury or damage.
- (2) Sub-Article (1) does not apply where the person intentionally kills or inflicts serious bodily injury on another person.

Art. 28. - Excess of Necessity.

Where the abandonment of the threatened right could reasonably have been required in the circumstances of the case or where the encroachment upon the third party's rights exceeded what was necessary or where the doer, by his own fault, himself in the situation involving danger or necessity in which he found himself, the Court may, without restriction, reduce the penalty. (Article 66)

Art. 29. - Self-Defense and Defense of Another.

An act done under the necessity of self-defense or the defense of another person against an imminent and unlawful assault or a threat of an assault directed against a legally protected belonging shall not be punishable where the assault or threat could not have been otherwise averted and where the defense was proportionate to the needs of the case, in particular to

the danger and gravity of the assault and the importance of the belonging to be defended.

Art. 30. - Defense of Property.

- (1) No person shall be found guilty where he is in peaceable possession of property and uses force:
 - (a) to prevent another person from unlawfully taking, or committing a trespass with respect to the property; or
 - (b) to retake the property from a person who has just unlawfully taken it; or
 - (c) in the case of property that is land, to remove a trespasser from the land.
- (2) Sub-Article (1) does not apply where the person:
 - (a) intentionally kills or inflicts serious bodily injury on another person; or
 - (b) uses more force than is reasonable for the purposes described in that subsection.

Art. 31. - Excess in Self- Defense.

- (1) Where a person, in fending off an unlawful assault, exceeds the limits of self-defense by using disproportionate means or by going beyond the acts necessary for averting the danger, the Court shall without restriction reduce the penalty. (Article 66)
- (2) The Court may impose no punishment where the excess committed was due to excusable fear, surprise or excitement caused by the assault.

- (3) Where a person has exceeded strict self-defense, he shall remain civilly liable for the injury caused by his excess.

Art. 32. - Authorized Acts.

A person shall not be punishable for acts required or authorized by law and such acts do not constitute offences in particular:

- (a) acts in respect of public, State or military duties done within the limits permitted by law;
- (b) acts reasonably done in exercising the right of correction or discipline; or
- (c) acts committed in the exercise of private rights recognized by law, where the conditions and limits of the exercise of such rights are not exceeded.

Art. 33. - Professional Duty.

A person shall not be held liable to punishment where in the exercise of his professional duty he acts in accordance with the accepted practice of his profession and does not commit any grave professional fault.

Nothing in this Article shall affect civil liability.

Art. 34. - Responsibility of A Person Giving an Order.

Where an offence is committed upon the express order of a person of higher rank whether administrative or military to a subordinate, and the act did not exceed the order given, the person who gave the order shall be held responsible for the act performed by the subordinate and is liable to punishment.

Art. 35. - Responsibility of the Subordinate.

- (1) A subordinate who has taken out an order to commit an offence shall be liable to punishment where he was aware of the illegal nature of the order or knew that the order was given without authority or knew the criminal nature of the act ordered, such as in cases of murder, arson or any other grave offence against persons or property, essential public interests or international law.

The Court may, without restriction, reduce the penalty (Article 66) where the person who performed the act was moved by a sense of duty dictated by discipline or obedience: the Court shall take into consideration the compelling nature of the duty.

- (2) The Court may impose no punishment where, having regard to all circumstances and in particular to the stringent exigencies of State or military discipline, the person concerned could not discuss the order received and act otherwise than he did
- (3) Where a person intentionally exceeded an order he alone shall be liable for the excess.

Art. 36. - Mistake in Defences.

- (1) No person shall be found guilty where he mistakenly believes in the existence of circumstances that, if it existed, would provide a defense under Articles 24 -32.
- (2) Sub-Article (1) does not apply where the mistaken belief is a result of negligence, or where the belief is formed while in a state of self-induced intoxication.

Chapter 5. - Participation in Offences

Art. 37. - Participants.

- (1) Every person commits an offence where he:
 - (a) actually commits the offence directly or indirectly, for example by means of an animal or a natural force; or
 - (b) without performing the criminal act itself fully associates himself with the commission of the offence and the intended result; or
 - (c) employs a mentally deficient person or a minor for the commission of an offence or knowingly compels another person to commit an offence.
- (2) Where the offence goes beyond the intention of the offender he shall be tried in accordance with Art. 13(3).
- (3) Where several co-offenders are involved they shall be liable to the same punishment as provided by law.

The Court shall take into account the provisions governing the effect of personal circumstances (Article 39) and those governing the award of punishment according to the degree of individual guilt (Article 59).

Art. 38. - Secondary Participants.

Every person who intentionally solicits, encourages, abets, helps, advises, or incites another or others to commit an offence is guilty of an offence and is liable to the punishment prescribed for

the offence that was so furthered, where the offence intended to be committed was committed or where any other offence was committed that he was virtually certain would be committed in the furtherance of the intended offence.

Art. 39. - Non-Transmissibility of Personal Circumstances

In case of participation whether as principal or accomplice in an offence each of the participants shall be punished for his own act, according to the extent of his participation, his degree of guilt and the danger that his act and his person represent to society.

Special circumstances or personal incidents or relationships that have the effect of excluding punishment or justify its reduction or increase are not transmissible to another person. They operate to the benefit or the detriment solely of the person to whom they attach.

Art. 40. - Business Organizations.

- (1) With respect to offences requiring intention as the element of fault, a body corporate or business organization is responsible for conduct committed on its behalf by its directors, officers or employees acting within the scope of their authority and identifiable as persons with authority over the formulation or implementation of the organization's policy.
- (2) With respect to offences requiring negligence as the required element of fault, or with respect to offences of strict liability, a business organization is responsible for conduct committed on its behalf by its directors, officers or employees acting within the scope of their authority and identifiable as persons with authority over the formulation or implementation of corporate policy, notwithstanding that no such director, officer or

employee may be held individually liable for the same offence.

Chapter 6. - Attempted Crimes

Art. 41. - Attempts.

- (1) Every person who clearly manifests his intention to commit an offence by intentionally beginning to commit the offence is guilty of an attempt to commit that offence.
- (2) Mere preparation for an offence does not constitute an attempt to commit that offence, unless otherwise expressly provided by law.
- (3) One who tries to instigate or participate in an offence is not punishable for attempt unless that offence is at least attempted.
- (4) There shall be no attempt where the offence is wholly completed.

Art. 42. - Punishments for Attempts.

A Court imposing a punishment for an attempted offence may impose the following punishments:

- (1) For an offence for which the Court, if the offence were committed, would have given the death penalty, a sentence from 15 years up to life imprisonment.
- (2) For an offence for which the Court, if the offence were committed, would have given a sentence of life imprisonment, a sentence from 10 years up to 20 years imprisonment.

- (3) For all other offences, including Class 1 and 2 Serious Offences in which the Court, if the offence were committed, would have given the respective mandatory imprisonment terms, a sentence of up to half of the maximum punishment allowed by law for the class to which that offence belongs.

Chapter 7. - Jurisdiction

Art. 43. - Jurisdiction - Offences Committed On Eritrean Territory.

- (1) This Code applies to offences committed within the territory of Eritrea, which includes:
- (a) the lands and waters of Eritrea, the airspace above them and the seabed and subsoil below them, as determined by law; and
 - (b) any Eritrean vessel or aircraft, wherever it is located.
- (2) An offence is committed within the territory of Eritrea where the act or omission constituting the element of conduct of the offence is committed wholly or partially in Eritrea, or where a result of the offence occurs in Eritrea.

Art. 44. - Jurisdiction - Offences Committed Outside of Eritrean Territory.

Eritrean Courts have jurisdiction with respect to any offence that is committed outside of Eritrea where:

- (1) the offence is a Serious Offence in Eritrea, and is committed by an Eritrean citizen, a permanent resident of Eritrea, or by a person present in Eritrea after the commission of the offence;

- (2) the offence is a Serious Offence in Eritrea, and is directed against the Eritrean State, an Eritrean citizen, a permanent resident of Eritrea, or an internationally protected person in the service of Eritrea, or a member of the protected person's family;
- (3) the offence is committed against a private ship or aircraft, or against a person or property on board such ship or aircraft, and
 - (a) at the time of the offence the ship or aircraft is outside the territorial jurisdiction of any State; or
 - (b) the ship or aircraft arrives in Eritrea with the alleged offender on board;
- (4) the offence is an offence in Eritrea and under the laws of the place where it is committed, and is committed by an employee of the Government of Eritrea, a member of the Eritrean Police, or a person who is serving abroad in the Eritrean Armed Forces, or a family member living in the same household as one of these persons;
- (5) the offence is one defined by Articles 215 (Counterfeiting), 370 (Aggravated Forgery) with respect to an Eritrean passport, a certificate of Eritrean citizenship or Eritrean currency, 378 (Trafficking in or Manufacture of Large Commercial Quantity of Controlled Drugs), 379 (Trafficking in or Manufacture of Commercial Quantity of Controlled Drugs), and 380 (Trafficking in or Manufacture of Controlled Drugs), or is one to which Eritrean Penal Law is made applicable by express provision or by an

international agreement signed and ratified by the State of Eritrea.

Art. 45. - Limitation on Punishment.

In all cases where jurisdiction is established under Article 44, a punishment for an offence executed abroad, in whole or in part, when followed by a conviction in this country for the same offence, shall be deducted from the punishment imposed by the Eritrean Courts.

Chapter 8. - Limitations on Prosecutions

Art. 46. - Limitations on Bringing Prosecutions.

- (1) A criminal prosecution shall be barred and may no longer be brought unless it is instituted:
 - (a) within thirty years of the commission of a Class 1 through Class 5 serious offence;
 - (b) within twenty years of the commission of a Class 6 and 7 serious offence;
 - (c) within fifteen years of the commission of a Class 8 and 9 serious offence;
 - (d) within ten years of the commission of a Class 1 petty offence;
 - (e) within five years of the commission of a Class 2 petty offence; or
 - (f) within three years of the commission of a Class 3 petty offence.
- (2) The limitation period shall begin to run from the day on which the offender first exercised his

criminal activity and where the criminal activity occurred over a period of time, the limitation shall begin to run on the last day that this activity was committed.

- (3) Any act of prosecution accepted by a Court terminates the period of limitation.

Art. 47. - Suspension of Limitation on Bringing Prosecutions.

- (1) The period of limitation shall be suspended so long as criminal prosecution cannot commence and continue under the law.
- (2) Where the preferring of charges is required for criminal prosecution, lack of such complaint shall not suspend the period of limitation.

Art. 48. - Limitations on Executing Punishments.

- (1) Final punishments that have not been executed shall not be enforceable when the following time periods have lapsed:
 - (a) thirty years for a death sentence or imprisonment for life;
 - (b) twenty years for any sentence of imprisonment of more than ten years and less than imprisonment for life;
 - (c) ten years for any sentence of imprisonment of one year and less than ten years; or
 - (d) five years for any other penalty.
- (2) The period of limitation shall run from the day on which the judgment becomes final and enforceable.

When the offender was granted the benefit of a suspension of the penalty, the period shall run from the day the suspension was cancelled and the penalty ordered.

Chapter 9. - Discontinuance and Extinction of the Prosecution and the Penalty

Art. 49. - Right of Complaint or Accusation in General

Prosecution with a view to a judgment and the enforcement of the penalty is a public proceeding and is instituted by the Attorney General in all cases where the law does not otherwise expressly provide. Prosecution by the Attorney General does not exclude the right of denunciation of offences to the public authority.

These formalities set in motion the public prosecution in accordance with the provisions of the Criminal Procedure Code.

Art. 50. - Offences Depending Upon a Formal Complaint

Where the law in the Special Part of this Code or in any other law defines in a restrictive manner offences that may be prosecuted only upon the preferring of charges by the injured or aggrieved person or those claiming under him, the Court has no power to try the offence and a penalty cannot be pronounced in default of this condition precedent.

Art. 51. - Right to Preferring of Charges.

Any person who is responsible and eighteen years of age and is injured by an offence is entitled to preferring of charges. Where the injured person is an infant or a person of unsound mind and incapable of suing or being sued, his right to preferring charges shall be exercised by his legal representative.

Where the injured person dies before he was able to preferring charges without having expressly renounced so to do his right to preferring charges shall pass to his next of kin. Where he renounces his right and understands the effect of such renunciation, such renunciation shall be final.

Art. 52. - Collective Complaint.

Where several persons were injured by the same offence each of them has the right to preferring charges either collectively or individually.

Art. 53. - Time within Which to Preferring Charges and Formalities.

- (1) The preferring of charges must be lodged with the appropriate authority as defined in the Criminal Procedure Code within three months from the day when the injured person knew of the criminal act or the offender.

Upon expiration of this period of time he shall be deemed to have renounced so doing unless he was materially incapacitated from acting, and the preferring of charges shall not be entertained.

Where a charge is not preferred owing to material incapacity, the period of three months shall run from the day on which the incapacity ceased to exist.

- (2) The formalities to be observed for the lodging of a complaint shall be governed by the provisions of the Criminal Procedure Code.

Art. 54. - Withdrawal of Preferring of Charges.

- (1) Upon withdrawal of a preferring of charges the right to prosecute shall lapse.
- (2) A preferring of charges may be withdrawn at any time prior to the pronouncement of a judgment. Such withdrawal must be effected by means of a formal declaration
- (3) The withdrawal shall be final as regards the facts to which it relates and the complaint may not be renewed.

Art. 55. - Indivisibility

- (1) In the event of several offenders having participated in the same offence the preferring of charges shall be made as one charge and not in parts.
- (2) Where a person so entitled prefers to bring a charge against one of the participants all shall be prosecuted.
- (3) The withdrawal of the charges in respect of one of the participant shall benefit all. The Attorney General may prosecute any offender who expressly objects to the withdrawal and insists on being tried.

Art. 56. - Suspension of Limitation on Executing Punishment.

The period of limitation on executing a punishment shall be suspended so long as:

- (a) the punishment cannot be carried out or continued under the provisions of the law;

- (b) the offender was granted the benefit of the suspension of the punishment and probation or was granted time to make a payment ordered by the Court.

Art. 57. - Death of the Accused, the Offender or the Injured Person.

- (1) The death of the accused shall end the prosecution and, where conviction has already been entered, shall put an end to the enforcement of any punishments against the offender.
- (2) This Article shall not bar the rights of any person to recover any damages against the estate of the accused as permitted under the Civil Code.
- (3) In cases that are prosecuted upon the preferring of charges as contained in Article 51, the death of the victim or his next of kin who exercised the right of preferring of charges under Article 51 shall end the prosecution. Where the conviction has already been entered, all enforcements of any punishment shall cease.

BOOK II – PUNISHMENT

Chapter 1. - General Provisions

Art. 58. - Purposes of Sentencing.

- (1) A criminal offence is punishable where the Court has found the offence proved and deserving of punishment.
- (2) Punishment is intended to ensure the formation of a proper attitude towards work, the legal order, and the rules of social coexistence. It should not cause physical suffering to the offender or degrade his human dignity.

Art. 59. - Proportionality of Sentences.

- (1) A sentence should be proportionate to the gravity of the offence and the degree of responsibility taking into account the dangerousness, antecedents, motive and purpose, personal circumstances and standard of education of the offender, as well as the circumstances of the commission of the offence.
- (2) The sentencing of offenders shall be guided by the principle that similar sentences shall be imposed on similar offenders for similar offences committed in similar circumstances.

Art. 60. - Presumption against Imprisonment.

A Court sentencing an offender should not deprive the offender of liberty, where less restrictive sanctions are allowed and are appropriate in the circumstances.

Art. 61. - Authority of the Court in Determining Sentence.

- (1) Where the law allows for different kinds of punishments to be imposed for conviction of an offence, the Court may, within the limits set by law, impose one or more of the prescribed punishments and determine the amount of each punishment.
- (2) Where the law provides for a mandatory punishment or for a minimum punishment upon conviction of an offence, the Court must impose the mandatory punishment or no less than the minimum punishment, unless the law explicitly provides for an exception to the minimum or mandatory punishment.

Chapter 2. - Authorized Sentences

Art. 62. - Authorized Sentences.

A Court sentencing an offender convicted of an offence may impose one or more of the following punishments:

- (1) a sentence of imprisonment, or when specifically authorized by law, capital punishment;
- (2) monetary punishments, including:
 - (a) a fine;
 - (b) confiscation of property or money;
 - (c) restitution to those injured by the offence;
- (3) community work;

- (4) prohibition from engaging in certain occupations;
- (5) deprivation of rights and privileges;
- (6) admonishments and reprimands;
- (7) restraint; and
- (8) deportation of aliens.

Art. 63. - Classification of Offences.

For purposes of sentencing under this Code or any other law, offences shall be placed in one of the following classifications:

- Class 1 Serious Offence;
- Class 2 Serious Offence;
- Class 3 Serious Offence;
- Class 4 Serious Offence;
- Class 5 Serious Offence;
- Class 6 Serious Offence;
- Class 7 Serious Offence;
- Class 8 Serious Offence;
- Class 9 Serious Offence;
- Class 1 Petty Offence;
- Class 2 Petty Offence; or
- Class 3 Petty Offence.

Art. 64. - Limitations on Capital Punishment.

- (1) A sentence of capital punishment may not be imposed:
 - (a) unless specifically authorized by the law defining the offence and in the absence of any mitigating circumstances; or

- (b) on a person who was under 18 years old at the time of the commission of the offence.
- (2) No sentence of death may be carried out without confirmation of the conviction and sentence by the Supreme Court and without the express confirmation of the Head of State of Eritrea. The Head of State of Eritrea shall have the power to commute any sentence of capital punishment in accord with the procedures contained in Articles 104-105 of this Code.
- (3) A sentence of capital punishment may not be carried out:
 - (a) on a woman who is pregnant or who has a child under three years of age and her sentence shall be commuted to imprisonment for life;
 - (b) on a person who is seriously ill, mentally or physically; or
 - (c) on a person who has not exhausted automatic appeals.
- (4) In cases where the sentence of capital punishment is carried out:
 - (a) it shall be carried out in accordance with the conditions laid down in the order of confirmation of the Supreme Court;
 - (b) the sentence shall in all cases be executed by lethal injection, provided that in the case of members of the armed forces the sentence may be ordered to be carried out by shooting;

- (c) unless the Supreme Court expressly orders otherwise, the sentence shall be carried out within the compound of the prison;
- (d) the defendant shall not be made to suffer any unnecessary cruelties or inhumane treatment attendant to the execution or while awaiting execution; and
- (e) the body of the executed defendant shall be handed over to the defendant's family, or, where there are no relatives to receive the body, a decent burial shall be provided.

Art. 65. - Fines, Imprisonment and Capital Punishment.

Capital punishment, imprisonment and fines may or shall be imposed as follows:

- (a) Upon conviction of a Class 1 Serious Offence, the Court shall sentence the defendant to life imprisonment, or, where specifically authorized by law, to death, or to a definite term of imprisonment of not less than 23 years and not more than 27 years.
- (b) Upon conviction of a Class 2 Serious Offence, the Court shall sentence the defendant to life imprisonment, or, where specifically authorized by law, to death, or to a definite term of imprisonment of not less than 19 years and not more than 23 years.
- (c) Upon conviction of a Class 3 Serious Offence, the Court may sentence the defendant to a definite term of imprisonment of not less than 16 years and not more than 19 years.

- (d) Upon conviction of a Class 4 serious offence, the Court may sentence the defendant to a definite term of imprisonment of not less than 13 years and not more than 16 years.
- (e) Upon conviction of a Class 5 Serious Offence, the Court may sentence the defendant to a definite term of imprisonment of not less than 10 years and not more than 13 years.
- (f) Upon conviction of a Class 6 Serious Offence the Court may sentence the defendant to a definite term of imprisonment of not less than 7 years and not more than 10 years
- (g) Upon conviction of a Class 7 Serious Offence, the Court may sentence the defendant to a definite term of imprisonment of not less than 5 years and not more than 7 years.
- (h) Upon conviction of a Class 8 Serious Offence, the Court may sentence the defendant to a definite term of imprisonment of not less than 3 years and not more than 5 years.
- (i) Upon conviction of a Class 9 Serious Offence, the Court may sentence the defendant to a definite term of imprisonment of not less than 1 year and not more than 3 years.
- (j) Upon conviction of a Class 1 Petty Offence, the Court may sentence the defendant to a definite term of imprisonment of not less than 6 months and not more than 12 months or may impose a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (k) Upon conviction of a Class 2 Petty Offence, the Court may sentence the defendant to a definite term of imprisonment of not less than 1 month and not more than 6 months or may impose a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.
- (l) Upon conviction of a Class 3 Petty Offence, the Court may sentence the defendant to a definite term of imprisonment of not more than 1 month or may impose a fine of 500 - 5,000 Nakfas, to be set in intervals of 100 Nakfas.

Art. 66. - Determination of Sentence.

- (1) In deciding whether to impose a sentence of capital punishment, imprisonment, a fine, or another punishment, in deciding the appropriate term of imprisonment or amount of fine or other punishment within the range allowed or required by law and in deciding whether to suspend a sentence of fine or imprisonment, where such is allowed by law, a Court shall consider the offender's role in the offence as well as any relevant aggravating and mitigating circumstances present in the case. In making its determinations, the Court shall consider each of the aggravating and mitigating circumstances and the weight given to each such circumstance under Annexes II and III of this Code and their relative gravity and impact upon the case or the offender.
- (2) Where the Code, in the General or Special Part hereof, provides that the Court may unrestrictedly reduce the penalty, the Court may sentence the offender to a punishment less than the minimum sentence provided by the provisions of this Code for the class of offences to which that particular

offence belongs, or may impose no sentence at all, provided that in so doing, the Court must set out in writing the specific mitigating factors that support such a determination.

Art. 67. - Aggravating Circumstances.

- (1) Among the aggravating circumstances a Court may consider in sentencing are that:
 - (a) the offender acted together with others in pursuance of a criminal agreement, or as a member of a gang organized to commit offences, and especially where the offender acted as chief, organizer, or ringleader of the criminal activity;
 - (b) the offender knew or reasonably should have known that the victim of the offence was vulnerable or incapable of resistance by reason of age, health, disability, or for any other reason or where the offender's exhibited lack of remorse or concern for the victim;
 - (c) the offender was motivated by bias, prejudice or hate based on religion, national or ethnic origin, language, sex, or race, or otherwise acted out of a base or evil motive;
 - (d) the offender was in an official position or other position of trust and abused his powers or authority;
 - (e) the offender committed the criminal activity through minors or mentally deficient persons or through persons who did not

know the criminal nature of the act at the time of its commission;

- (f) the offender intentionally obstructed or impeded the investigation, gathering of evidence or prosecution of the offence; and
- (g) the offender has a substantial history of prior criminal convictions.

(2) The Court may rely on any other aggravating factors that are supported by evidence and that are relevant in determining the sentence, but before imposing the sentence the Court shall record those circumstances and the evidence upon which they are based.

(4) When the law, elsewhere in this Code or in any other provision, has already taken an aggravating circumstance into consideration as a constituent element or as a factor in aggravation of an offence, a Court may not take this aggravation into account again in determining the sentence.

(5) The Court shall, by direction of the Aggravating Circumstances Chart in Annex II to this Code, determine the penalty within the limits specified in the relevant provisions of the Special Part, taking into account the nature and the multiplicity of grounds of aggravation, as well as the degree of guilt of the offender, if necessary by going to the extent of imposing the maximum sentence enacted. Where circumstances warrant such maximum is binding upon the Court.

Art. 68. - Mitigating Circumstances.

- (1) Among the mitigating circumstances a Court may consider in sentencing are:
 - (a) the offender has manifested sincere repentance for the criminal activity, especially by seeking to aid the victim, surrendering to the authorities, voluntarily assisting the authorities in investigating the offence and apprehending other offenders, or by providing compensation to the victim before being ordered by a Court to do so;
 - (b) the offender committed the offence under some degree of mental impairment, provocation, necessity, defense of self or another, or coercion, although insufficient to constitute a defense under the law;
 - (c) the offender acted under the influence of another person or played only a minor role in the offence;
 - (d) the offender acted in a great distress or under the apprehension of a grave threat or justified fear, or under the influence of a person to whom he owes obedience or upon whom he depends;
 - (e) the offender acted contrary to law for the purpose of not exposing a relative or a person under his care to a criminal penalty, dishonor, or grave injury;
 - (f) the offender's participation in the criminal activity was due to youthfulness, lack of intelligence, a mistake of fact or ignorance

of law, ignorance or simplicity of mind, or that the offender's acts were prompted by honorable or disinterested motives; and

- (g) the offender has no history of prior criminal convictions.
- (2) The Court may rely on any other mitigating factors that are supported by evidence and that are relevant in determining the sentence, but before imposing the sentence the Court shall record those circumstances and the evidence upon which they are based.
- (3) When the law, elsewhere in this Code or in any other provision, has already taken a mitigating circumstance into consideration as a constituent element or as a factor in mitigation of an offence, a Court may not take this mitigation into account again in determining the sentence.
- (4) The Court shall, by direction of the Mitigating Circumstances Chart in Annex III to this Code, determine the penalty within the limits specified in the relevant provisions of the Special Part, taking into account the nature and the multiplicity of grounds of mitigation, if necessary by going to the extent of imposing the minimum sentence enacted. Where circumstances warrant such minimum is binding upon the Court.

Art. 69. - Cumulative Punishment for a Single Act.

Where the same conduct of an accused establishes the commission of more than one offence, an accused may be punished for a violation of each offence committed, except where:

- (a) one offence differs from the other offence only in the respect that it is a lesser included offence;
- (b) one offence consists only of an attempt or preparation to commit the other;
- (c) inconsistent findings of fact are required to establish the commission of the offences;
- (d) the offences differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct; or
- (e) an offence is defined, as a continuing course of conduct and the defendant's course of conduct was uninterrupted.

Art. 70. - Retrospective Concurrence

- (1) Where an offence, committed concurrently with one or several other offences is discovered after the said offences have been tried, the Court shall sentence in accordance with the rules governing aggravation so that the offender be not punished more severely than where all the offences had been tried together.
- (2) The new sentence shall be assessed having regard to the sentence already imposed and it shall run concurrently with the sentence already imposed.

Art. 71. - Imprisonment as Punishment for Multiple Offences.

- (1) In cases where the offender successively committed several offences, or where the offender's acts simultaneously contravened several criminal

provisions, and the Court decides that a sentence of imprisonment must be imposed for more than one of the crimes committed, the Court shall impose a punishment of imprisonment for the most serious offence, and may increase such punishment by the total of the terms of imprisonments imposed for the other concurrent offences, with each such term not exceeding the median of the range set for the respective class of offences to which each such concurrent offence belongs under this Code, provided that, except for the imposition of life imprisonment, the maximum aggregated sentence shall not exceed 27 years of imprisonment.

- (2) The provisions of this Article apply whether or not the concurrent offences are tried together or in different proceedings or at different times.
- (3) For purposes of this Article:
 - (a) if the multiple offences are, for reasons of jurisdiction, charged or being tried at different levels of courts, the court which has jurisdiction over the most serious charge shall, either of its own motion or by the application of the accused or the public prosecutor, have jurisdiction to try all of the charges and impose sentence as provided in sub-Article (1); and
 - (b) if a court before which multiple offences are brought against the same accused orders that the charges be tried separately, the court shall, after imposing sentences for each offence, compute the ultimate sentence as provided in sub-Article (1).

Art. 72. - Imprisonment in Cases of Recidivism.

- (1) When an offender, having been released from custody under a sentence of imprisonment, commits a crime within the specified number of years provided for each class of offences in the Recidivism Chart indicated in Annex IV to this Code, the Court, in addition to aggravating the sentence under Articles 66-67, may increase the sentence within the limits set forth in same Annex. The maximum sentence of imprisonment imposed under this Article alone or in conjunction with Article 71 may not exceed 27 years.
- (2) For purposes of this Article, a sentence served under the laws of another country may be included where the punishment was for a crime that may be punished by imprisonment in Eritrea.

Art. 73. - Conditions of Imprisonment.

- (1) Terms of imprisonment shall be served in facilities established by the State of Eritrea and under such conditions as provided by law.
- (2) The Courts shall supervise the conditions of the prisons and the treatment of prisoners to ensure that:
 - (a) prisoners are treated humanely and afforded opportunities for rehabilitation and development, and shall receive favorable treatment for improved conduct and with the approach of the prisoner's release;
 - (b) prisoners serving sentences for petty offences and youthful prisoners are incarcerated separately from those serving

sentences for serious or violent offences or those who are violent;

- (c) prisoners are incarcerated separately from prisoners of the other sex;
 - (d) prisoners who are able to work are compelled to work, and are afforded the opportunity to work, in tasks suitable to their ability, for such compensation as is deemed reasonable under the law;
 - (e) prisoners are allowed regular visits from family members and friends; and
 - (f) prisoners are not placed in solitary confinement without good cause, and no term of solitary confinement shall last longer than three months; and
 - (g) prisoners are afforded regular medical checkups and provided treatment.
- (3) Upon receiving a report from the Prison Administration indicating that an offender has become mentally impaired or gravely ill, or has acquired a dangerous communicable disease, the Court may order any measures to be taken for the protection and betterment of the offender, including treatment carried out under the supervision of the family.

Art. 74. - Service and Computation of Sentence of Imprisonment.

- (1) An offender shall begin service of any sentence of imprisonment on the day judgment is pronounced, unless ordered otherwise by the Court. Sentences

shall be pronounced in days, months and years. In computing a sentence a day shall be considered a full 24 hours, a month shall be considered 30 days, and a year 365 days.

- (2) Any time spent in custody after arrest and before judgment, whether in jail, prison or medical or psychiatric institution, on the charge for which the offender is being punished or on a concurrent charge for which the offender was jointly tried, shall be fully deducted from any sentence of imprisonment imposed by a Court.

Art. 75. - Conditional Release.

- (1) Offenders sentenced to terms of imprisonment shall be eligible for conditional release after serving 2/3^{rds} of their term of imprisonment. An offender serving a sentence of life imprisonment shall be eligible for conditional release from that sentence after service of 20 years imprisonment on that sentence.
- (2) The decision whether or not to grant conditional release shall be made upon consideration of a report from the Prison Administration, and upon finding that the offender's release will not depreciate the seriousness of his offence, that the offender has restituted, as far as he could reasonably be expected to do, the injured party or agreed with the injured party and that the offender's behavior in prison and efforts towards rehabilitation give rise to the conclusion that, upon his release from prison, the offender will pose no threat to the well-being or safety of the society or of any individuals.

- (3) Any offender released on conditional release shall be placed on probation for the duration of the sentence imposed and shall be subject to terms and conditions, and revocation procedures, as described in Articles 82-87, except that, upon the successful completion of this period of probation, the offender shall not be entitled to have the Police record of his conviction deleted. In the case of an offender sentenced to life imprisonment and found eligible for conditional release, the probation period may not exceed five years.

Art. 76. - Persons to be Informed of Provisions Regarding Conditional Release.

- (1) Offenders shall be informed of the terms and conditions of their possible conditional release upon their conviction and when entering the institution to which they are committed.
- (2) The Director of the Institution shall recommend release of the offender where the conditions for granting release appear to have been fulfilled or shall inform the Court of an offender's application to be released. Such application shall be accompanied by a report from the Director.

Art. 77. - Fines.

- (1) Where permitted in lieu of other authorized punishments, a Court may impose a fine on a convicted offender to the extent allowed by law.
- (2) In fixing the amount of a fine for a particular offence or offences, the Court shall take into consideration the financial situation and family responsibilities of the defendant with a view towards determining his ability to pay any fine

imposed. The Court may require the fine to be paid immediately or allow the fine to be paid periodically or as a condition of probation. A Court should not impose a fine unless it appears that the offender will have the means to pay the fine within the time allowed.

- (3) Any fine levied on an offender shall be extinguished by the death of the offender and shall not be executed against his heirs.
- (4) So long as a fine imposed for a particular offence is within the maximum fine under Article 65 and the factors in sub-Article (2) hereof are considered in light of the total fine imposed, fines imposed for multiple offences may be added together.

Art. 78. - Restitution to Injured Persons.

- (1) Unless the injured party prefers to institute a separate civil action, or unless the offender has fully paid for any damages caused by the offence, a Court sentencing an offender for any offence shall order that restitution be paid to any person injured by the offence, or to those having rights from the person injured, for the injuries suffered. The right of the injured party to institute a civil action shall not be affected by the acquittal or death of the accused.
- (2) Restitution may include the replacement value of any property damaged and loss of income and medical expenses suffered by the person injured, as well as other reasonable expenses and costs directly attributable to the injury caused by the criminal action.

Art. 79. - Priority of Payments.

In the event that the offender's property is insufficient to satisfy both the restitution ordered under Article 78 and fine, confiscation and, forfeiture under Articles 77 and 81, the restitution order shall be given priority.

Art. 80. - Failure to Pay.

- (1) Where an offender does not satisfy an obligation ordered under Articles 65, 77 or 78, a Court shall order the offender to appear before the Court to give reasons why the judgment of the Court has not been satisfied.
- (2) Where the Court finds that the offender through no fault of his own is unable to pay a financial penalty, the Court may extend the time for the payment of the penalty, may convert the financial penalty into a sentence of Community Work as provided in Article 88, or in exceptional circumstances, when through no fault of the offender's there is no reasonable likelihood that the penalty can be paid in the future and the offender is willing but unable to perform Community Work, the Court may cancel the penalty in whole or in part.
- (3) Upon a finding by the Court, after notice and a hearing, that the offender had the means to pay any penalty ordered but willfully failed to do so, or has the ability to perform Community Work ordered in lieu of the fine under sub-Article (2) of this Article but willfully failed to do so, the Court may:
 - (a) re-sentence the defendant to a term of imprisonment within the maximum set for the class of offence to which the offence

belongs under this Code, or where the payment of the penalty was set as a condition of probation, may revoke the probation and execute the suspended sentence as provided under Article 87; or

- (b) where the maximum sentence of imprisonment allowed has already been imposed, sentence the defendant to an additional term of imprisonment of up to 90 days for the willful failure to pay the amount ordered; or
- (c) order the seizure of the property or money of the offender to satisfy the previous judgment of the Court; provided that such money or property that is necessary for the support of the family of the offender for a reasonable period of time or the share of the spouse shall not be seized.

Art. 81. - Confiscation and Forfeiture.

- (1) A Court imposing a sentence shall, whether or not specifically so provided in this Code or other law, order the confiscation and forfeiture to the State of any property used in the commission of the crime for which the offender has been convicted, as well as property or money acquired as a direct or indirect consequence of the crime.
- (2) The offender or other owner of such property shall be provided notice and an opportunity to contest the confiscation and forfeiture. Upon challenge, the prosecution must prove beyond a reasonable doubt that the property was used in the crime or that the property or money was acquired as a direct or indirect consequence of the crime.

- (3) Confiscation and forfeiture shall not be ordered where:
- (a) such money or property is necessary for the support of the family of the offender for a reasonable period of time;
 - (b) such money or property has been transferred to innocent third parties acting in good faith; or
 - (c) such property is facing confiscation or forfeiture because of its use in the commission of the crime, and is the property of one not a party to the crime who did not know that the property was being used in the commission of a crime.
- (4) Any article, confiscated or having been forfeited under this Article and where such article endangers public order, safety, health or decency, shall be ordered by the Court to be destroyed rendered useless, or be handed over to a police or criminological institute.

Art. 82. - Suspension of Sentence and Probation.

- (1) Following the conviction of an offender for a Class 8 or 9 Serious Offence or for a Class 1 or 2 Petty Offence, unless the offender has previously been sentenced to a term of imprisonment or had previously received a suspended sentence for an intentional Serious Offence, or unless otherwise prohibited by law, a Court may, after imposing a sentence of imprisonment or fine, suspend the execution of all or part of that punishment and place the offender on probation for a period of not less than 6 months nor more than five years. In making this determination the Court shall consider

the character, background, and possibility for rehabilitation of the offender and the safety of the public.

- (2) The Court may set such terms and conditions of probation as are reasonably related to the rehabilitation of the offender and the protection of the public, including requirements that the offender:
 - (a) pay a fine;
 - (b) report regularly to a person or persons designated by the Court who agrees or agree to accept this designation;
 - (c) refrain from consuming intoxicating substances or from consorting with certain persons;
 - (d) undergo treatment; or
 - (e) perform community work as provided for in Article 88.
- (3) The Court shall notify the offender of the terms and conditions of probation at the time the sentence is suspended and probation ordered.
- (4) Where the offender has been convicted only of a Petty Offence, has no previous conviction and does not appear dangerous, the Court, after convicting the offender, may suspend the sentence and place the offender on probation. No conviction shall be entered where the offender is placed on probation and does not break the conditions of the probation.

- (5) Where any offender has successfully completed his probationary term and has satisfied all other penalties and conditions set by the Court, the Court shall order the deletion of the entry in the Police record of the successful probationer.

Art. 83. - Placing Under Supervision.

- (1) Where an offender is proved to be dangerous by the gravity or repetition of his criminal acts and who has been sentenced to at least a term of simple imprisonment of one year or to internment in case of repeated offences, the Court may order that the offender be placed under Police supervision or an appropriate rehabilitation institution.
- (2) The Court shall prescribe the period, which shall be from one to five years. The offender who is subjected to supervision may be ordered to report himself either at regular intervals or when summoned to do so.

The supervision should be effected so as not to hinder the offender in the exercise or resumption of his normal activities and way of living.

Art. 84. - Withdrawal of Official Papers.

The Court may, where special reasons relating to supervision or safety require, in addition order the temporary retention or withdrawal of the official papers or passport of the convicted person. The reasons for such a measure and its duration shall be stated in the judgment.

Art. 85. - Guarantee of Good Conduct.

- (1) Where a convicted person indicates his intention to commit a further offence or where it appears likely

that he will commit a further offence as in a case of declared hostility or threat, the Court may require him to enter into a recognizance to be of good behavior together with a surety or sureties.

- (2) The recognizance shall be for a period of from one to five years. The surety shall be in the form of a personal or monetary guarantee.
- (3) The Court shall determine the duration of the recognizance and the value of the guarantee according to the nature and gravity of the threat, and having regard to the personal and material circumstances of the offender or his guarantors.

The recognizance of the guarantee shall be recorded in the judgment.

Art. 86. - Legal Effects

When the probation period specified in the recognizance has elapsed without any offence having been committed the guarantee shall be discharged, the guarantors released and the sums or sureties lodged returned to their owners. Where an offence is committed during the probation period, the surety shall be forfeited to the State or the guarantor would be required to discharge his obligation, without prejudice to the ordinary penalties and measures to which the offender is liable for his offence.

Art. 87. - Revocation of Probation and Execution of Suspended Sentence.

- (1) Where during the term of suspension the offender is convicted of any intentional criminal offence, the Court shall immediately order the offender to show cause why the suspension should not be revoked and, if sufficient cause is not shown, shall

immediately order that the probation be revoked and the sentence previously imposed be executed or, where the suspension was ordered under Article 82(4), that a sentence be imposed.

- (2) Where during the period set by the Court the offender does not follow the rules and conditions ordered by the Court, fails to perform the Community Work as ordered, or commits a negligent offence, the offender shall be warned that the suspension may be revoked.

Where the offender persists in his conduct despite the formal warning, the Court, upon formal notice and after giving the offender an opportunity to be heard, may revoke the suspension and order execution of all or part of the previously imposed sentence. The time spent on conditional release shall not be deducted from the term of the sentence.

Art. 88. - Community Work.

- (1) A Court may offer an offender the choice of performing Community Work as a condition of a suspended sentence and probation or, pursuant to Article 80(2), in lieu of a financial penalty previously imposed which the offender is unable to satisfy. Where the offender refuses the offer of Community Work, the Court shall immediately execute the previously imposed sentence of fine or imprisonment.
- (2) Where the Court offers an offender convicted of an eligible offence the option of performing Community Work as part of his probation in lieu of a financial penalty, the Community Work shall be valued at the prevailing reasonable wage for unskilled laborer per day.

- (3) Where the Court offers an offender convicted of an eligible offence the option of performing Community Work as part of his probation in lieu of imprisonment, the Community Work shall be no longer than 6 months in duration.
- (4) Community Work includes work on projects designed to benefit the welfare of the public and society, including projects to improve education, public lands, public health, public facilities and public roads. Community Work may not confer a benefit to a private individual or business except, as may be incidental to the public benefit.
- (5) Community Work must be performed under humane conditions and the offender may not be required to perform Community Work that will cause a hardship to him.

Art. 89. - Deprivation of Civil Rights.

- (1) In addition to any other punishments allowed by law, the Court shall order that an offender convicted of a Class 1 through Class 7 Serious Offence shall be deprived of those civil rights enumerated in Article 90 for a period of not less than 10 years.
- (2) A Court sentencing an offender for any other offence in which a sentence of imprisonment is imposed may also sentence the offender to a deprivation of civil rights for a period of not less than one nor more than 10 years, upon a determination that the nature and circumstances of the offence justify the deprivation. A Court may sentence an offender to a separate period of deprivation for each crime committed and may add these periods together. Where the Court suspends

the execution of the sentence of imprisonment under Article 82, the Court may suspend the deprivation of civil rights.

- (3) Deprivation of civil rights shall become effective immediately upon final judgment. In the case of a deprivation for a definite time under subsection (2) when the offender is also sentenced to a term of imprisonment, the duration of the deprivation shall be calculated from the final date of the release of the offender from the term of imprisonment, whether upon conditional release, provided he successfully completes this term of conditional release, or upon completion of the sentence of imprisonment.

Art. 90. - Effects of Deprivation of Civil Rights.

A person deprived of his civil rights under Article 89 shall suffer the loss of:

- (1) the right to vote or be a candidate in any public election;
- (2) any elected or appointed public office held by the person; and/or
- (3) any other public positions, honorary positions, decorations, and rank in the armed services held by the person.

The Court shall in its order determine whether the offender shall be deprived of all or some of the civil rights contained in sub-arts. (1) – (3).

Art. 91. - Reinstatement of Civil Rights.

- (1) Upon the expiration of the period of deprivation of civil rights imposed for a time certain under Article 89(2), the offender shall automatically reacquire the rights of which he was deprived.
- (2) In cases of permanent deprivation under Article 89(1), upon the passage of 10 years from the completion of any sentence imposed together with the deprivation, the offender may request that the Court reinstate his civil rights. The Court may reinstate the rights in full or in part upon a showing that for the period since his release from custody, the defendant led a law-abiding life.
- (3) The Court may reinstate an offender's civil rights prior to the expiration of the normal period of time upon finding that the offender committed a notably praiseworthy act in the civil, military or social field.
- (4) Upon reinstatement of his rights the offender is relieved of any forfeitures of rights or privileges, incapacities and disqualifications that had been previously ordered under Articles 89 and 90 and the sentence shall be deleted from his Police record, provided, however, that the offender shall not be entitled to reinstatement of honors, ranks or positions taken away by previous deprivation.

Art. 92. - Prohibition of Certain Occupations and Entitlement to Hold Permit and/or License.

- (1) Where an offender commits a serious intentional offence, or repeatedly commits a negligent offence, by a flagrant violation of the duties of an occupation for which a permit and/or license is required by the authorities, the Court may impose a

disqualification from the exercise of that occupation for a period between 30 days and five years in duration. Such disqualification shall result in the revocation of the permit and/or license for the time of disqualification.

- (2) Where an offender commits an offence by a flagrant violation of activities carried out under the authority of a permit and/or license issued by the authorities, the Court may revoke that permit and/or license for a period of between 30 and 90 days; upon a second conviction of the same nature the revocation may be up to five years in duration; upon a third conviction of the same nature the revocation may be permanent.
- (3) In addition to the penalty imposed upon the offender the Court may order that where the offence committed is a danger to public security, any undertaking or establishment whether commercial, industrial, cultural or political which was utilized to commit or further the commission of an offence shall cease to function, furthermore where the offence has been punished with a sentence of rigorous imprisonment exceeding one year the Court may order its winding up.

Art. 93. - Prohibition from Visiting Certain Places.

- (1) In addition to the penalty the Court may restrain the convicted person from having access to or remaining in certain places that might have contributed to the commission of the offence or may expose the offender to committing fresh offences, in particular public-houses, inns, entertainment halls, markets and other public places.

- (2) The Court shall specify in its judgment the extent and duration of the restraint, which may be from three months to one year.

Art. 94. - Prohibition to Settle Down or Reside in a Place.

- (1) A similar prohibition to Article 93 may be ordered in respect of settlement or residence in a town, village or a specified area.
- (2) The prohibition may be of a permanent or temporary nature having regard to the gravity of the offence, the character of the offender and the circumstances of the case. A temporary prohibition may be for a period of from one to ten years.

The Court shall give reason for its decision and shall specify the territorial area to which the prohibition extends and its duration.

Art. 95. - Obligation to Reside in a Specified Place or Area.

- (1) Where an offender is likely to cause further disturbances or pursue a life of crime, the Court may order the offender to reside in a specified place or area where the likelihood of his committing further offences is lessened.
- (2) The Court shall determine the duration of residence which shall be for not less than one year or more than five years.
- (3) An order shall not be made under this Article where an order under Article 85 will meet the circumstances of the case.

Art. 96. - Additional Punishment for Offences of Public Corruption.

In addition to any other punishment provided by law, a Court sentencing a public official convicted of corruption under Articles 130 and 132, or for a breach of official duty under Articles 142 and 143 shall order that the public official surrender anything which was given as an award or an inducement or pay the State the value of any benefit derived from such award or inducement. In addition, the Court may order that the public official forfeit any public office held by him at the time of his conviction and be prohibited from holding any public office for a term deemed suitable by the Court.

Art. 97. - Expulsion of Aliens.

- (1) Where the convicted offender is an alien and the Court determines that he is undesirable or dangerous, the Court may, in addition to any other punishments allowed by law, order the offender to be expelled from Eritrea, either temporarily or permanently, and may further order that the offender be detained until the expulsion can be effected.
- (2) Nothing in this Article shall affect the provisions of international conventions to which Eritrea is a party.
- (3) The enforcement of an order of expulsion shall be the duty of the competent public authority, acting under lawful regulations, and this authority may determine whether the expulsion shall be carried out before or after the execution of other punishments imposed.

Art. 98. - Punishment for Criminal Violations of Rules and Regulations.

- (1) No person shall be punished for violating any lawfully issued regulation, order, rule or other measure of a governmental authority, unless a criminal penalty is specifically authorized in the legislation containing or authorising the regulation, order, rule or measure.
- (2) Unless the offence is classified otherwise, punishment for violations under subsection (1) shall be a Class 3 Petty Offence.

Art. 99. - Disposition of Defendants Found Not Responsible.

- (1) Where, under Article 21 of this Code, the Court finds that because of a mental impairment an offender is not guilty of any criminal offence, or is guilty but his punishment is unrestrictedly reduced or no punishment is imposed on him, the Court shall determine whether the offender is presently suffering from any mental impairment that causes the offender to be in need of treatment or to be dangerous to the public or to other persons.
- (2) Where the Court determines that the offender is not dangerous to others or the public but is in need of treatment, the Court may order that the offender be provided appropriate supervision or treatment by the proper authorities or that the offender be released into the care and supervision of family members or other appropriate persons.
- (3) Where the Court determines that the offender is dangerous to the public or to other persons, the Court shall order his confinement in a suitable institution.

- (4) An offender confined under sub-Article (3) may not be held for a period of time exceeding the maximum term of imprisonment allowed for the crimes for which he was held not responsible.
- (5) The Court shall review a confinement imposed under sub-Article (3) at least yearly, and may order the offender's release upon finding that the offender is no longer dangerous to the public or others.

Chapter 3. - Punishment of Young Offenders and Irresponsible Persons

Art. 100. - Definitions.

In this Chapter “**young offender**” means:

- (a) a “**child offender**”, who is under twelve years of age at the time of the alleged offence; or
- (b) a “**juvenile offender**”, who is twelve or more years of age and under eighteen years of age at the time of the alleged offence.

Art. 101. - Measures Applicable to Child Offenders.

- (1) A child offender shall not be subject to the punishments prescribed in this Book or elsewhere in this Penal Code, but any of or a combination of the following measures may be ordered by a Court upon finding that a child offender has committed an offence otherwise punishable under this Code:
 - (a) a reprimand or warning;

- (b) the placing of the child offender under the care of his parents or other suitable guardian;
 - (c) the placing of the child offender in a suitable home especially established for the care of children;
 - (d) upon a finding of a need for medical, emotional or mental treatment, placement of the child offender under the care of a professional qualified to provide such treatment; and
 - (e) other measures in respect to the living and up-bringing of the child offender that will aid in the reformation of the child offender.
- (2) Any measures ordered under sub-Article (1) shall be reviewed periodically by the Court and any measures that have not been discharged shall terminate automatically when a young offender reaches the age of eighteen.
- (3) A finding that a child offender has committed a criminal offence shall not be considered a criminal conviction.
- (4) A child offender shall, unless it is impossible to do so, remain in the custody of his parents or other responsible adult, until he is brought before the Court.

Art. 102. - Treatment of Juvenile Offenders Who Do Not Require Deterrence or Reformation.

- (1) Where, from the circumstances under which the offence was committed and the character and background of the offender, the Court finds that a

juvenile offender convicted of any offence does not require criminal punishment to deter him from the commission of further offences or to aid in his reformation, a Court may impose one or more of the measures contained in Article 101.

- (2) Where a Court treats a juvenile offender under the provisions of sub-Article (1), the provisions of Article 101(3) shall apply.

Art. 103. - Punishment of Juvenile Offenders Requiring Deterrence or Reformation.

Where, from the circumstances under which the offence was committed and the character and background of the offender, the Court finds that a juvenile offender convicted of any offence requires criminal punishment to deter him from the commission of further offences or to aid in his reformation, the Court may sentence a juvenile offender under the provisions of this Code, with the following limitations:

- (a) a juvenile offender shall not be sentenced to death or life imprisonment;
- (b) minimum sentences prescribed in Article 65 or elsewhere and the limitations on the availability of suspension of sentence contained in Article 82 or elsewhere shall not apply in the case of a juvenile offender;
- (c) the maximum sentence or aggregate sentences allowed shall be reduced to ten years in the case of a juvenile offender;
- (d) a juvenile offender shall be eligible for conditional release after service of 6 months of any sentence of imprisonment;

- (e) a juvenile offender shall serve any sentence of imprisonment in an institution under conditions conducive to his reform and education;
- (f) a juvenile offender may be allowed to perform Community Work, or the community work may be substituted as prescribed by reformatory institutions; and
- (g) attendance at school may be substituted for Community Work.

Chapter 4. - Pardon

Art. 104. - Pardon and Commutation.

- (1) The Head of State of Eritrea may pardon any person found guilty of an offence and may remit any sentence or commute any sentence into a penalty of lesser gravity or nature.
- (2) Unless specifically ordered otherwise in the order pardoning the offender or commuting the sentence, such pardon or commutation shall not cancel the entry of the conviction of sentence into the Police record.

Art. 105. - Amnesty.

- (1) The President of Eritrea may grant an amnesty in respect to certain offences or certain classes of offenders. Such amnesty may cancel the charges and discontinue any prosecution, or may, where conviction has already occurred, extinguish any and all punishments previously imposed.
- (2) Unless specifically ordered otherwise in the order granting the amnesty, such amnesty shall not

cancel the entry of the charge or conviction of sentence into the Police record.

Art. 106. - Effect on Civil Actions.

Nothing in this Chapter shall affect the right of any person to collect damages or otherwise seek reparation under the Civil Code.

PART II - THE SPECIAL PART

BOOK I – OFFENCES AGAINST INTERNATIONAL LAW

Art. 107. - Genocide.

A person who, at all times, with intent to destroy, in whole or in part, a national, ethnical, racial or religious group organizes, orders or engages in the following acts as such:

- (a) killing members of the group or in any way causing them to disappear;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group living conditions calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group or in any way preventing the propagation or continued survival of its members or their progeny;
- (e) compulsory movement or dispersion of the group or their children or placing them under living conditions calculated to result in their death or disappearance; and/or
- (f) forcibly transferring children of the group to another group,

is guilty of genocide, a Class 1 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 23 years and not more than 27 years.

Art. 108. - Crimes against Humanity.

- (1) A person who, in violation of international law and international humanitarian law, with knowledge of such attack, organizes, orders or engages in any of the following acts as part of a widespread or systematic attack directed against any civilian population:
 - (a) murder;
 - (b) extermination;
 - (c) enslavement;
 - (d) torture;
 - (e) rape, sexual slavery, enforced prostitution and engagement in debauchery, forced pregnancy, enforced sterilization, grossly inhuman treatment, or any other form of sexual violence of comparable gravity;
 - (f) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender of both sexes, or other grounds that are universally recognized as impermissible under international law;
 - (g) enforced disappearance of persons;
 - (h) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
 - (i) deportation or forcible transportation of population; and/or

- (j) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health,

is guilty of crimes against humanity, a Class 1 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 23 years and not more than 27 years.

- (2) For the purpose of the offence of crimes against humanity:

- (a) “**Attack directed against any civilian population**” means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy or plan to commit such attack;
- (b) “**Extermination**” includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
- (c) “**Enslavement**” means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
- (d) “**Torture**” means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or

under the control of the accused; except that torture shall not include pain or suffering reasonably arising only from, inherent in, or incidental to the proper execution of lawful procedures;

- (e) **“Forced pregnancy”** means the unlawful confinement of a woman forcibly made pregnant, or forced sexual intercourse and impregnation of a woman under any form of threat, coercion or any other similar illegal means;
- (f) **“Persecution”** means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of a given group or collectivity;
- (g) **“Enforced disappearance of persons”** means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time; and
- (h) **“Deportation or forcible transfer of population”** means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.

Art. 109. - War Crimes against the Civilian Population.

A person who, as part of systemic plan or policy or a large-scale commission, and in time of war, armed conflict or occupation, organizes, orders or engages in any of the following acts:

- (1) Grave breaches of international laws and customs on the treatment of civilian population of an occupied territory, namely:
 - (a) willful killing;
 - (b) torture or inhuman treatment, including biological experiments;
 - (c) willfully causing great suffering, or serious injury to body or health;
 - (d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
 - (e) compelling a prisoner of war or other protected person to serve in the forces of a hostile power;
 - (f) willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
 - (g) unlawful deportation or transfer or unlawful confinement; and/or
 - (h) taking of hostages;
- (2) Other serious violations of the laws and customs applicable in international armed conflict, within

the established framework of international law, namely, any of the following acts:

- (a) intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities and against civilian objects, that is, objects which are not military objectives;
- (b) intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (c) intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
- (d) attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
- (e) killing or wounding a combatant who, having laid down his arms or having no longer means of defense, has surrendered at discretion;

- (f) the transfer, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
- (g) intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- (h) subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- (i) killing or wounding treacherously individuals belonging to the hostile nation or army;
- (j) declaring that no quarter will be given or wanton withholding of the provision of clothing, bedding, means of shelter, medical supplies and other supplies essential to the survival of the civilian population of the occupied territory;
- (k) destroying or seizing the enemy's property unless such destruction or seizure be

imperatively demanded by the necessities of war;

- (l) declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
- (m) compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
- (n) pillaging a town or place, even when taken by military assault;
- (o) employing poison or poisoned weapons;
- (p) employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- (q) employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
- (r) employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict;
- (s) committing outrages upon personal dignity, in particular humiliating and degrading treatment;

- (t) committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or biological experiments, or any other form of sexual violence;
- (u) taking of hostages;
- (v) utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
- (w) intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as contained in relevant international laws and customs;
- (x) conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities
- (y) denationalization or forcible religious conversion; and/or
- (z) compulsory movement, deportation, forcible transfer or dispersion of the population, its systematic deportation, transfer or detention in concentration camps or forced labor camps,

is guilty of war crimes against civilian population, a Class 1 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 23 years and not more than 27 years.

Art. 110. - War Crimes against Wounded, Sick or Shipwrecked Persons.

- (1) A person who, as part of systemic plan or policy or a large-scale commission, and in time of war, armed conflict or occupation, organizes, orders or engages in:
 - (a) Killings, torture or inhuman treatment or other acts entailing dire suffering or physical or mental injury to wounded, sick or shipwrecked persons, or to members of the medical or first-aid services;
 - (b) The destruction, rendering unserviceable or appropriation of supplies, installations or stores belonging to the medical or first-aid services, in a manner which is unlawful, arbitrary or disproportionate to the requirements of strict military necessity;

is guilty of war crimes against wounded, sick or shipwrecked persons, a Class 1 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 23 years and not more than 27 years.

- (2) For the purpose of the offence of war crimes against wounded, sick or ship-wrecked persons:
 - (a) **“Wounded”** or **“sick”** persons means military or civilian persons, refrained from any acts of hostility, who, because of disease, other physical or mental disorder, disability or impairment, need medical care or assistance, inclusive of women in maternity, newly born babies, infirm or

handicap persons and others in need of emergency medical assistance; and

- (b) “**Shipwrecked**” persons means military or civilian persons, refrained from any acts of hostility, who, due to accidents affecting them or the vessel carrying them, are confronted with sea or air perils.

Art. 111. - War Crimes against Prisoners of War.

A person who, in time of war, armed conflict or occupation, organizes, orders or engages in:

- (a) killings, acts of torture or inhuman treatment or acts entailing dire suffering or injury to prisoners of war or interned persons;
- (b) compelling prisoners of war or interned persons to enlist in the enemy's armed forces or intelligence or administrative services; or
- (c) any other acts contrary to the international laws and customs on the treatment of prisoners of war,

is guilty of war crimes against prisoners of war, a Class 1 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 23 years and not more than 27 years.

BOOK II - OFFENCES AGAINST THE INTERESTS OF THE STATE

Chapter 1. - Offences Endangering the Security of the State

Art. 112. - Treason.

- (1) An Eritrean citizen or any other person entrusted with the protection of the national interests of Eritrea who:
 - (a) discloses, delivers, communicates, divulges or otherwise makes accessible or available to a foreign Power, State, Organization, individual or any other such entity or persons or unauthorized members of the Eritrean public, a State secret or documents, papers, proceeds of negotiations, deliberations or decisions officially not required to be divulged in order to protect the interests of Eritrea;
 - (b) obstructs, misleads, betrays, entices into disloyalty or dispiritedness persons or entities engaged in the defense of Eritrea;
 - (c) patently sacrifices the national interests of Eritrea to a foreign Power, for whatsoever reasons or interests, during negotiations wherein he/she is engaged as representative of the State of Eritrea; or
 - (d) procures military manpower, equipment, property or services to enemies of Eritrea or otherwise obliterates, destroys, represses or falsifies papers, documents or any other related objects crucial for the defense or security of Eritrea,

is guilty of treason, a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.

- (2) Any person who is engaged in any one of the activities listed in the paragraph (1) in time of war or state emergencies,

is guilty of treason during times of war or state emergencies, a Class 2 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 19 years and not more than 23 years.

Art. 113. - High Treason.

A person who, by violence, threats, conspiracy or other means:

- (a) overthrows or attempts to overthrow the Constitutional order or government of Eritrea;
- (b) attempts to incorporate into a foreign State the territory or any part of the territory of Eritrea, or to detach a part therefrom;
- (c) assists an enemy at war with Eritrea, or any armed forces against whom Eritrean forces are engaged in hostilities, whether or not a state of war exists between Eritrea and the country whose forces they are, with the intent to ensure or promote the enemy's or other armed forces' success;
- (d) incites or attempts to incite the citizens of Eritrea to take up arms against one another or the government of Eritrea;

- (e) consults or negotiates with a foreign government with intent to cause war or hostilities upon the Eritrean State; or
- (f) kills or attempts to kill the President of Eritrea or a person exercising the power of the President,

is guilty of high treason, a Class 1 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 23 years and not more than 27 years.

Art. 114. - Espionage.

- (1) A person who, without being formally recruited by such entities, intentionally and without lawful authority
 - (a) communicates or makes available or delivers by any other means to a foreign State or organization hostile to Eritrea documents, plans or other items of information that he knows should be kept secret and that he knows may be used by another State or hostile organization for a purpose prejudicial to the interests of Eritrea; or
 - (b) participates in or assists a political, diplomatic, military or economic intelligence service of a foreign State or organization hostile to Eritrea,

is guilty, of espionage, a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.

- (2) A person who, being formally recruited by the entities described in sub-Article (1), intentionally and without lawful authority, commits any of the acts described therein,

is guilty of espionage, a Class 3 serious offence, punishable with a definite term of imprisonment of not less than 16 years and not more than 19 years.

Art. 115. - Aggravated Espionage.

A person who commits an offence under Article 114 during a time of war or danger of war, or who by such offence seriously endangers the security of the State,

is guilty of aggravated espionage, a Class 2 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 19 years and not more than 23 years.

Art. 116. - Sabotage.

A person who, with the intent to harm the safety, security or defense of Eritrea or the Armed Forces of Eritrea, intentionally destroys, puts out of action or impairs any machinery, apparatus, enterprise, vessel, vehicle or aircraft, or other object or property,

is guilty of sabotage, a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.

Art. 117. - Aggravated Sabotage.

A person who commits an offence under Article 116 during a time of war or danger of war, or who by such offence seriously endangers the security of the State or when the act causes the death of persons,

is guilty of aggravated sabotage, a Class 1 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 23 years and not more than 27 years.

Art. 118. - Inciting to Mutiny.

A person who, with a traitorous or mutinous purpose, provokes or attempts to provoke a member of the Eritrean Armed Forces to abandon his duty or his allegiance to the State of Eritrea, or to commit a traitorous or mutinous act,

is guilty of inciting to mutiny, a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.

Art. 119. - Interference with Military Service.

A person who intentionally:

- (a) evades or attempts to evade compulsory military service, knowing that he is not entitled to do so;
- (b) incites or assists another, or attempts to incite or assist another, to intentionally evade compulsory military service, knowing that person is not entitled to do so; or
- (c) incites or assists another, or attempts to incite or assist another, to disregard military orders or discipline knowing that person is not entitled to do so,

is guilty of interference with military service, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 120. - Aggravated Interference with Military Service.

A person who commits an offence under Article 119 during time of emergency involving the armed forces of Eritrea, general mobilization, or war,

is guilty of aggravated evasion of military service, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 121. - Attacks upon the Head of State of Eritrea.

A person who commits an act of violence on the Head of State of Eritrea by attacking his liberty or security or his person or health,

is guilty of an attack upon the President of Eritrea, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 122. - Seditious Libel.

A person who teaches or advocates, or who knowingly publishes or circulates any writing that advocates the use of force as a means of accomplishing a governmental change within Eritrea,

is guilty of seditious libel, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 123. - Insults to the National Flag of Eritrea or Other Countries.

- (1) A person who intentionally and in public tears down, destroys, defaces, or insults the National Flag of Eritrea,

is guilty of insults to the national flag of Eritrea, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) A person who intentionally and in public tears down, destroys, defaces, or insults the National Flag of any other country duly hoisted in Eritrea,

is guilty of insults to the national flag of a country other than Eritrea, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 124. - Participation in Preparation.

A person who, in relation to any offence punishable under Articles 107-117:

- (a) commits any intentional acts in preparation of any such offence; or
- (b) attempts to incite another to commit any such offence,

is guilty of participation in preparation to commit an offence punishable under Articles 107-117, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 125. - Preparation.

A person who prepares to commit an offence punishable under Article 107-118,

is guilty of preparation to commit an offence punishable under Articles 107-118, a Class 9 serious offence, punishable with

a definite term of imprisonment of not less than 1 year and not more than 3 years.

Chapter 2. - Offences against Foreign States

Art. 126. - Attacks upon Foreign Head of State or Government.

A person who commits an act of violence on the head of a foreign State or government,

is guilty of an attack upon a foreign head of State or government, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 127. - Attacks upon Foreign Officials and Diplomats.

A person who commits an act of violence on a member of a foreign government or upon a member of a diplomatic mission accredited to the State of Eritrea, or upon a representative of an international humanitarian organization, because of such person's status or official duties, and where such person is within the jurisdiction of the Eritrean Courts in his official capacity,

is guilty of an attack upon foreign officials and diplomats, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 128. - Crimes against the Security of a Foreign State.

- (1) Where offences that fall under Articles 112-122 are committed against a foreign head of State or foreign government or State, these Articles shall apply as if the offences had been committed against the Eritrean President or Eritrea.

- (2) Violations of the provisions of this Article and Articles 126 or 127 shall be prosecuted only where the State of Eritrea maintains peaceful relations with the foreign state, where reciprocity of punishment is guaranteed, and was guaranteed at the time of the offence, where the foreign government has made a request for punishment, and where the government of Eritrea authorizes such prosecution. The authorization may be withdrawn.

Art.129. - Interference with an International Humanitarian Organization.

A person who:

- (a) interferes with the work of an international humanitarian organization or commits a hostile act against a person belonging to such organization;
- (b) destroys or damages property belonging to such organization; or
- (c) wears without due authorisation the insignia or identifying device of any such organization,

is guilty of interference with an international humanitarian organization, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Chapter 3. - Public Corruption and Bribery

Art. 130. - Corruption by a Public Official.

A public official or person selected to be a public official who, directly or indirectly, corruptly demands, seeks, receives,

accepts, or agrees to receive or accept any undue advantage, or anything of value personally or for any other person or entity, in return for being influenced in the performance of any official act, or for doing or not doing anything in his official capacity in respect of any matter or transaction,

is guilty of corruption by a public official, punishable in the following order of graduation:

- (a) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (b) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;
- (c) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years;
- (d) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 3 serious offence, punishable with a definite term of imprisonment of not less than 16 years and not more than 19 years.

Art. 131. - Corrupting a Public Official.

- (1) A person who, directly or indirectly, corruptly gives, offers or promises any undue advantage or anything of value to any public official or person selected to be a public official, or offers or promises a public official or person selected to be a public official to give any undue advantage or anything of value to any other person or entity, with the intent to influence any official act or to induce a public official or person selected to be a public official to do or not to do any act in his official capacity,

is guilty of corrupting a public official, punishable in the following order of graduation:

- (a) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (b) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (c) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10

years and not more than 13 years;

(d) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.

(2) A person may not be convicted of both corrupting a public official under this Article and corruption by a public official under Article 130 in regards to a single transaction.

Art. 132. - Aggravated Corruption.

(1) A person who commits an offence under Article 130 in circumstances where:

(a) the corruption involves or is intended to involve a judgment in any criminal or civil matter in the courts of Eritrea;

(b) the corruption results in the commission of a criminal act, or has as its intended purpose the commission of a criminal act, permitting the imposition of a severer penalty than permitted under Article 130;

(c) the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with the Government or any other public body;
or

- (d) the offence seriously harmed, or posed a threat to seriously harm, the security of the State or the national economy,

is guilty of aggravated corruption of a public official, punishable in the following order of graduation:

- (i) an offence under this sub-article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;
- (ii) an offence under this sub-article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years;
- (iii) an offence under this sub-article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 3 serious offence, punishable with a definite term of imprisonment of not less than 16 years and not more than 19 years;
- (iv) an offence under this sub-article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 2 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term

of imprisonment of not less than 19 years and not more than 23 years.

- (2) A person who commits an offence in circumstances respectively similar to those enumerated in sub-Article (1) is guilty of aggravated corrupting of a public official, punishable in the following order of graduation:
- (i) an offence under this sub-article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
 - (ii) an offence under this sub-article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;
 - (iii) an offence under this sub-article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years;
 - (iv) an offence under this sub-article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 3 serious offence, punishable with a definite

term of imprisonment of not less than 16 years and not more than 19 years.

Art. 133. - Trafficking in Unlawful Influence.

Any person, who demands, seeks, receives, accepts, or agrees to receive or accept anything of value or other advantage in order to exercise his influence, real or pretended, to get a public official to act illegally or corruptly,

is guilty of trafficking in unlawful influence, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 134. - Defenses Not Allowed.

It shall not be a defense to an offence under Articles 130-133 that the other person who took or was offered the reward or inducement did not do, or did not even contemplate doing, the action that was the object of the reward or inducement, or that he was not competent or authorized to do the action.

Art. 135. - Providing False Information in a Corruption Investigation.

A person who knowingly gives or causes to be given any false or misleading information to the public prosecutor or other person lawfully investigating an offence under this Chapter,

is guilty of providing false information in a corruption investigation, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 136. - Obstruction of a Corruption Investigation.

A person who fails to comply with any lawful demand by the public prosecutor or other investigating official for information concerning an investigation of an offence under this Chapter, or who otherwise intentionally obstructs, hinders or delays the gathering of such information, except by lawful challenge in the Courts,

is guilty of obstruction of a corruption investigation, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 137. - Failure To Disclose Financial Information.

Any public official who is required by law to disclose financial information to the government and who within the requirements set out by law:

- (a) without reasonable cause fails to provide such information; or
- (b) knowingly files false, misleading or incomplete information,

is guilty of failure to disclose financial information, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 138. - Possession of Unexplained Assets or Income.

- (1) Where a public official:
 - (a) maintains a standard of living or possesses pecuniary resources or property that are not commensurate to that public official's

present or past known sources of income or assets; and

- (b) is unable to provide a reasonable explanation that the resources to support the standard of living, or the financial resources and property, came from a legitimate source,

the public official is guilty of possession of unexplained assets or income, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

- (2) A Court may infer that pecuniary resources or property belong to a public official where, having regard to the closeness of another person's relationship to the public official and other relevant circumstances, it is reasonable to conclude that this person is holding pecuniary resources or property in trust or otherwise on behalf of the public official, or that this person has acquired such pecuniary resources or property as a gift, or loan without adequate consideration, from the public official.

Chapter 4. - Private Corruption and Bribery

Art. 139. - Corruption by an Agent.

- (1) Any agent who, directly or indirectly, corruptly:
 - (a) accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person or entity, any undue advantage, or any valuable consideration, as an inducement or reward for carrying out or desisting from carrying out any act in relation to his principal's

affairs or business, or for showing favor or disfavor to any person in relation to his principal's affairs or business; or

- (b) knowingly uses, with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any particular material, and which to his knowledge is intended to mislead the principal,

is guilty of corruption by an agent, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7

years and not more than 10 years;

(iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

(2) It shall not be a defense that the agent did not:

(a) carry out, or desist from carrying out; or

(b) intend to carry out, or intend to desist from carrying out any act for which the inducement or reward was received or sought.

Art. 140. - Corrupting an Agent.

(1) A person who, directly or indirectly, corruptly:

(a) gives or agrees to give, or offers or attempts to offer or give, to any agent any undue advantage, or any valuable consideration, as an inducement or reward for carrying out or desisting from carrying out any act in relation to the principal of the agent's affairs or business, or for showing favor or disfavor to any person in relation to his principal's affairs or business; or

(b) knowingly gives to any agent, with intent to deceive the principal of the agent, any receipt, account or other document in respect of which the principal is interested,

and which contains any statement which is false or erroneous or defective in any particular material, and which to his knowledge is intended to mislead the principal,

is guilty of corrupting an agent, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite

term of imprisonment of not less than 7 years and not more than 10 years.

- (2) It shall not be a defense that the Agent did not have the authority, right, or opportunity to carry out or desist from carrying out any act for which an inducement or reward was or offered.
- (3) Nothing in this Article shall be deemed to prejudice or affect any right that any principal may have, to recover from his Agent any money or property.
- (4) A person may not be convicted of both corrupting an Agent under this Article and Corruption by any Agent under Article 139 in regards to a single transaction.

Art. 141. - Aggravated Corruption by or With an Agent.

- (1) A person who commits an offence under Article 139 in circumstances where:
 - (a) the corruption results in the commission of a criminal act, or has as its intended purpose the commission of a criminal act with a severer penalty than permitted under Article 139-140;
 - (b) the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with the Government or any other public body; or
 - (c) the offence seriously harmed, or posed a threat to seriously harm, the security of the State or the national economy,

is guilty of aggravated corruption by an agent (aggravated corruption of an agent), punishable in the following order of graduation:

- (i) an offence under this sub-article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
 - (ii) an offence under this sub-article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
 - (iii) an offence under this sub-article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;
 - (iv) an offence under this sub-article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.
- (2) A person who commits an offence in circumstances respectively similar to those enumerated in sub-

Article (1) is guilty of aggravated corruption with an agent (aggravated corrupting of an agent), punishable in the following order of graduation:

- (i) an offence under this sub-article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (ii) an offence under this sub-article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (iii) an offence under this sub-article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (iv) an offence under this sub-article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

Chapter 5. - Offences Violating Official Duties

Art. 142. - Breach of Official Duties.

A public official who, with intent to unlawfully enrich or incur a direct or indirect advantage for himself or another or to cause harm to another or to the State;

- (a) exceeds the power with which he is officially vested; or
- (b) performs official acts when he is not or is no longer, qualified to do so, especially in the case or in consequences of incompetence, suspension, removal from office or its cessation,

is guilty of breach of official duties, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or

any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;

- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

Art. 143. - Aggravated Breach of Official Duties.

A public official who commits an offence under Article 142 and in so doing:

- (a) improperly takes or ensures for himself or another an interest in any business, property or financial transaction concerning his department; or
- (b) concludes a contract or any other transaction at a price higher than that fixed by competent authority; or
- (c) appropriates to himself or another cash, securities, or other objects of value that have been entrusted to him during the course of his official duties, or that have come into his hands by virtue of or in the course of his duties; or
- (d) seriously injures the particular public interest with which he is charged,

is guilty of an aggravated breach of official duties, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years;
- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 3 serious offence, punishable with a definite term of imprisonment of not less than 16 years and not more than 19 years.

Art. 144. - Breach of Confidence by a Public Official.

- (1) A public official, having possession of an object or document because of his office, or having knowledge of information because of his office, which objects, documents or information are under seal or otherwise intended to be kept secret or

private, who unlawfully reveals to himself or to others the contents of the object or document or informs himself or a third person of the secret or private information, or allows another to do so, or who otherwise makes use of such objects, documents or information except as authorized by law or consent of the interested party,

is guilty of breach of confidence by a public official, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) It shall not be a defense that the offender is no longer employed in the position or engaged in the activity that gave rise to the duty of confidentiality or secrecy.
- (3) No person shall be found guilty where:
 - (a) the information became public by means not attributable to the offender before the offender revealed the secret or confidential information;
 - (b) the information was revealed pursuant to a law or an order of a Court of law or other competent authority; or
 - (c) the person or authority for whom the information is being kept confidential or secret has expressly authorized the disclosure.

Art. 145. - Breach of Confidence.

- (1) A medical professional, attorney, clergyman, or any other person who has a duty to keep information secret because of one's profession or under any

provision of law, who discloses a secret that has come to one's knowledge in the course of one's professional duties,

is guilty of breach of confidence, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) It shall not be a defense that the offender is no longer employed in the position or engaged in the activity that gave rise to the duty of confidentiality or secrecy.
- (3) No person shall be found guilty where:
 - (a) the information became public by means not attributable to the offender before the offender revealed the secret or confidential information;
 - (b) the information was revealed pursuant to a law or an order of a Court of law or other competent authority; or
 - (c) the person or authority for whom the information is being kept confidential or secret has expressly authorized the disclosure.

Art. 146. - Aggravated Breach of Confidence.

- (1) A person who commits an offence under Article 144 for the purpose of gaining for himself or another monetary or other undue advantages,

is guilty of aggravated breach of confidence by a public official, a Class 7 serious offence, punishable with a definite term

of imprisonment of not less than 5 years and not more than 7 years.

- (2) A person who commits an offence under Article 139 for the purpose of gaining for himself or another monetary or other undue advantages,

is guilty of aggravated breach of confidence, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

- (3) It shall not be a defense that the offender is no longer employed in the position or engaged in the activity that gave rise to the duty of confidentiality or secrecy.

- (4) No person shall be found guilty where:

- (a) the information became public by means not attributable to the offender before the offender revealed the secret or confidential information;
- (b) the information was revealed pursuant to a law or an order of a Court of law or other competent authority; or
- (c) the person or authority for whom the information is being kept confidential or secret has expressly authorized the disclosure.

Art. 147. - Negligent Breach of Confidence.

- (1) A person who negligently commits an offence under Articles 144 or 145,

is guilty of negligent breach of confidence, a Class 1 petty offence, punishable with a definite term of imprisonment of not

less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) It shall not be a defense that the offender is no longer employed in the position or engaged in the activity that gave rise to the duty of confidentiality or secrecy.
- (3) No person shall be found guilty where:
 - (a) the information became public by means not attributable to the offender before the offender revealed the secret or confidential information;
 - (b) the information was revealed pursuant to a law or an order of a Court of law or other competent authority; or
 - (c) the person or authority for whom the information is being kept confidential or secret has expressly authorized the disclosure.

Art. 148. - Issuance or Delivery of Official Papers.

- (1) A public official who negligently issues or causes to be issued or handed over to any person, a passport, identity card, permit, or any other certificate or document which is not generally available to the public, without having previously used reasonable means of checking the identity of the person and his right to receive the document or instrument in question,

is guilty of negligent issuance or delivery of official papers, a Class 3 petty offence, punishable with a definite term of

imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

- (2) A public official who issues or causes to be issued or handed over to any person, a passport, identity card, permit, or any other certificate or document which is not generally available to the public, knowing that such person is not entitled to be issued with or handed over the document or instrument in question,

is guilty of intentional issuance or delivery of official papers, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years, provided that if the public official committed the offence with intent to enrich or incur a direct or indirect advantage for himself or another, the public official is guilty of intentional issuance or delivery of official papers, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent

to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;

- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

Art. 149. - Intentional Offences Relating to Law Enforcement.

- (1) A public official who commits an intentional breach of the duties of his office by:
 - (a) forcibly entering a house or premises, or executing an act of search and seizure, other than that authorized by law;
 - (b) unlawfully arresting and detaining another;
or
 - (b) using physical or mental torture, or other improper methods, during the arrest, custody, supervision, escort or interrogation of a person,

is guilty of an offence relating to law enforcement, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) A public official who commits an intentional breach of the duties of his office by assisting:

- (a) a detainee, a prisoner of war or a prisoner sentenced for committing a Petty Offence to escape,

is guilty of an offence relating to law enforcement, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas;

- (b) a prisoner sentenced for committing a Class 5 through 9 Serious Offence to escape,

is guilty of an offence relating to law enforcement, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years;

- (c) a prisoner sentenced for committing a Class 1 through 4 Serious Offence to escape,

is guilty of an offence relating to law enforcement, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 150. - Aggravated Offences Relating to Law Enforcement.

A public official who commits an offence under Article 149(1) that causes serious bodily injury shall be punished in accordance with the order of graduation provided for in Annex V to this Code. If the offence causes death of the person, the provisions of Article 276(1) shall apply.

Art. 151. - Negligent Offences Relating to Law Enforcement.

A person who negligently commits an offence under Article 149,

is guilty of a negligent offence relating to law enforcement, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 152. - Unlawful Strikes.

Any employee, whether a public official or a person under private employment under the relevant labor laws of Eritrea, who, with the intention of disturbing public order and the public interest or State services, participates in a strike against the State or his employer, as the case may be, of his own free will or induces others to do so

is guilty of participating in a strike by a public official, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Chapter 6. - Offences against Public Authority

Art. 153. - Obstruction of the Exercise of Constitutional Powers.

A person who, by violence, threats or other unlawful means:

- (a) prevents, or attempts to prevent or restrain any duly constituted legislative, executive or judicial authority from exercising its constitutional powers; or
- (b) forces or attempts to force such authorities to make a decision,

is guilty of obstruction of the exercise of constitutional powers, a Class 6 serious offence, punishable with a definite term

of imprisonment of not less than 7 years and not more than 10 years.

Art. 154. - Defamation of Government Institutions.

A person who publicly asserts or disseminates fabricated or false facts, knowing them to be such, in order to cast disparagement upon legislative, executive or judicial institutions

is guilty of defamation of government institutions, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 155. - Destruction of Official Notices.

A person who intentionally removes, damages, destroys or defaces official proclamations, decisions or other official notices publicly exhibited,

is guilty of destruction of official notices, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 156. - Failure to Register.

A person who, within the time required by law, intentionally fails to register with the competent authorities any fact, declaration or documentation required to be registered,

is guilty of failure to register, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 157. - Breach of Prohibition on Publication.

A person who, not being authorized to do so, intentionally publishes reports, deliberations, or decisions of a public authority, the content of which he knows must be kept confidential

is guilty of a breach of a prohibition on publication, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 158. - Arbitrary Action.

A person who, without authority or contrary to law:

- (a) seizes, against the will of the possessor, any property or indebtedness (pledge) that person has handed over to the possessor, or which is the subject of legal proceedings; or
- (b) seizes any property belonging to his debtor in order to obtain a payment due to oneself,

is guilty of taking arbitrary action, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 159. - Destroying Official Seals.

A person who intentionally and without lawful authority removes, damages, breaks or renders ineffective in any way any official seal, mark or sign affixed by the authorities for the purpose of identifying, enclosing, preserving or protecting any property, object or documents, or for restricting access thereto

is guilty of violation of official seals, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1

month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 160. - Misappropriation or Destruction of Property in Official Custody.

- (1) A person who, intentionally removes, damages, destroys or misappropriates objects, documents or other property that is in the custody or lawful possession of public authority, or that has been entrusted by public authority to the custody of a third party,

is guilty of misappropriation or destruction of property in official custody, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) If the objects, documents or other properties so removed, damaged, destroyed or misappropriated are religious objects, or objects of scientific, historical or artistic value, or items in museums or in ruins officially identified for preservation as items of heritage,

the offence shall be punishable as Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 161. - Interference with Authority.

A person who:

- (a) resists a public official in the exercise of his lawful duties;

- (b) fails to leave an unlawful assembly or a prohibited place when lawfully requested to do so by a public official;
- (c) fails to assist a public official in averting a public danger or catastrophe, when lawfully requested to do so and when such is possible without danger or harm; or
- (d) fails to obey a lawful decision of a competent authority, when notified of such under pain of penalty under this Article,

is guilty of interference with authority, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 162. - Violence against a Public Official.

A person who by use of threats, coercion or violence:

- (a) compels a public official to perform an act in violation of his duties;
- (b) prevents a public official from performing an act that is his duty to perform; or
- (c) strikes or uses violence or coercion on a public official or one assisting him in carrying out his lawful duties,

is guilty of violence against a public official, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 163. - Aggravated Violence against a Public Official.

A person who commits an offence under Article 162:

- (a) as part of an unlawful assembly or mob; or
- (b) who in doing so uses or threatens to use a weapon;
or
- (c) who in doing so causes bodily injury to any person;
or
- (d) where the victim is a member of the police or armed forces, executive, legislative or judicial institutions, acting in his official capacity,

is guilty of aggravated violence against a public official, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Chapter 7. - Offences against the Administration of Justice

Art. 164. - Failure to Report an Offence.

- (1) A person who, by whatever means:
 - (a) knows of a plan to commit a Class 1 or 2 serious offence, including Articles 112, 114 and 116, in time to prevent its commission, and fails without good cause to make a timely report to the competent authorities,

is guilty of failure to report an offence, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (b) knows the identity of the perpetrator of, or of the commission of, a Class 1 or 2 serious offence, including Articles 112, 114 and 116, and fails without good cause to make a timely report to the competent authorities,

is guilty of failure to report an offence, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

(2) Sub-Article (1) does not apply:

- (a) where the person who receives the information is a clergyman who has received the information in that capacity;
- (b) where no crime is even attempted; or
- (c) where the person averts the commission or effect of the planned crime other than by informing the authorities, or has made earnest attempts to dissuade the principal from committing the offences, and the crime has been prevented by other means.

Art. 165. - Interference with Criminal Processes.

A person who, knowing that another has committed an offence, renders assistance to that person with the intent to hinder the apprehension, prosecution, conviction or punishment of that person, whether by hiding or warning the person, or by concealing or destroying evidence or proceeds of a crime, or in any other way,

is guilty of interference with a lawful prosecution, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 166. - False Accusation.

A person who, with the intent to implicate as a perpetrator or a participant in a crime a person he knows is innocent:

- (a) falsely accuses another to the authorities;
- (b) provides false information to the authorities or induces another to do so; or
- (c) alters or conceals evidence,

is guilty of false accusation, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 167. - Aggravated False Accusation.

A person who commits an offence under Article 166 by implicating the victim of participating in a Class 1 through Class 7 serious offences,

is guilty of the offence of aggravated false accusation, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 168. - Misleading Justice.

A person who intentionally:

- (a) gives the authorities false information in relation to a criminal investigation or proceedings; or

- (b) notifies the authorities that an offence has been committed, knowing that one has not been committed,

is guilty of misleading justice, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 169. - Obstruction of Justice.

A person who intentionally:

- (a) interferes with or prevents a law enforcement officer from making a lawful arrest or otherwise carrying out lawful duties;
- (b) destroys, alters or in any way tampers with physical evidence in order to impair its availability in any criminal investigation or proceeding; or
- (c) persuades, threatens, or otherwise induces a witness not to testify or provide evidence in any criminal investigation or proceeding,

is guilty of obstruction of justice, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 170. - Refusal to Aid the Court System.

A person who, having been lawfully summoned to appear in a judicial or quasi-judicial proceeding as the accused, a witness, assessor or interpreter:

- (a) fails or refuses to appear without lawful excuse; or

- (b) having appeared, refuses contrary to the law, to obey the Court or competent judicial authority,

is guilty of refusing to aid the Court system, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 171. - Contempt of Court.

- (1) A person who, whether in the course of a judicial proceeding or not, defies the authority of the Court or in any manner insults, holds up to ridicule, threatens or disturbs the Court or any of its members in the discharge of their duties,

is guilty of contempt of court, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) Where the offence is not committed in open court, the punishment shall, except in more serious cases, be as a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 1, - 1,000 Nakfas.

- (3) In flagrant cases of threats or disturbing the Court, the Court may deal with the offence summarily.

Art. 172. - Violation of Closed Judicial Proceedings.

A person who, by any means, makes public a report or any document or information of a judicial proceeding that has been lawfully declared and conducted as a closed judicial proceeding,

is guilty of a violation of closed judicial proceedings, a Class 2 petty offence, punishable with a definite term of imprisonment

of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 173. - Publication of False or Forbidden Reports of Judicial Proceedings.

A person who publishes any false or forbidden information or report concerning judicial proceedings that are pending, proceeding or concluded,

is guilty of publishing false or forbidden information or reports of judicial proceedings, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 174. - Biased Publications Intended to Pervert the Course of Justice.

A person who with intent to inflame the Court, Court officials, witnesses or the parties, publishes or spreads news or reports, or any other information orally or in writing, known to be biased or, which distorts the facts, and which has been drawn up for the purpose of influencing a judicial decision in a case being tried or pending,

is guilty of perverting the course of justice by biased publications, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 175. - Perjury.

A person who being under oath or affirmation, intentionally gives false testimony, conceals the truth or provides misleading information before a Court or other agency authorized to administer oaths to witnesses or experts,

is guilty of perjury, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 176. - Aggravated Perjury.

- (1) A person who by committing an offence under Article 175, causes another person to be wrongfully convicted of a criminal offence ranging from Class 6 serious offence through Class 3 petty offence,

is, regardless whether the sentence has been executed or not, guilty of aggravated perjury, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

- (2) Where the resulting conviction is of a Class 1 through Class 5 serious offence, the punishment shall, regardless whether the sentence has been executed or not, be as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 177. - False Testimony.

- (1) A person who, not being under oath, and during an examination to a Court or agency authorized to hear the testimony or conduct the examination, gives false testimony, conceals the truth, or provides misleading information,

is guilty of false testimony, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) Mere inaccurate allegations by a party in defense of his interests are not subject to these provisions.

Art. 178. - Aggravated False Testimony.

- (1) A person who, by committing an offence under Article 177, causes another person to be wrongfully convicted of a criminal offence ranging from Class 6 serious offence through Class 3 petty offence,

is, regardless whether the sentence has been executed or not, guilty of aggravated false testimony, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

- (2) Where the resulting conviction is of a Class 1 through Class 5 serious offence, the punishment shall, regardless whether the sentence has been executed or not, be as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

Art. 179. - Mitigated Perjury and False Testimony.

- (1) A person who commits an offence under Articles 175-178 and who corrects or withdraws his perjury or false statement, during the same proceeding before the perjury or false statement has had any harmful impact,

is guilty of mitigated perjury and false testimony, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

- (2) If the Court believes that the circumstances under which the offence under sub-Article (1) have been

committed deserve no punishment or where the correction or withdrawal was prompted by honesty, the Court may impose no penalty (Article 66) and may give a sentence of reprimand accompanied by a warning for the future.

Art. 180. - False Translation or Interpretation.

- (1) A person who, while serving as a translator or interpreter in any official capacity, in judicial or quasi-judicial proceedings, intentionally falsely translates any document or interprets any spoken word or sign language,

is guilty of false translation or interpretation in a judicial proceeding, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) A person committing the offence under sub-Article (1) other than in a judicial or quasi-judicial proceeding

is guilty of false translation or interpretation, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 181. - Subornation.

A person who by any means induces or attempts to induce another or, even where the act solicited has not been performed, falsely to accuse another (Article 166), to commit perjury (Article 175), or to give false testimony (Article 177),

is guilty of subornation, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months

and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 182. - Betrayal of Interests.

An advocate, attorney, procurator or legal advisor, who knowingly, in litigation of any kind before any judicial or quasi-judicial tribunal, betrays the legal interests he has been instructed to defend, officially or by personal brief, whether by sacrificing the interests of the party for whom he appears or by acting simultaneously for both parties to the same case

is guilty of betrayal of interests, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 183. - Aggravated Breach of Betrayal of Interests.

An advocate, attorney, procurator or legal advisor, who commits an offence under Article 182 and in so doing:

- (a) acts in concert with the opposing party;
- (b) acts for gain, or to procure material advantage; or
- (c) acts to the prejudice of a person charged with an offence punishable as a Class 1 through Class 7 serious offence,

is guilty of aggravated betrayal of interests a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 184. - Escape.

A person who intentionally:

- (a) removes himself from lawful custody; or

- (b) directly or indirectly assists or incites a person lawfully in custody to remove himself unlawfully from that custody,

is guilty of escape, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 185. - Aggravated Escape.

Where a person who commits an offence under Article 184:

- (a) uses a weapon;
- (b) was serving a sentence of life imprisonment or is under a sentence of death;
- (c) the escape is attempted or completed by a number of persons acting together;
- (d) commits violence on another during the escape attempt; or
- (e) has been entrusted with the surveillance, escort or custody of the escapee,

is guilty of aggravated escape, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Chapter 8. - Offences against Public Order

Art. 186. - Riot.

A person who assembles with others in a public place and together with the others engages in conduct, which causes damage to property or physical injury to any person,

is guilty of riot, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 187. - Aggravated Riot.

Where a person who commits an offence under Article 186:

- (a) is an organizer, ringleader or instigator of the riot;
or
- (b) during the riot personally used a weapon or committed an act of violence causing injury or damage, and is not punished otherwise for this act,

is guilty of aggravated riot, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 188. - Riot in a Prison.

A person who is lawfully in custody and who together with others engages in conduct which causes or creates a risk of causing damage to property or physical injury to a person with intent to escape, to coerce another to perform or restrain from performing an official duty, or to attack such person,

is guilty of riot in a prison, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 189. - Public Incitement.

A person who publicly incites others:

- (a) to commit acts of violence or offences against the community, individuals, groups or property; or
- (b) to disobey orders or laws issued by lawful authority,

is guilty of public incitement, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 190. - Aggravated Public Incitement.

A person who commits an offence under Article 189 by inciting others with an appeal to religious or ethnic hatred,

is guilty of aggravated public incitement, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 191. - Participation in a Criminal Society.

A person who knowingly participates in a group or society:

- (a) whose primary aims or activities are directed towards the commission of criminal offences; or
- (b) that has been specifically banned or prohibited from meeting by lawful authority,

is guilty of participating in a criminal society, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 192. - Participation in an Unlawful Assembly.

A person who:

- (a) in a public place knowingly participates in an assembly forbidden by law; or
- (b) refuses to leave a public meeting or gathering when the gathering or meeting is ordered to disperse by lawful authority,

is guilty of participation in an unlawful assembly, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 193. - Aggravated Participation in a Criminal Society or Unlawful Assembly.

A person who commits an offence under Articles 191 or 192 and:

- (a) is an organizer or ringleader of the group; or
- (b) the activities of the group include military or weapons training or practice or the carrying or use of weapons,

is guilty of aggravated participation in a criminal society or unlawful assembly, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 194. - Alarming the Public.

- (1) A person who, with the intent to alarm the public:
 - (a) threatens to cause a catastrophe or other harm to the community; or
 - (b) starts or spreads false rumors concerning impending catastrophes or disasters or other harm to society

thereby inflaming public opinion or causing a danger of public disturbance,

is guilty of alarming the public, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) If the offence was committed with the intent to undermine governmental authority, the offender,

is guilty of alarming the public, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 195. - Defamation of or Interference with Religious and Ethnic Groups.

A person who intentionally and publicly asserts fabricated or distorted facts, knowing them to be such, in order to cast disparagement upon any religion or ethnic group, or who unlawfully disrupts or attempts to obstruct a religious service or assembly,

is guilty of defamation of or interference with religious and ethnic groups, a Class 1 petty offence, punishable with a definite

term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 196. - Disturbance of Religious or Ethnic Feelings.

A person who intentionally and publicly disparages a ceremony or rite of any lawful religious group, or profanes a place, image or object used for such religious ceremonies or ceremonies relating to any ethnic group,

is guilty of disturbance of religious or ethnic feelings, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 197. - Violations of Corpses and Funeral Rites.

A person who intentionally and without lawful excuse:

- (a) disturbs or interrupts a funeral procession or service;
- (b) violates or desecrates the resting place of a dead person or funeral monument; or
- (c) disturbs the ashes of a dead person or mutilates a corpse,

is guilty of a violation of corpses and funeral rites, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 198. - Disturbance of Meetings.

A person who intentionally and without lawful excuse disturbs, invades, hinders or disperses a meeting or any assembly duly authorized by law,

is guilty of disturbance of meetings, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 199. - Aggravated Disturbance of Meetings.

Where a person who commits an offence under Article 198:

- (a) while carrying and displaying a weapon; or
- (b) and the meeting disturbed is one of a public authority carrying on the lawful administrative, executive, legislative, or judicial work of government,

is guilty of aggravated disturbance of meetings, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 200. - Disorderly Conduct.

A person who, without lawful excuse:

- (a) by riotous or loud behavior or loud music or noise or horn disrupts the peace and tranquility of another not physically on the same premises, either intentionally or, after having been warned, regardless of the warning;
- (b) challenges another to fight or engages in fighting other than in self-defense; or

- (c) being drunk, intoxicated, or rendered insensible by alcohol, drugs or any substance causing such effect, causes scandal or disorder or utters threats in a public place,

is guilty of disorderly conduct, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 201. - Involvement in a Brawl.

A person who intentionally takes part, no matter in what capacity, in any brawl or fight of not less than three persons, from which injury to the person or health, or the death, of one of those present ensues,

is guilty of involvement in a brawl, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 202. - Aggravated Involvement in a Brawl.

- (1) A person who commits an offence under Article 201 and:
 - (a) carries or makes use of, a weapon or instrument intended to cause or capable of causing wounds or death; or
 - (b) where the brawl was likely to have grave consequences on account of the attendant circumstances, especially the hatred, state of excitement or drunkenness of the opposing sides,

is guilty of aggravated involvement in a brawl, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) Where those who during the brawl caused the injury or death could be identified they shall be punished accordingly and the provisions relating to guilt in case of a combination of offences shall apply (Article 14).

Art. 203. - Raising a False Alarm.

A person who summons or sets into motion the emergency services of the police, rescue, medical or similar public authorities falsely,

is guilty of raising a false alarm, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 204. - Cruelty to Animals.

A person who:

- (a) where, in a public place or a place open to public view, and without justification commits acts of cruelty, ill-treatment, violence or brutality towards animals; or
- (b) arranges shows or entertainment involving such mutilation or cruelty towards animals, or fights between animals or with animals,

is guilty of cruelty towards animals, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 205. - Endangering the Public.

A person who endangers the public by:

- (a) not using reasonable means of controlling or restraining his dangerous animals;
- (b) setting up a trap or any other device, without permit and notice, likely to harm the public;
- (c) leaving or depositing on a road or a place accessible to the public, and without taking the necessary precautions, materials or objects capable of causing a risk of harm to the public;
- (d) neglecting to provide an adequate warning notice or barrier around materials or objects, or a place under his supervision, capable of causing a risk of harm to the public; or
- (e) failing to warn the authorities of the escape of an irresponsible person who is dangerous to others or of a dangerous animal, where one is a person responsible for that irresponsible person or animal,

is guilty of endangering the public, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 206. - Dishonest Begging.

- (1) A person who:
 - (a) encourages a child to beg; or
 - (b) begs as a member of or at the direction of a group that carries on begging as a business,

is guilty of unlawful begging, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) The provisions of this Article shall not apply where members of a family solely carry out the encouragement or other activity.

Art. 207. - Vagrancy.

A person who:

- (a) has no fixed abode or occupation and no regular or visible means of support;
- (b) being able-bodied, habitually and of set purpose leads a life of idleness or disorderly behavior, or lives by one's wits or by begging, refusing to take honest, paid work which that person is capable of doing; and
- (c) thereby constitutes a threat to law and order,

is guilty of vagrancy, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Chapter 9. - Offences Involving Public Elections

Art. 208. - Obstruction of Elections.

A person who intentionally obstructs the conduct of any election to a public office,

is guilty of obstruction of elections, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6

months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 209. - Interference with Voting.

A person who by coercion, force, threat of force:

- (a) obstructs or interferes with a person's exercise of his right to vote;
- (b) induces or attempts to induce a person to vote in a particular way, or to abstain from voting; or
- (c) threatens, harms or punishes a person for voting, for voting in a particular way, or for abstaining from voting,

is guilty of interference with voting, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 210. - Electoral Corruption.

A person who corruptly:

- (a) directly or through an intermediary offers, grants or promises another person gifts or any advantage in return for refraining from voting, or for his voting in a particular manner, in any public election; or
- (b) accepts a grant or promise of gifts or any other advantage in return for refraining from voting, or for voting in a particular manner, in any public election,

is guilty of electoral corruption, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 211. - Electoral Deception.

A person who, directly or through an intermediary, by deception or by any fraudulent means, causes another to refrain from voting, to cast an invalid ballot, or to alter his voting decision in any public election,

is guilty of electoral deception, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 212. - Fraudulent Registration and Nomination.

A person who:

- (a) causes himself or another, living or deceased, to be unlawfully entered on an electoral or voting registration list by misrepresentation or other fraudulent means; or
- (b) procures for himself or another person a nomination as a candidate in an election, knowing that he or the other person is ineligible to be a candidate,

is guilty of fraudulent registration and nomination, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 213. - Election Fraud.

A person who in a public election, with the intent to alter the results of the election:

- (a) by any means procures a false tabulation or falsifies election returns;
- (b) votes more than once or votes without being eligible to vote; or
- (c) causes or permits others to vote improperly and unlawfully,

is guilty of election fraud, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 214. - Breach of Ballot Secrecy.

A person who by any unlawful means obtains knowledge of how another has voted in a secret ballot during a public election,

is guilty of breach of ballot secrecy, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Chapter 10. - Offences against the Fiscal and Economic Interests of the State

Art. 215. - Counterfeiting.

A person who:

- (a) counterfeits Eritrean or foreign coins or paper money or bank notes, bonds, promissory notes and

similar other State financial obligations with the intention to place them in circulation as genuine; or

- (b) procures for himself or another or transfers to another or imports into Eritrea, counterfeit coins or paper money or bank notes, bonds, promissory notes and similar other State financial obligations with the intention to place them into circulation as genuine,

is guilty of counterfeiting, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years;
- (iv) an offence under this Article for an amount

exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 3 serious offence, punishable with a definite term of imprisonment of not less than 16 years and not more than 19 years.

Art. 216. - Alteration of Currency.

A person who by any means alters coins or paper money or bank notes, bonds, promissory notes and similar other state financial obligations with the intent to put them into circulation at a value greater than their current value,

is guilty of alteration of currency, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;

- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years

and all such altered currency shall be destroyed.

Art. 217. - Circulation of Counterfeit or Altered Money.

A person who, knowing that coins or paper money have been counterfeited or altered, intentionally places such coins or paper money into circulation as genuine or as of full value,

is guilty of circulation of counterfeit or altered money, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of

imprisonment of not less than 10 years and not more than 13 years;

- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years

and all such counterfeited or altered money shall be destroyed.

Art. 218. - Mitigated Circulation of Counterfeit or Altered Money.

A person who, after receiving the counterfeit or altered money as genuine or worth full value, and having only afterwards discovered their falseness, circulates them to avoid loss,

is guilty of mitigated circulation of counterfeit or altered money, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas, and all such counterfeited or altered money shall be destroyed.

Art. 219. - Counterfeiting Stamps.

A person who:

- (a) counterfeits or alters Eritrean or foreign official stamps of value, including customs, revenue or postage stamps, with the intention that they be put into circulation as genuine;
- (b) procures for himself or another or transfers to another or imports into Eritrea counterfeit or

altered official stamps of value, including customs, revenue or postage stamps, with the intention that they be put into circulation as genuine; or

- (c) knowing that official stamps of value, including customs, revenue or postage stamps, have been counterfeited or altered, intentionally places such stamps into circulation as genuine or as of full value,

is guilty of counterfeiting stamps, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years, all such counterfeited stamps shall be destroyed .

Art. 220. - Aggravated Counterfeiting of Stamps.

A person who commits any counterfeiting of stamps as defined in Article 219, where the total value of the stamps counterfeited is worth more than 50,000 Nakfas,

is guilty of aggravated counterfeiting of stamps, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

Art. 221. - Failure to Report Possession of Counterfeit Items.

A person who knows that he has in his possession any counterfeit or altered money, stamps, securities or other item described in this Chapter and who does not make a timely report of the same to the appropriate public authority,

is guilty of failure to report possession of counterfeit items, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 222. - Refusal of Legal Currency.

A person who, without lawful excuse, refuses to accept the legal currencies or money of Eritrea, at the value for which they are legal currency,

is guilty of refusal to accept legal tender, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 223. - Falsification or Misuse of Official Seals and Marks

A person who counterfeits, alters or misuses any seal or official mark of a governmental or public authority or who uses any counterfeit seal or official mark knowing it is a counterfeit,

is guilty of falsification or misuse of official seals and marks, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 224. - Aggravated Falsification or Misuse of Official Seals and Marks.

A person who, in committing an offence under Article 223, causes grave harm to the interests or security of the nation,

is guilty of aggravated falsification of official seals and marks, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

Art. 225. - Possession of Counterfeiting and Falsification Tools.

A person who, with the intent to commit or to assist in any offence under this Chapter:

- (a) makes or repairs or begins to make or repair;

- (b) buys or sells; or
- (c) possesses or attempts to possess

any molds, tools, papers, documents or other means for counterfeiting or falsifying,

is guilty of possession of counterfeiting and falsification tools, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years, and all such tools shall be confiscated.

Art. 226. - Aggravated Possession of Counterfeiting and Falsification Tools.

A person who commits an offence under Article 225 with the intent to counterfeit the legal currency of Eritrea,

is guilty of aggravated possession of counterfeiting and falsification tools, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 227. - Unlawful Refusal to Pay Taxes.

A person who, being able to pay taxes due and having been lawfully ordered to pay them, intentionally refuses to do so,

is guilty of refusal to pay taxes, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 2 petty serious offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in

intervals of 1,000 Nakfas;

- (ii) an offence under this Article for an amount between 101 and 2,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished Class 1 petty serious offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas;
- (iii) an offence under this Article for an amount between 2,001 and 10,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years;
- (iv) an offence under this Article for an amount between 10,001 and 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (v) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (vi) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more

than 10 years;

- (vii) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

Art. 228. - Fraud and False Statements Regarding Taxation.

A person including a body corporate, who, with the intent to defraud the State, and in relation to his financial status and the taxes owed to public authority:

- (a) makes or submits a document or statement which is false or fraudulent in relation to a material matter;
- (b) aids, assists, procures, counsels or advises another to make or submit a document or statement which is false or fraudulent in relation to a material matter, whether or not the other person is aware of the falsity or fraudulence of the statement or document;
- (c) removes, deposits or conceals any goods, property or commodities; or
- (d) withholds, falsifies, conceals or destroys any books, documents or records,

is guilty of fraud and false statements regarding taxation, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be

punished as a Class 2 petty serious offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas;

- (ii) an offence under this Article for an amount between 101 and 2,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished Class 1 petty serious offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas;
- (iii) an offence under this Article for an amount between 2,001 and 10,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years;
- (iv) an offence under this Article for an amount between 10,001 and 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (v) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (vi) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any

other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;

- (vii) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

Chapter 11. - Offences against Public Safety

Art. 229. - Piracy.

A person on a ship or aircraft who commits:

- (a) any illegal acts of violence or detention, or any act of depredation, for private ends directed against another ship or aircraft, or against persons or property on board such ship or aircraft;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; or
- (c) any act of inciting or of intentionally facilitating an act described in sub-Article (1) or (2)

on the high seas, in a place outside the jurisdiction of any State, or within the territory of Eritrea,

is guilty of piracy, a Class 1 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 23 years and not more than 27 years.

Art. 230. - Hijacking of Aircraft.

A person who, by force or threat of force, or by any other form of intimidation, seizes or exercises control of an aircraft,

is guilty of hijacking of an aircraft, a Class 2 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 19 years and not more than 23 years.

Art. 231. - Endangering Safety of Aircraft or Airport.

A person who intentionally:

- (a) on board an aircraft in flight, commits an act of violence against a person that is likely to endanger the safety of the aircraft;
- (b) commits an act of violence against a person at an airport serving civil aviation that causes or is likely to cause serious injury or death and which endangers or is likely to endanger safety at the airport;
- (c) causes damage to an aircraft in service that renders the aircraft incapable of flight or that is likely to endanger the safety of the aircraft in flight;
- (d) places or causes to be placed on board an aircraft anything that is likely to cause damage to the aircraft, which will render it incapable of flight or that is likely to endanger the safety of the aircraft in flight; or
- (e) uses a weapon, substance or device to destroy or cause serious damage to the facilities of an airport serving civil aviation, or causes disruption of

services at the airport which endangers or is likely to endanger safety at the airport,

is guilty of endangering the safety of an aircraft or airport, a Class 3 serious offence, punishable with a definite term of imprisonment of not less than 16 years and not more than 19 years.

Art. 232. - Placing Explosives or Incendiary Devices aboard Aircraft.

A person who intentionally has placed or attempted to place an explosive or incendiary device or other dangerous devices aboard an aircraft in baggage or other object,

is guilty of the offence of placing dangerous devices aboard an aircraft, a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

Art. 233. - Possession of Firearms or Explosives.

A person who intentionally without lawful authority, carries or possesses a firearm or explosive,

is guilty of unlawful possession of a firearm or explosive, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 234. - Aggravated Possession of Firearms or Explosives.

A person who commits an offence under Article 233 and:

- (a) carries such firearms or explosives in a public building, place or meeting, or in a motor vehicle;
- (b) carries such firearms or explosives into a prison, or any other place used for detention of criminals;

- (c) obtains such firearms or explosives as a result of commission of another offence; or
- (d) carries such firearms or explosives or has about his person a concealed firearm or explosive, while on board or while attempting to board an aircraft,

is guilty of aggravated possession of firearms or explosives, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

Art. 235. - Trafficking in Firearms or Explosives.

A person who, without permit intentionally manufactures, imports, transports, stores or otherwise transfers firearms or explosives to another who is not authorized to possess such firearms or explosives,

is guilty of trafficking in firearms or explosives, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 236. - Aggravated Trafficking in Firearms or Explosives.

A person, who commits an offence under Article 235, and:

- (a) sells or delivers a firearm or explosive to a person under 18 years of age, a member of a gang, a person charged with a serious offence, or an escaped convict or a dangerous person;
- (b) obtains such firearms or explosives as a result of commission of another offence; or
- (c) carries on a business of trafficking in firearms or explosives,

is guilty of aggravated possession or trafficking, a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

Art. 237. - Impairing the Safety of Communications or Transportation.

A person who intentionally impairs the safety of communications or transportation,

is guilty of impairing the safety of communications or transportation, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 238. - Impairing the Operation of Public Utilities or Services.

A person who intentionally obstructs or impairs the operation of any public utility or service,

is guilty of impairing the operation of public utilities or services, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 239. - Offences Resulting From Negligence.

- (1) A person who negligently commits the conduct described in Article 231,

is guilty of committing an offence by negligence, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) A person who negligently commits the conduct described in Article 232,

is guilty of committing an offence by negligence, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (3) A person who negligently commits the conducts described in Articles 237 and 238,

is guilty of committing an offence by negligence, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 240. - Arson or Causing an Explosion Endangering Human Life.

A person who intentionally causes damage to one's own or another's property by fire or explosion in order to endanger human life,

is guilty of arson or causing an explosion endangering human life, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 241. - Arson or Causing an Explosion Resulting in Damage to Property.

A person who intentionally causes damage to property of another, by fire or explosion is, according the following degree of graduation, guilty of the offence of arson or causing an explosion resulting in damage to property of another:

- (a) damage to property estimated at an amount not exceeding 100,000 Nakfas shall be punished as a

Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years;

- (b) damage to property estimated at an amount between 100,001 and 1,000,000 Nakfas shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (c) damage to property estimated at an amount between 1,000,001 and 5,000,000 Nakfas shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (d) damage to property estimated at an amount exceeding 5,000,000 Nakfas shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 242. - Negligent Arson or Causing an Explosion.

A person who negligently, by fire or explosion, endangers human life or causes damage to property of another,

is guilty of the offence of negligent arson or causing an explosion, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 243. - Failure to Control a Dangerous Fire.

A person who knows that a fire is endangering life or property of another and fails to take reasonable measures to put

out or control the fire, when that person can do so without substantial risk to oneself, where:

- (a) that person knows that he or she is under an official, contractual or other legal duty to prevent or combat the fire; or
- (b) the fire was started by the accused or with the assent of the accused, or on property in the custody or control of the accused,

is guilty of the offence of failure to control a dangerous fire, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 244. - Failure to Warn of a Grave Danger to the Public.

A person who, without risk to oneself or others and where it is possible for him to do so, fails to warn the competent authorities of a dangerous fire, flood, explosion or swarm of locust or earthquake,

is guilty of failure to warn of a dangerous fire, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 245. - Causing a Catastrophe.

A person who intentionally causes a catastrophe by explosion, fire, flood, landslide, collapse of a building, release of poison gas, radioactive material or other harmful or destructive force or substance, or by any other means of causing widespread injury or damage,

is guilty of causing a catastrophe, a Class 2 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 19 years and not more than 23 years.

Art. 246. - Negligently Causing a Catastrophe.

A person who negligently causes a catastrophe as defined in Article 240,

is guilty of negligently causing a catastrophe, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 247. - Failure to Prevent a Catastrophe.

A person who intentionally fails to take reasonable measures to prevent or mitigate a catastrophe, when he can do so without substantial risk to himself, and:

- (a) is under an official, contractual or other legal duty to take such measures; or
- (b) did or assented to the act causing or threatening the catastrophe,

is guilty of failing to prevent a catastrophe, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 248. - Driving While Intoxicated.

Unless a more severe penalty is provided by any other legislation in effect, a person who operates a motor vehicle while his ability to operate the vehicle is impaired by alcohol or drugs, the amount of alcohol or the amount and type of drug that impairs one's ability to operate the vehicle as determined by regulations issued or to be issued,

is guilty of driving while intoxicated, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 249. - Operating Public Transport While Intoxicated.

Unless a more severe penalty is provided by any other legislation in effect, a person who operates public transport, including an aircraft, vessel, railway, or public land transport, while his ability to operate such public transport is impaired by alcohol or drugs, the amount of alcohol or the amount and type of drug that impairs one's ability to operate the vehicle as determined by regulations issued or to be issued,

is guilty of operating public transport while intoxicated, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 250. - Aggravated Driving While Intoxicated.

- (1) Unless a more severe penalty is provided by any other legislation in effect, a person who commits an offence under Article 248 when:
 - (a) he has previously been convicted of driving while intoxicated; or
 - (b) a person suffers bodily injury or death as a result of his driving while intoxicated,

is guilty of aggravated driving while intoxicated, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) A person who commits an offence under Article 249 under the same circumstances of sub-Article (1) above,

is guilty of aggravated operating public transport while intoxicated, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 251. - Dangerous Driving or Operation.

- (1) A person who operates a vessel, aircraft or a glider, railway equipment or public land transport in a manner that is dangerous to the public,

is guilty of dangerous driving, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) A person who operates a motor vehicle or a non-motor powered vehicle, including a bicycle or animal drawn cart, in a manner that is dangerous to the public,

is guilty of dangerous operation of a motor vehicle or a non-motor powered vehicle while intoxicated, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

- (3) In determining whether or not conduct constitutes dangerous driving, the Court shall have regard to all the circumstances, including the nature, condition and use of the place at which the vehicle, vessel, aircraft, railway equipment or public land transport is being operated and the amount of

traffic that at the time is or might reasonably be expected to be at that place.

Art. 252. - Failure to Stop and Offer Assistance After an Accident or Collision.

A person who has the care, charge or control of a vehicle, vessel or aircraft that is involved in an accident or collision with another person, vehicle, vessel or aircraft, or with another's property, and with the intent to avoid civil or criminal liability fails to stop or stops but fails to offer assistance or provide his name or address,

is guilty of leaving the scene of an accident or collision, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Chapter 12. - Offences against Public Health

Art. 253. - Contamination or Distribution of Contaminated Drinking Water, Food, Medicine or Consumable Goods.

- (1) A person who intentionally contaminates:
 - (a) water in wells, rivers, reservoirs or other sources of drinking water for people or distributes same;
 - (b) food or goods destined to become foods for people or distributes same; or
 - (c) medicine, medical equipment or other goods for consumption by people,

is guilty of contamination of water, food, medicine or consumable goods, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

A person who intentionally distributes these substances knowing that they have been contaminated,

is guilty of distribution of contaminated water, food, medicine or consumable goods a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

(2) A person who intentionally contaminates:

- (a) water in wells, reservoirs or other sources of drinking water for animals, or distributes same;
- (b) food or goods destined to become foods for animals or distributes same;
- (c) medicine, medical equipment or other goods for consumption by animals or distributes same; or
- (d) any one of the above or other media by application of contaminated substances or chemicals,

is guilty of contamination of water, food, medicine or consumable goods, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

A person who intentionally distributes these substances knowing that they have been contaminated,

is guilty of distribution of contaminated water, food, medicine or consumable goods, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 254. - Aggravated Contamination or Distribution of Drinking Water, Food, Medicine or Consumable Goods.

- (1) A person who commits an offence under Article 253 and in so doing:
 - (a) creates a risk to the health or safety of a large number of people, animals or plants;
 - (b) causes serious bodily injury to another person; or
 - (c) causes significant public alarm or anxiety or causes significant economic loss through public awareness of the contamination,

is, if the offence was committed by contamination of the substances described in Article 253, guilty of aggravated contamination, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

If the offence was committed by distribution of the substances described in Article 253, the offender,

is guilty of aggravated distribution, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

- (2) If any person exposed to a contamination or distribution as described in Article 253 dies as a

direct effect of the contamination or distribution,
the offender,
is guilty of murder, punishable under Article 275.

Art. 255. - Contamination of Land.

A person who intentionally contaminates land or fields so as to endanger the life or health of people, animals or plants,

is guilty of contamination of land, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 256. - Aggravated Contamination of Land.

- (1) A person who commits an offence under Article 255 and in so doing:
 - (a) creates a risk to the health or safety of a large number of people, animals or plants;
 - (b) causes serious bodily injury to another person; or
 - (c) causes the significant public alarm or anxiety or causes significant economic loss through public awareness of the contamination,

is guilty of aggravated contamination of land, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

- (2) If any person exposed to a contamination as described in Article 255 dies as a direct effect of the contamination, the offender,

is guilty of murder, punishable under Article 275.

Art. 257. - Adulteration of Goods, Medicines or Medicinal Products.

A person who intentionally:

- (a) manufactures or adulterates foodstuff, medicines, medicinal products, goods or products in a manner to endanger public health or risk injuries to persons; or
- (b) imports, receives, stores, offers for sale or distributes such goods or products,

is guilty of adulteration of goods, medicines or medicinal products, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 258. - Aggravated Adulteration of Goods, Medicines or Medicinal Products.

- (1) A person who commits an offence under Article 257 and:
 - (a) creates a risk to the health or safety of a large number of people;
 - (b) causes serious bodily injury to another person; or
 - (c) adulterates a large quantity of goods, medicines or medicinal products,

is guilty of aggravated adulteration of goods, medicines or medicinal products, a Class 7 serious offence, punishable with a

definite term of imprisonment of not less than 5 years and not more than 7 years.

- (2) If any person exposed to a contamination as described in Article 257 dies as a direct effect of the contamination, the offender

is guilty of murder, punishable under Article 275.

Art. 259. - Adulteration of Feed.

A person who intentionally:

- (a) manufactures feed or adulterates any feed or natural fodder or feeding stuffs, intended for animals, in a manner to endanger the animals' health or life; or
- (b) imports, receives, stores, offers for sale or distributes such products,

is guilty of adulteration of feed, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 260. - Aggravated Adulteration of Feed.

A person who commits an offence under Article 259 and:

- (a) creates a risk to the health or safety of a large number of animals; or
- (b) causes serious injury to, or the death of a large number of animals; or
- (c) adulterates a large quantity of feed,

is guilty of aggravated adulteration of feed, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 261. - Negligent Contamination or Adulteration.

A person who negligently commits the acts punishable under Articles 253-258,

is guilty of negligent contamination or adulteration, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 262. - Spreading of Communicable Diseases.

- (1) A person who intentionally spreads or transmits, or causes exposure to the spread or transmittal of, a communicable human disease, regardless whether it is treatable or is a public health problem, thereby putting people in danger of death or serious risk to health,

is guilty of intentionally spreading of communicable diseases, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

- (2) If any person who contacted a communicable human disease as described in sub-Article (1) dies as a direct effect of the communicable human disease, the person who has spread or transmitted the communicable human disease,

is guilty of aggravated intentional spreading of communicable diseases, a Class 5 serious offence, punishable with

a definite term of imprisonment of not less than 10 years and not more than 13 years.

Art. 263. - Negligent Spreading of Communicable Diseases.

- (1) A person who negligently spreads or transmits, or causes exposure to the spread or transmittal of, a communicable human disease, regardless whether it is treatable or is a public health problem, thereby endangering people with death or serious risk to health,

is guilty of negligently spreading communicable diseases, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) If any person who contacted a communicable human disease as described in sub-Article (1) dies as a direct effect of the communicable human disease, the person who has spread or transmitted the communicable human disease,

is guilty of aggravated negligent spreading of communicable diseases, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 264. - Spreading of Animal or Plant Diseases.

- (1) A person who spreads, or causes exposure to the spread of, a communicable disease, regardless whether it is treatable or is a public health problem, among domestic or other useful animals, or wild animals, which are protected by law, with the intent to endanger animals of that kind,

is guilty of spreading animal diseases, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

The spreading of animal diseases that can be transmitted to humans shall be punishable under sub-Article (1).

- (2) A person who spreads, or causes exposure to the spread of, a communicable disease, regardless whether it is treatable or is a public health problem, among plants or trees or shrubs, which are protected by law, with the intent to endanger trees or shrubs of that kind,

is guilty of spreading plant diseases, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 265. - Negligent Spreading of Animal or Plant Diseases.

A person who negligently commits the conduct punishable under Article 264,

is guilty of negligently spreading animal or plant diseases, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 266. - Handling of Dangerous Substances.

- (1) A person who intentionally keeps, produces, stores, distributes or handles poisons, drugs or other dangerous substances in a manner that is dangerous to the public,

is guilty of intentional handling of dangerous substances, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12

months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) A person who negligently keeps, produces, stores, distributes or handles poisons, drugs or other dangerous substances in a manner that is dangerous to the public,

is guilty of negligent handling of dangerous substances, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 267. - Unlawful Sale or Serving of Alcoholic Beverages.

A person who intentionally sells or serves alcoholic beverages to:

- (a) a person under the age of 18 years;
- (b) one whom he knows is already intoxicated; or
- (c) one whom he knows to be mentally impaired or not legally responsible,

is guilty of unlawful distribution of alcohol, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 268. - Endangering by Mental Means or Practices.

A person who intentionally endangers the health of another by inducing in him a state of hypnosis, trance or catalepsy, or any other change or suspension of his conscious faculties,

is guilty endangering by mental means or practices a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 269. - Contribution to Shortages or Famine.

A person who intentionally, for gain and without lawful excuse, contributes to a severe shortage or famine by:

- (a) hiding or hoarding grain, foodstuffs, agricultural inputs such as fertilizers and pesticides, medicine or provisions necessary to the life or health of human beings or animals; or
- (b) destroying or preventing the transport or distribution of grain, foodstuffs, medicine or provisions necessary to the life or health of human beings, animals or plants,

is guilty of contribution to shortages or famine, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 270. - Aggravated Contribution to Shortages or Famine.

A person who, having the duty or responsibility to deliver or transport grain, foodstuffs, medicine or provisions, as a purveyor, middleman, sub-contractor, carrier or agent, commits an offence under Article 269,

is guilty of aggravated creation of shortages or famine, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 271. - Practising Health Service or Pharmacy without a Permit and Licence.

- (1) A person who for remuneration practises health service or dispenses medicines or medicinal cures, without having a valid, current permit and licence from the appropriate authorities,

is guilty of practising health service or pharmacy without a permit and licence, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) A person who for remuneration, practises veterinary surgery or treatment of livestock, without having a valid, current permit and licence from the appropriate authorities,

is guilty of practising veterinary medicine without a permit and licence, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

- (3) Nothing in this Article shall be deemed to make an offence, a casual advice, aid or services rendered in cases of an emergency, or out of kindness or devotion and free of charge, or to the delivery in such conditions of proven and innocuous natural or traditional remedies.

Art. 272. - Unlawful Use or Supplying of Narcotics or Dangerous Substances.

A person who:

- (a) is licenced or authorized to provide medical care; or

- (b) keeps or dispenses narcotics or other dangerous substances in a manner endangering human health; and makes use of or provides narcotics or such dangerous substances to others without proper authority and contrary to normal practice,

is guilty of unlawfully supplying narcotics or other dangerous substances, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 273. - Aggravated Unlawful Use or Supplying of Narcotics or Dangerous Substances.

A person who commits an offence under Article 272 by selling narcotics or other dangerous substances,

is guilty of aggravated unlawful supplying of narcotics or dangerous substances, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 274. - Failure to Provide Medical Services.

A physician, dentist, veterinary surgeon, pharmacist, midwife or nurse, or any other person authorized to render professional medical services who, contrary to his duty and without just cause, refuses to provide medical services in case of a serious need,

is guilty of the offence of failure to provide medical services, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

**BOOK III - OFFENCES AGAINST THE PERSON,
PUBLIC DECENCY AND THE FAMILY**

Chapter 1. - Offences against Life

Art. 275. - Murder.

A person who intentionally causes the death of another person,

is guilty of murder, a Class 3 serious offence, punishable with a definite term of imprisonment of not less than 16 years and not more than 19 years.

Art. 276. - Aggravated Murder.

- (1) A person who commits murder that is premeditated or that is:
- (a) cruel or accompanied by torture;
 - (b) committed pursuant to an agreement for hire;
 - (c) committed to facilitate the commission of, or conceal the commission of, or aid in the escape from detection, arrest or conviction for any offence classified in this Code as a serious offence;
 - (d) committed for terrorist or political motives or for reasons of ethnic or religious bias or hatred;
 - (e) committed by means that the person who commits the crime knows will kill more than one person and in fact more than one death results; or

- (f) committed as member of a band or gang organized for carrying out armed robbery,

is guilty of aggravated murder, a Class 1 serious offence, punishable with life imprisonment, or, in cases of exceptional gravity, with death, or with a definite term of imprisonment of not less than 23 years and not more than 27 years.

- (2) Death sentence shall be passed where the offender has committed aggravated murder while serving a sentence of imprisonment for life.

Art. 277. - Provoked Murder.

A person who intentionally causes the death of another person in the heat of passion caused by sudden provocation is guilty of provoked murder, if the offence is provoked by a wrongful act or insult that is sufficient to deprive an ordinary person of the power of self-control and the person acted on it suddenly and before there was time for his passion to cool,

is guilty of provoked murder, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

Art. 278 - Negligent Homicide.

- (1) A person who negligently causes the death of another person,

is guilty of negligent homicide, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) Negligent homicide committed by a professional person who has a legal duty to safeguard life in the course of his professional functions, shall be a Class 8 serious offence, punishable with a definite term of

imprisonment of not less than 3 years and not more than 5 years.

- (3) Negligent homicide may only be prosecuted upon preferring of charges by those next of kin to the victim as described in Article 51.

Art. 279. - Infanticide.

- (1) A woman who intentionally kills her new born child by an act or omission committed when the child is under the age of ninety days, and when her mind is disturbed by reason of the effect of giving birth to the child or by reason of circumstances consequent upon that birth,

is guilty of infanticide, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) Where the Court believes the existence of extraordinary circumstances during the commission of the offence so warrant, it may unrestrictedly reduce the penalty or may impose no penalty (Article 66).

Art. 280. - Assisting Suicide.

- (1) A person who, for any selfish or base motive, intentionally helps, advises or incites another person to commit suicide,

is, where the suicide is attempted, guilty of assisting suicide, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) Where death results from a person's actions under sub-Article (1), or knew that the person who attempted to commit suicide is partially or completely irresponsible, sick or a minor person,

is guilty of assisting suicide, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 281. - Forcible Abortion.

A person who, by threats, coercion, deceit or any fraudulent means or in circumstances where the pregnant woman was incapable of realizing the significance of her actions, intentionally terminates a pregnancy, whether or not he obtained the consent of the pregnant woman to termination of her pregnancy,

is guilty of forcible abortion, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 282. - Unlawful Abortion.

- (1) A pregnant woman who intentionally terminates her pregnancy otherwise than permitted in Article 283,

is guilty of unlawful abortion a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) A person other than the mother who intentionally procures, performs, or assists in an intentional termination of pregnancy otherwise than permitted in Article 283,

is guilty of unlawful abortion, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

- (3) Apart from the general extenuating circumstances justifying ordinary mitigation of the punishment (Article 68), the Court may, with regards to the offence describes in sub-Article (1), unrestrictedly reduce the penalty or may impose no penalty (Article 66) on the pregnant woman where the pregnancy has been terminated on account of an exceptionally grave state of physical or mental distress, especially following rape or incest, or because of extreme poverty.

Art. 283. - Permissible Abortion.

- (1) No person other than a medical practitioner duly authorized and licensed by the appropriate authorities may terminate a pregnancy.
- (2) A duly authorized and licensed medical practitioner who terminates a pregnancy shall not be prosecuted where the pregnancy is terminated with the consent of the pregnant woman, or, in circumstances where it is impossible to procure the consent of the pregnant woman, the consent sequentially of her spouse, any one available parent, grandparent, other guardian or eldest of her children who has attained majority, and where:
 - (a) the pregnancy is the result of rape or incest;
 - (b) the termination is performed on a girl under the age of 18 years; or
 - (c) in the opinion of the medical practitioner, the pregnancy might endanger the physical

or mental health of the woman and it is impossible to avert in any other way.

- (3) For purposes of termination of pregnancy:
- (a) under sub-Article (2)(a) hereof, there shall be a certification of the existence of rape or incest from a Court which has jurisdiction over offences prescribed under Articles 281 or 282, which certification shall have been issued after a summary Court procedure as prescribed in the Criminal Procedure Code; and
 - (b) under sub-Article (2)(b) hereof, there shall, in the absence of legally issued documents from which the age of the woman can be verified, be a certification of the age of the woman from a Court or any other institution that has the authority by law to confirm the age of natural persons, which certification shall have been issued after a summary Court procedure as prescribed in the Civil Procedure Code.

Chapter 2. - Offences against Personal Integrity

Art. 284. - Intentional Bodily Injury or Assault.

A person who intentionally causes bodily injury to another person or applies force to or causes any impact on the body of another person shall be punished in accordance with the order of graduation provided for in Annex V to this Code.

Intentional bodily injury or assault may only be prosecuted upon preferring of charges by the victim.

Art. 285. - Negligent Bodily Injury or Assault.

- (1) A person who negligently causes bodily injury to another person or applies force to or causes any impact on the body of another person shall be punishable with a third ($1/3$) of the punishment due in accordance with the order of graduation provided for in Annex V to this Code.
- (2) If the crime was committed by a professional person who has a legal duty to safeguard the life or health of the victim, the offender shall be punishable with half ($1/2$) of the punishment due in accordance with the order of graduation provided for in Annex V to this Code.
- (3) Negligent Bodily Injury or Assault may only be prosecuted upon preferring of charges by the victim.

Art. 286. - Administering a Noxious Substance.

A person who administers or causes to be administered to any person or causes any person to take poison or any other noxious substance which that person knows is capable of interfering with the bodily functions of another person,

is guilty of administering a noxious substance, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 287. - Deprivation of Powers of Decision.

- (1) A person who deprives another person, against his will, of his conscious faculties or of his freedom of decision or action, whether by hypnotic suggestion,

by the administration of alcohol or narcotic substances, or by any other means,

is guilty of deprivation of power of decision, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) Deprivation of powers of decision may only be prosecuted upon the preferring of charges by the victim.

Art. 288. - Kidnapping and Abduction.

A person who kidnaps or abducts another person by force or deception, and without that person's consent,

is guilty of kidnapping and abduction, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 289. - Illegal Restraint.

A person who, without lawful authority arrests, confines, detains or otherwise restrains the freedom of another person,

is guilty of illegal restraint, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 290. - Aggravated Kidnapping or Illegal Restraint.

- (1) A person who, in committing an offence of kidnapping:
 - (a) carries, uses or threatens to use a weapon;

- (b) threatens to cause bodily harm to a person other than the person kidnapped or abducted and who is dependant and under the protection of the first;
- (c) wounds, maims, disfigures or otherwise causes bodily harm to the person kidnapped or abducted;
- (d) endangers the life of the person kidnapped or abducted;
- (e) holds another person for ransom or reward, or as a shield or hostage;
- (f) facilitates or attempts to facilitate the commission of another offence or flight thereafter;
- (g) facilitates or attempts to facilitate a terrorist or political objective;
- (h) kidnaps or abducts a person less than 15 years of age; or
- (i) kidnaps or abducts a person on the pretext that the person suffers from mental disorder or a dangerous condition,

is guilty of aggravated kidnapping, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

- (2) A person who commits an offence of illegal restraint under the conditions of sub-Article (1),

is guilty of aggravated illegal restraint, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

Art. 291. - Exposure and Endangerment of a Person to Death.

A person who intentionally puts another person in imminent danger of death,

is guilty of exposure and endangerment of a person to death, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 292. - Exposure and Endangerment of a Person to Serious Bodily Injury.

A person who has the custody or charge of a person who is incapable of protecting himself, whether on account of health, age, situation or any other circumstance, and intentionally exposes or abandons such person, thereby putting such person in imminent danger of serious bodily injury,

is guilty of exposure and endangerment of a person to serious bodily injury, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

The court may in addition deprive the offender of his family or custodial rights for a period of not less than one nor more than 10 years, upon a determination that the nature and circumstances of the offence justify the deprivation.

Art. 293. - Failure to Give Aid to another Person.

A person who intentionally leaves without helping a person in imminent and grave peril of life, person or health, when that person could have lent him assistance, direct or indirect, without risk to oneself or to third parties,

is guilty of failure to give aid, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 294. - Aggravated Failure to Give Aid to another Person.

A person who commits an offence as defined in Article 293:

- (a) and had himself caused the injury that left the victim in imminent and grave peril of life, person or health; or
- (b) was under an obligation, medical, professional or contractual, to go to the victim's aid or to lend him assistance,

is guilty of aggravated failure to give aid to another person, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 295. - Making Threats.

(1) A person who threatens another person with death or bodily injury so serious as to induce in him a state of alarm or agitation,

is guilty of making threats, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

- (2) Making threats may only be prosecuted upon the preferring of charges by the victim.

- (3) The Court may require the offender to enter into a recognizance of good behavior together with a surety or sureties.

Art. 296. - Coercion.

A person who, by using violence or threats of bodily injury to another person or by interfering in any other unlawful way with the liberty of action or civil rights of another, compels that other person to do a thing or to permit it to be done, or to refrain from doing it or from permitting it to be done,

is guilty of coercion, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 297. - Enslavement and Abetting Traffic.

- (1) A person who:
- (a) sells, alienates, pledges, buys, trades, traffics or otherwise enslaves another person;
 - (b) keeps or maintains another person in a condition of slavery even in disguised form; or
 - (c) knowingly transports whether by land, sea or air persons enslaved or aids and abets such traffic whether within Eritrean territory or otherwise,

is guilty of enslavement and abetting traffic, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

- (2) If the person enslaved is under eighteen years of age, the offence shall be a Class 4 serious offence,

punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.

Art. 298. - Violation of Privacy.

- (1) A person who:
 - (a) intentionally, and without lawful authority, intercepts, opens or otherwise interferes with a telephone call, letter, electronic message, or other private communication addressed or directed to another person; or
 - (b) having learned of certain facts by opening, even by mistake, inadvertence or negligence, such closed envelope or parcel or private communication not addressed to him, divulges such facts or derives a gain therefrom,

is guilty of violation of privacy, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) Violation of privacy may only be prosecuted upon preferring of charges by the victim.

Art. 299. - Violation of the Right of Freedom to Work.

- (1) A person who by intimidation, violence, fraud or any other unlawful means, whether alone or with others compels another to:
 - (a) to accept a particular employment or particular conditions of employment, or to refuse or withhold his labor, with the object of imposing on an employer by force the

acceptance or modification of terms of employment;

- (b) to join a group or association having as its aim the objects mentioned in (a); or
- (c) anyone who prevents another from freely leaving such a group or association,

is guilty of violation of the right of freedom to work, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) Violation of the right of freedom to work may only be prosecuted upon preferring of charges by the victim.

Art. 300. - Aggravated Violation of the Right of Freedom to Work.

A person who commits an offence of the violation of the right to work as defined in Article 299 and:

- (a) carries a weapon or instruments; or
- (b) where the prevention or coercion is the work of a large group,

is guilty of aggravated violation of the right of freedom to work, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 301. - Defamation or Malicious Injury to Honour or Reputation.

- (1) A person who intentionally causes injury to the honour or reputation of another person by

communicating to a third party or parties, directly or indirectly, any imputation of an act, a fact or conduct that is false,

is guilty of defamation, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) A person who communicates to a third party or parties, directly or indirectly, any imputation of an act, a fact or a conduct that is true solely with the intent to injure the honour or reputation of another person,

is guilty of malicious injury to honour or reputation, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

- (3) Defamation or malicious injury to honour or reputation may only be prosecuted upon preferring of charges by the victim.

Art. 302. - Insulting Behavior and Outrage.

- (1) A person who, by addressing himself to another person or by referring to another person, offends the honour of that other person by insult or injury by:
- (a) distastefully touching upon the latter's physical or mental impairment, or the latter's ethnic, religious or racial background;
 - (b) use of grossly obscene words or utterances;

- (c) reference to the victim's profession or
- (d) any other words or utterances of similar severity,

is guilty of insulting behavior and outrage, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) Other offences of insulting behavior and outrage of lesser severity than those contained in sub-Article (1) shall be punishable as Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 1, - 1,000 Nakfas.
- (3) Insulting behavior and outrage may only be prosecuted upon preferring of charges by the victim.
- (2) Members of the legislature, the executive or judiciary are not susceptible to legal proceedings on the ground of injury to honour done by information or statement, correct as to form, given or made by them in conformity with their duties and in the regular discharge of their duties.

Chapter 3. - Sexual Offences

Art. 303. - Sexual Assault.

- (1) A person who commits an assault of a sexual nature against another person having regard to the part of the body touched, the nature of the contact, the situation in which it occurred, the words and gestures accompanying the act and all other circumstances surrounding the conduct,

is guilty of sexual assault, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) An assault of sexual nature between spouses is punishable only where the spouses are not living together in the same household under circumstances which do not show a mutual agreement or understanding between the spouses not to live together in the same household temporarily.
- (3) Sexual assault may only be prosecuted upon the preferring of charges by the victim.

Art. 304. - Aggravated Sexual Assault.

A person who, in committing a sexual assault:

- (a) carries, uses or threatens to use a weapon or otherwise uses violence, intimidation or coercion or in any other way renders the victim incapable of resisting;
- (b) threatens to cause bodily injury to a person other than the person assaulted;
- (c) wounds, maims, disfigures or otherwise causes bodily injury to the assaulted person, or transmits a communicable human disease to the person assaulted or exposes him to the same, regardless whether such disease is treatable or is a public health problem, provided that if the person assaulted dies as a direct effect of the disease, the offender is guilty of murder, punishable under Article 275;

- (d) is fifteen or older and assaults a person under the age of fifteen;
- (e) abuses a position of trust, power or authority (pupil, apprentice, school boarder, domestic servant, adopted child, prisoner, patients);
- (f) endangers the life of the person assaulted or if the assaulted person, due to sadism of or transmission of diseases from the assailant, commits suicide from distress or despair;
- (g) is a party to the offence with any other person;
- (h) performs such act on an unconscious or deluded person or old people;
- (i) performs such act by misrepresentation; or
- (j) performs such act as a member of a group,

is guilty of aggravated sexual assault, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 305. - Sexual Outrage on Minors between Fifteen and Eighteen Years of Age.

A person who has sexual intercourse or performs an analogous act with a minor of the opposite sex of more than fifteen and less than eighteen years of age

is guilty of sexual outrage on minors between fifteen and eighteen years of age, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 306. - Aggravated Sexual Outrage on Minors between Fifteen and Eighteen Years of Age.

A person who commits an offence under Article 301 and the minor is his:

- (a) the adopted child or the child of his spouse; or
- (b) ward, pupil, apprentice, school boarder or domestic servant, or has been entrusted to his custody or care or is in any other way dependent upon him or under his authority,

is guilty of aggravated sexual outrage on minors between the fifteen and eighteen years of age, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 307. - Rape.

- (1) A person who commits a sexual assault against another person by any act that involves the penetration of the body of the person assaulted,

is guilty of rape, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

- (2) Rape between spouses is punishable only where the spouses are not living together in the same household under circumstances which do not show a mutual agreement or understanding between the spouses not to live together in the same household temporarily.

Art. 308. - Aggravated Rape.

A person who commits any rape as defined in Article 307 and:

- (a) carries, uses or threatens to use a weapon or otherwise uses violence, intimidation or coercion or in any other way renders the victim incapable of resisting;
- (b) threatens to cause serious bodily injury to a person other than the persons raped and who is dependent and under the protection of the first;
- (c) wounds, maims, disfigures or otherwise causes serious bodily injury to the person raped, or transmits a communicable human disease to the person raped or exposes him to the same, regardless whether such disease is treatable or is a public health problem, provided that if the person assaulted dies as a direct effect of the disease, the offender is guilty of murder, punishable under Article 275;
- (d) is fifteen or older and rapes a person under the age of fifteen;
- (e) the victim is an inmate of a hospital, alms-house or asylum, or any establishment of education, correction, internment or detention, who is under the supervision or control of or dependent upon the accused person;
- (f) endangers the life of the person raped; or
- (g) is a participant in commission of the offence with any other person,

is guilty of aggravated rape, a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.

Art. 309. - Incest.

A person who, knowing that another person is by blood relationship his or her parent, child, brother, sister, half-brother, half-sister, grandparent or grandchild, as the case may be, has sexual intercourse with that other person,

is guilty of incest, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 310. - Homosexual Conduct.

- (1) A person who performs with a person of the same sex an act corresponding to the sexual act, or any other indecent sexual act,

is guilty of homosexual conduct, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

- (2) Except in paragraphs (d), (e), or (f) which apply regardless of the consent of the victim to the act, in instances where the offence described in sub-Article (1) was committed against the will of a person or persons, the offender who:
 - (a) carries, uses or threatens to use a weapon or otherwise uses violence, intimidation or coercion or in any other way renders the victim incapable of resisting;
 - (b) threatens to cause bodily injury to a person other than the person assaulted;

- (c) wounds, maims, disfigures or otherwise causes serious bodily injury to the person assaulted, or transmits a communicable human disease to the person assaulted or exposes him to the same, regardless whether such disease is treatable or is a public health problem, provided that if the person assaulted dies as a direct effect of the disease, the offender is guilty of murder, punishable under Article 275;
- (d) is fifteen or older and assaults a person under the age of fifteen;
- (e) abuses a position of trust, power or authority (pupil, apprentice, school boarder, domestic servant, adopted child, prisoner, patients);
- (f) endangers the life of the person assaulted or if the assaulted person, due to sadism or transmission of diseases from the assailant, commits suicide from distress or despair;
- (g) is a party to the offence with any other person;
- (h) performs such act on an unconscious or deluded person or old people;
- (i) performs such act by misrepresentation; or
- (j) performs such act as a member of a group,

is guilty of aggravated homosexual conduct, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 311. - Consent to Sexual Conduct.

- (1) Where an accused is charged with an offence under this Chapter in respect of a person under the age of fifteen, it is not a defense that the person consented to the activity that forms the subject-matter of the charge, unless the accused is under the age of fifteen years and no more than one year older than that person.
- (2) It is not a defense to a charge under this Chapter that the accused believed that the complainant was fifteen or more at the time the offence is alleged to have been committed unless the accused took all reasonable steps to ascertain the age of the complainant.
- (3) Consent is no defense to an offence under Article 309 (Incest) or Article 310 (Homosexual Conduct).
- (4) Consent is no defense to an offence under this Chapter where the person who is purported to have consented was incapable of giving consent by reason of mental incapacity or intoxication.

Chapter 4. - Offences against Public Decency

Art. 312. - Public Indecency.

- (1) A person who, in a public place or in sight of the public, performs the sexual act or any other indecent act or gesture grossly offensive to decency or morals,

is guilty of public indecency, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) A person who, in the presence of persons under the age of fifteen, performs the sexual act or any other indecent act or gesture grossly offensive to decency or morals,

is guilty of public indecency, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 313. - Obscene or Indecent Publications.

- (1) A person who publicly distributes, displays or traffics in writings, images, posters, films, objects or other communications that are obscene or grossly indecent,

is guilty of obscenity, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) It is not an offence under sub-Article (1) where the conduct takes place in private, or where the material is artistic, literary or scientific in character.

Art. 314. - Prostitution.

A person who, for gain, procures, promotes or aids the prostitution of another person,

is guilty of an offence, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 315. - Traffic in Women, Infants and Young Persons.

A person who for gain or to gratify the passions of others:

- (a) traffics in women or infants and young persons, whether by seducing them, by enticing them, or by procuring them or otherwise inducing them to engage in prostitution or the production of pornography or for pornographic performances, even with their consent; or
- (b) keeps such a persons in a disorderly house or to let them out to prostitution,

is guilty of traffic in women, infants and young persons, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

Art. 316. - Aggravated Traffic in Women, Infants and Young Persons.

A person who commits an offence under Article 315 and where:

- (a) he professionally procures children under fifteen years of age;
- (b) he professionally procures his wife or his descendant, his adopted child or the child of his spouse, his brother or his sister, or his ward or anybody entrusted to his custody or care;
- (c) he has taken unfair advantage of the physical or mental distress of his victim, or his position as a protector, employer, teacher, landlord or creditor, or any other like situation;
- (d) he has made use of trickery, fraud, violence, intimidation or coercion, or where he has misused his authority over the victim;

- (e) he intends to deliver the victim to a professional procurer, or the victim is taken abroad or the victims whereabouts or place of abode cannot be established; or
- (f) the victim has been driven to suicide by shame, distress or despair,

is guilty of aggravated trafficking in women, infants and young persons, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 317. - Organization of Traffic in Persons.

A person who makes arrangements or provisions of any kind for the trafficking of women, or infants and young persons,

is guilty of organization of traffic in persons, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 318. - Aggravated Organization of Traffic in Persons.

A person who commits an offence under Article 317 as a professional procurer and fully makes arrangements involving many victims,

is guilty of aggravated organization of traffic in persons, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

Art. 319. - Bestiality.

A person who engages in sexual intercourse with an animal,

is guilty of bestiality, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and

not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Chapter 5. - Offences against Marriage and the Family

Art. 320. - Fraud and Deceit in Marriage.

- (1) A person who intentionally, in contracting or in order to contract a marriage, conceals from his spouse a fact that would annul or invalidate the marriage on one of the grounds specified by civil law or procures a marriage by means of intentional misrepresentation, error or fraud or deceit,

is guilty of fraud and deceit in marriage, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) Fraud and deceit in marriage may only be prosecuted upon the preferring of charges by the victim and after the marriage has been annulled.

Art. 321. - Solemnisation of an Unlawful Marriage.

A person who intentionally lends his offices, religious or civil, to the solemnisation of a marriage forbidden by law,

is guilty of solemnisation of an unlawful marriage, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 322. - Bigamy.

- (1) Except where polygamy is recognised under civil law in conformity with tradition or religious usage, a person who, being tied by the bond of a valid

marriage, intentionally contracts another marriage before the first union has been dissolved or annulled; or

- (2) Any unmarried person who marries another he knows to be tied by the bond of an existing marriage,

is guilty of bigamy, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (3) Limitations of criminal proceedings shall be suspended until such time as one of the marriages shall have been dissolved or annulled.

Art. 323. - Adultery.

- (1) A spouse bound by a union recognised under civil law who has voluntary sexual intercourse with a person other than his spouse and such other person who knows that his partner is married,

are each guilty of adultery, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) Adultery may only be prosecuted upon the preferring of charges by the injured spouse.
- (3) No Criminal proceedings shall follow where the complainant has provoked the adultery, consented to it, condoned it or derived profit from it.
- (4) The Court may without restriction mitigate the punishment (Article 66) where at the time at which the adultery was committed, the two spouses had

already ceased to cohabit, or where the complainant himself has committed adultery or has been guilty of any other conduct constituting legal ground for divorce or separation.

Art. 324. - Failure to Surrender a Child.

A person who, having the custody of an infant or young person, intentionally refuses to surrender him to the person or institution entitled to his custody either by law or by virtue of a Court order,

is guilty of failure to surrender a child, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 325. - False Registration or Substitution of Civil Status.

A person who suppresses or falsifies the civil status of another person:

- (a) by falsely registering to a woman the birth of a non-existing infant, or by making false statements concerning the birth; or
- (b) by deliberately substituting one infant for another,

is guilty of false registration or substitution of civil status, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 326. - Failure to Provide Support.

- (1) A person who:

- (a) fails to provide the allowances, necessities of life or maintenance which he owes, by virtue of family rights or of a judicial decision, to his ascendants or descendants, or to his spouse, even where divorced; or
- (b) fails to meet the financial obligations he has incurred, by virtue of law, of a judicial decision or of a formal undertaking, towards a woman whom he has made pregnant out of wedlock,

is guilty of failure to provide support, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) Failure to support may only be prosecuted upon the preferring of charges by the victim, or where the victim is a minor, by the victim's guardian.

Art. 327. - Child Neglect.

A person exercising parental authority who for gain or in dereliction of duty:

- (a) grossly neglects the children under his charge and abandons them without due care and attention, or to moral or physical dangers; or
- (b) entrusts a child for a long time to a person, an organization or an institution with whom or where he knows, or could have foreseen, that the child will be reduced to physical or moral destitution,

is guilty of child neglect, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

The court may in addition deprive the offender of his family or custodial rights for a period of not less than one nor more than 10 years, upon a determination that the nature and circumstances of the offence justify the deprivation.

BOOK IV – OFFENCES AGAINST PROPERTY

Chapter 1. - Offences against Property by Theft, Burglary and Robbery and Related Crimes

Art. 328. - Theft of Property.

- (1) A person who takes property belonging to another, with the intention of permanently depriving the other of it is guilty of theft or property, punishable in the following order of graduation:
 - (i) an offence under this Article for an amount not exceeding 100 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 2 petty serious offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas;
 - (ii) an offence under this Article for an amount between 101 and 2,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished Class 1 petty serious offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas;
 - (iii) an offence under this Article for an amount between 2,001 and 10,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1

year and not more than 3 years;

- (iv) an offence under this Article for an amount between 10,001 and 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
 - (v) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
 - (vi) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
 - (vii) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.
- (2) Theft by a relative may only be prosecuted upon the preferring of charges by the victim.

- (3) The absence of a charge against a relative shall not act as a bar to proceedings against secondary participants who are not relatives.

Art. 329. - Aggravated Theft.

A person who commits any theft as defined in Article 328:

- (a) as a member of a group formed to commit similar offences;
- (b) at night in an inhabited place or one used for dwelling;
- (c) of property from a grave;
- (d) of religious objects, or objects of scientific, historical or artistic value, from a church, mosque, or other place of worship, or from museums, universities, ruins officially identified for preservation as items of heritage or other public buildings open to the public;
- (e) being a public servant or private person relating to property under their care or to which they have access;
- (f) by looting, or under cover of an emergency, public disturbance or disaster; or
- (g) by carrying firearms or tools or implements for house-breaking,

is guilty of aggravated theft, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit

calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;

- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

Art. 330. - Robbery.

- (1) A person who, in committing theft, as defined in Article 328:
 - (a) uses force on any person; or
 - (b) threatens to use force on any person or purposely puts a person in fear of immediate serious bodily injury,

is guilty of robbery, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
 - (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
 - (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;
 - (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.
- (2) Robbery occurs in the course of committing a theft where it occurs in an attempt to commit theft or in flight after the attempt or commission.

Art. 331. - Aggravated Robbery.

A person who commits any robbery as defined in Article 330:

- (a) and has acted as a member of a group; or
- (b) at the time uses or threatens to use a weapon,

is guilty of aggravated robbery, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years;
- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be

punished as a Class 3 serious offence, punishable with a definite term of imprisonment of not less than 16 years and not more than 19 years.

Art. 332. - Receiving Stolen Property.

- (1) A person who intentionally receives, conceals, purchases or otherwise acquires stolen property, knowing the property to be stolen, or transfers to another the possession of such property, or participates in its disposal, or in any way ensures its possession by another,

is guilty of receiving stolen property, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 2 petty serious offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas;
- (ii) an offence under this Article for an amount between 101 and 2,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished Class 1 petty serious offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas;
- (iii) an offence under this Article for an amount between 2,001 and 10,000 Nakfas, or any other benefit calculated to be equivalent to that

amount, shall be punished as a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years;

- (iv) an offence under this Article for an amount between 10,001 and 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (v) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (vi) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (vii) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

(2) Property is stolen property where:

- (a) it was appropriated or obtained in the course of any theft, robbery or fraud, or any other offence under this Chapter or the following Chapter; or
 - (b) it was appropriated or obtained outside the State of Eritrea in the course of an offence outside of this jurisdiction that would have amounted to theft, robbery or fraud, or any other offence under this Chapter or the following Chapter.
- (3) A person may not be convicted of both theft and fraud and receiving stolen property with respect to the same property, where the person retains possession or custody of the property.

Art. 333. - Aggravated Receiving of Stolen Property.

A person who receives stolen property as defined in Article 332:

- (a) acting as a member of a group;
- (b) as a habitual receiver;
- (c) receives such property knowing it to have come from acts of looting, robbery, piracy, blackmail or taken from the armed forces or any public service; or
- (d) conceals and carries on acts of receiving by wrongfully exercising a licensed or authorized profession or trade,

is guilty of aggravated receiving of stolen property, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

Art. 334. - Theft of Services.

A person who:

- (a) intentionally obtains for himself or a third person, by deception or threat, by false token or other means to avoid payment for services, which that

person knows are available only for compensation;
or

- (b) has control over the disposition of services of others, to which that person is not entitled, and knowingly diverts such services for one's own enrichment or that of a third party not otherwise entitled to such services,

is guilty of theft of services, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 335. - Temporary Taking of Property for Use without Consent

- (1) A person who, without the consent of the owner, temporarily takes property belonging to another, with the intention of using another's property for a period of time; or
- (2) A person who, without the consent of the owner, takes a motor vehicle, vessel, or other mechanized property used for transportation, with intent to drive, use, navigate or operate it or cause it to be driven, used, navigated or operated,

is guilty of unauthorized use of a motor vehicle or vessel, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 336. - Petty Theft.

- (1) A person who commits theft as defined in Article 328 and 334 where the taking was prompted by desire and was for immediate consumption or use,

is guilty of petty theft, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) The Court may impose no punishment where the offence was committed due to hardship or need.

Art. 337. - Criminal Damage to Property.

A person who intentionally destroys, damages, depreciates or renders useless any property belonging to another,

is guilty of the offence of criminal damage, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 338. - Aggravated Criminal Damage to Property.

A person who commits criminal damage as defined in Article 337 and:

- (a) who has acted through malice or with intent to cause harm, or without that intent, has intentionally caused considerable damage to private objects, installations or farms;
- (b) who has destroyed or damaged an object of religious veneration or worship, an object of valuable scientific, historical or artistic nature, a public building or a monument, a historical site or any objects, farms, machinery, or installations of a public utility or necessary in the national interest;
- (c) where the act was accompanied by threats or violence;
- (d) who has acted as a member of a group; or

(e) who has employed means endangering the public,

is guilty of aggravated criminal damage, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 339. - Failure to Report the Finding of Mislaid or Lost Property.

A person who finds mislaid or property lost by another person or a treasure fails to report such a finding as soon as is reasonably possible to a public authority or the owner,

is guilty of failure to report the finding of lost property, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

Art. 340. - Criminal Trespass.

A person who, without permission or lawful authority:

- (a) enters on any land or enters in any dwelling, or outbuildings, a compound, a courtyard abutting on a dwelling or forming a part thereof;
- (b) enters the premises, offices, storehouse or yards of a business, not used for habitation;
- (c) having entered any premises defined in subsections (a) or (b) with the consent of the lawful occupant, remains there when lawfully requested to leave; or
- (d) in any other manner, interferes with the property or quiet possession of another,

is guilty of criminal trespass, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1

month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 341. - Aggravated Criminal Trespass.

A person who commits an offence under Article 340 while holding oneself to be a public servant or carrying a weapon or with other persons,

is guilty of aggravated criminal trespass, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 342. - Damage to Property of another Caused by Herds or Flocks.

- (1) A person who without permission or lawful authority, intentionally brings or permits his herds or flocks to pasture or stray on the property of another, thereby causing damage to the property of another,

is guilty of the offence of damage to property by herds or flocks, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) Where the conduct under sub-Article (1) is committed by negligence, then the offence shall be treated as a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (3) A person who commits an offence under this Article may only be prosecuted upon the preferring of charges by the victim.

Art. 343. - Disturbance of another's Holding.

A person who, without lawful authority, and with intent to obtain or to procure a profit or unlawful benefit for oneself or a third person:

- (a) modifies the condition of another person's property or its fixtures appurtenance thereto; or
- (b) draws off public or private waters,

is guilty of disturbing another's holding, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 344. - Displacing and Removal of Boundary Marks.

A person who, with intent to disturb the rights or holding of another, or to obtain or procure an unlawful benefit for himself or a third person, removes, displaces, misplaces, falsifies or obscures a boundary mark or any other mark of demarcation of property,

is guilty of displacing and removal of boundary marks, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 345. - Going Equipped for Theft, Robbery, or Other Offences under This Chapter.

A person who, when not at home, is found in possession of any suspicious article that can be used in the course of or in connection with any theft, robbery, or other offence under this Chapter, and the origin of which that person cannot explain satisfactorily or the use of which that person cannot justify,

is guilty of going equipped for the commission of a crime, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Art. 346. - Misappropriation of Property of another.

- (1) A person who with intent to obtain, or to procure for a third person, an unjustified enrichment, appropriates:
 - (a) the property of another that has come into his possession by mistake, accident, the operation of natural forces such as wind or water, or in any other manner independently of the will of the owner; or
 - (b) an animal that is the property of another, which has strayed into his possession,

is guilty of misappropriation, a Class 3 petty offence, punishable with a definite term of imprisonment of not more than 1 month, or a fine of 500 – 5,000 Nakfas, to be set in intervals of 500 Nakfas.

- (2) Misappropriation may only be prosecuted upon the preferring of charges by the victim.

Chapter 2. - Offences Involving Fraud, Fraudulent Transactions and Blackmail

Art. 347. - Fraud.

A person who, by deception including computer or electronic misrepresentation, obtains, with the intention of unlawful enrichment, any service or property, money or thing of value belonging to another,

is guilty of fraud, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less

than 10 years and not more than 13 years.

Art. 348. - Aggravated Fraud.

A person who commits any fraud as defined in Article 347 or a related crime in this Chapter:

- (a) as part of a licensed or authorized profession or business;
- (b) by a widespread scheme causing considerable damage to the public;
- (c) against infants or young persons, or persons incapable of understanding;
- (d) where the offender habitually commits the offence of fraud;
- (e) in a proceeding to register title to property;
- (f) where it has been committed against the military, a public administration or an institution providing public service; or
- (g) where the offender having so foreseen, has induced his victim to ruin or suicide by his acts or their repetition,

is guilty of the offence of aggravated fraud, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any

other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;

- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;
- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.

Art. 349. - Issuing or Passing of Bad Cheque.

- (1) A person who issues or passes a cheque for the payment of money, knowing that it will not be honored by the drawee,

is guilty of fraudulently issuing or passing a bad cheque, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) For purposes of this Article, a Court may find that an issuer or endorser knew that the cheque would not be paid where:
 - (a) the issuer had no account with the drawee at the time the cheque or order was issued;
 - (b) payment was refused by the drawee for lack of funds upon presentation; or

- (c) the issuer, intended at the time of issuance to stop payment, and in fact, subsequently instructed the drawee to stop payment.

Art. 350. - Deceptive Business Practices.

A person who in the course of business:

- (a) uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;
- (b) sells, offers or exposes for sale, or delivers less than the represented quantity or quality of any commodity or service;
- (c) takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure;
- (d) makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof, for the purpose of promoting the purchase or sale of a commodity, property or service; or
- (e) makes a false or misleading written statement for the purpose of obtaining property or credit,

is guilty of deceptive business practices, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 351. - Credit Card Fraud.

A person who intentionally uses a credit card for the purpose of obtaining property or services with knowledge that:

- (a) the card is stolen or forged;

- (b) the card has been revoked or canceled; or
- (c) for any other reason the use of the card is unauthorized by the issuer or cardholder,

is guilty of fraudulent use of credit card, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 352. - False Accounting.

A person who, with the intention of obtaining a gain or causing a loss:

- (a) destroys, defaces, conceals or falsifies any document made or required for any accounting purpose; or
- (b) in furnishing information for any purpose, produces or makes use of any document made or required for any accounting purpose that to the offender's knowledge is or may be misleading, false or deceptive,

is guilty of fraud by false accounting, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 353. - Fraud in Relation to Minerals or Mineral Rights.

- (1) A person who, being the holder of a lease or license or permit issued under a law relating to the exploration or minerals:
 - (a) fraudulently conceals or makes a false statement with respect to the quantity or quality of metals owned or procured by him; or

- (b) sells any rock, mineral, or other substance that contains any precious metals or hydrocarbons, or untreated, unsmelted, or partly treated or smelted precious metals or hydrocarbons by misrepresenting one's ownership, leasing or licensing or permitting status,

is guilty of fraud in relation to minerals or mineral rights, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

- (2) For purposes of this Article “precious metals” and “hydrocarbons” shall have the same definition as contained in the laws under which the leases or licenses or permits have been granted.

Art. 354. - Fraud in Relation to Mines.

A person who:

- (a) adds anything to or removes anything from an existing or prospective mine, mining claim or oil well with the intent to affect the result of an assay, test or valuation that has been made or is to be made, or
- (b) adds anything to, removes anything from or tampers with a sample or material taken from any existing or prospective mine, mining claim or oil well for the purpose of being assayed, tested or otherwise valued with the intent to affect the result of the assay, test or valuation,

is guilty of fraud in relation to mines, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 355. - Insurance Fraud.

A person who, with intent to obtain or to procure for oneself or a third person an unlawful enrichment, deceives a public or private insurance company:

- (a) by causing the damage covered by insurance; or
- (b) by concealing or falsely pretending or affirming a fact of any kind so as to influence the payment of benefits provided by the contract, in kind, in amount, in duration, or to a particular beneficiary,

is guilty of insurance fraud, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 356. - Fraud against Creditors.

A debtor who intentionally frustrates, in whole or in part, the satisfaction of one's debt by damaging, destroying, transferring without value or for substantially reduced value, concealing or appropriating without equivalent and marketable collateral, any of one's property, or who creates false debits or contracts

is guilty of defrauding creditors, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 357. - Mismanagement of Private Interests.

A person who is legally or contractually bound to watch over the property rights of another, and who intentionally causes prejudice thereto by misusing one's powers or by failing in his duties,

is guilty of mismanagement of private interests, a Class 1 petty offence, punishable with a definite term of imprisonment of

not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 358. - Taking Advantage of Persons under the Age of 18 or Persons Legally Incapable of Managing Their Own Affairs.

- (1) A person who commits mismanagement as defined in Article 357, by taking advantage of the carelessness, confidence or inexperience of a person under the age of 18, or a person legally incapable of managing his own affairs:
 - (a) in order to obtain a grant, promise or guarantee in his own favour or in favor of a third person, of sums of money, loans, acknowledgments of debt or other benefits in property; or
 - (b) in general, to obtain or avoid an assignment so as to prejudice the interests of a person under age 18 or a legally incapable person,

is guilty of taking advantage of persons under the age of 18 or legally incapable person, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) An offence under sub-Article (1) may only be prosecuted upon the preferring of charges by the victim.

Art. 359. - Fraudulent Unfair Competition.

- (1) A person who intentionally competes with another by means of deception or another process contrary to rules of good faith in business including by:
 - (a) discrediting another, his goods or dealings, his activities or business, or by making untrue or false statements as to his own

goods, dealings, activities or business in order to derive a benefit therefrom against his competitors;

- (b) taking measures such as to create confusion with the goods, dealings or products or with the activities or business of another;
- (c) using inaccurate or false styles, distinctive signs, marks or professional titles in order to induce a belief as to his particular status or capacity;
- (d) granting or offering anything to employees, agents or representatives of another in order to induce them to fail in their duties or obligations in their work, or to induce them to discover or reveal any secret of manufacture, organization or process; or
- (e) revealing or taking advantage of such secrets obtained or revealed in any other manner contrary to good faith,

is guilty of fraudulent unfair competition, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) An offence under sub-Article (1) may only be prosecuted upon the preferring of charges by the victim.

Art. 360. - Infringement of Marks, Declarations of Origin, Designs or Models.

- (1) A person who, for purposes of commercial advantage or private financial gain:
 - (a) infringes, imitates or passes off, in such manner as to deceive the public, another's mark or distinctive signs or declarations of origin on any product, goods or their

packing, whether commercial, industrial or agricultural;

- (b) sells or offers for sale, imports or exports, distributes or places on the market products or goods under a mark which that person knew to be infringed, imitated, passed off or improperly affixed;
- (c) refuses to declare the origin of products or goods in one's possession under such marks; or
- (d) takes any of the actions specified in paragraphs (a), (b) or (c) with respect to industrial designs or models, patented inventions or processes, duly registered and protected by existing national or international agreements,

is guilty of infringement of marks, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) Offences under sub-Article 1 may only be prosecuted upon the preferring of charges by the victim.

Art. 361. - Infringement of Copyright.

- (1) A person who, without permission of the lawful owner or copyright holder, and for purposes of commercial advantage or private financial gain:
 - (a) counterfeits, reproduces, copies or imitates, in whole or in part, by sound, print, electronically, photographically or any other copying method, a literary, musical or photographic composition, or any other intellectual work protected by an owner's, author's or performer's copyright; or

- (b) sells, offers for sale, imports or exports, distributes or places on the market infringements of such works,

is guilty of infringement of copyright, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) Infringement of literary or artistic copyright under sub-Article (1) may only be prosecuted upon the preferring of charges by the victim.

Art. 362. - Misappropriation or Destruction of Property Subject to Pledge Usufruct or Encumbrance.

A person who, with intent to obtain a benefit or to procure a benefit to a third person, or to cause damage to a creditor, removes, assigns, damages, depreciates or renders useless property held by the creditor by way of pledge, usufruct or lien,

is guilty of misappropriation or destruction of property subject to pledge, usufruct or lien, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 363. - Misappropriation or Destruction of Property Subject to a Court Order.

A person who, to the prejudice of creditors, arbitrarily disposes of property under seizure or sequestration, listed in a bankruptcy, or in any other Court document evidencing an encumbrance or destroys, damages, depreciates or renders such property useless

is guilty of misappropriation or destruction of property subject to a court order, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 364. - Fraudulent Bankruptcy.

- (1) A debtor adjudged bankrupt who intentionally disposes of his assets to the prejudice of his creditors:
 - (a) materially, by assigning or destroying, damaging, depreciating or rendering useless all or part of the property constituting his assets; or
 - (b) fictitiously, by removing or concealing property, by relying on or recognizing non-existent debts or claims or by inciting a third person to make fictitious claims, or in any other manner pretending that his assets is less than it is in fact,

is guilty of fraudulent bankruptcy, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

- (2) A third party who commits or participates in such acts to the prejudice of creditors,

is guilty of fraudulent bankruptcy, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 365. - Blackmail.

- (1) A person who, without a reasonable justification or excuse, and with the intent to obtain a gain or cause a loss, or to influence the exercise of a public duty, or to cause a person to submit to a condition or demand contrary to morality, threatens to lodge a complaint or a criminal charge or to disclose a fact such as to injure the honor or reputation of either the victim or a relative, tied to him by blood, marriage or affection

is guilty of blackmail, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (2) For purposes of this Article, threat means a threat of force to the victim or another, or a threat of detrimental or unpleasant action such as to publish, or divulge a fact, even where true, the knowledge of which is damaging to the victim or to a relative.

Art. 366. - Fraudulent Borrowing and Lending.

- (1) A person who borrows money from another without providing a collateral or pledge of sufficient value to cover the loan by promising or undertaking to pay back the loan on the due date together with interest higher than that payable then by financial institutions when that person knows or should have known that it would be impossible to carry on any lawful business that would yield sufficient profit for such payment at such rate,

is guilty of fraudulent borrowing, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

- (2) The lender who is engaged in a fraudulent transaction as described in sub-Article (1),

is guilty of fraudulent lending, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 367. - Usury.

- (1) A person who by exploiting another person's reduced circumstances or dependency, material

difficulties, or carelessness, inexperience, weak character or mind:

- (a) lends the other person money at a higher interest rate than that set by financial institutions; or
- (b) obtains a promise or assignment of benefits in property in exchange for pecuniary or other consideration, which is in evident disproportion,

is guilty of usury, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 2 petty serious offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas;
- (ii) an offence under this Article for an amount between 101 and 2,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished Class 1 petty serious offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas;
- (iii) an offence under this Article for an amount between 2,001 and 10,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years;

- (iv) an offence under this Article for an amount between 10,001 and 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
 - (v) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
 - (vi) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
 - (vii) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.
- (2) A person who with a similar intent acquires a usurious claim and sets it up against or assigns it to another is guilty of usury, punishable as provided in sub-Article (1).

Chapter 3. - Forgery and Related Offences

Art. 368. - Material Forgery.

- (1) A person who, in order to obtain a gain for himself or a third party, or cause damage to another person, makes a false instrument, writing or document, knowing it to be false, with intent that it should in any way be used or acted on as genuine or induce the belief that it is genuine,

is guilty of material forgery, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that

amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

- (2) For purposes of this Chapter, “instrument” or “writing” or “document” includes printing or any other method of recording information, and cheques, bills of exchange, letters of credit, promissory notes, bank deposit books, certificates of deposit, shares or bonds, tokens, stamps, seals, credit cards, bank money cards, phone cards or other cards for access to or having value, badges, passports, licences, trade-marks, tapes, disks, diplomas, certificates, testimonials or any other symbols of value, right, privilege or identification.
- (3) A reference in this Chapter to inducing a person to accept a false document as genuine includes a reference to causing a machine to respond to the document as if it were a genuine document.

Art. 369. - Use of Forged Writings or Documents.

A person who, not being a party to the forgery, knowingly makes use of a forged instrument, writing or document or of an instrument, writing or document falsified by a third party,

is guilty of the use of a forged writing or document, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 370. - Aggravated Forgery.

A person who commits any forgery as defined in Article 365 of instruments, writings or documents concerning national defense or threatening the security of the State or seriously affecting the general public welfare, or the person is a public servant,

is guilty of aggravated forgery, punishable in the following order of graduation:

- (i) an offence under this Article for an amount not exceeding 100,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years;
- (ii) an offence under this Article for an amount between 100,001 and 1,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years;
- (iii) an offence under this Article for an amount between 1,000,001 and 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years;
- (iv) an offence under this Article for an amount exceeding 5,000,000 Nakfas, or any other benefit calculated to be equivalent to that amount, shall be punished as a Class 4 serious offence, punishable with a definite term of imprisonment of not less than 13 years and not more than 16 years.

Art. 371. - Petty Use of Forged Writings or Documents.

A person who uses forged writings or documents as defined in Article 369, but the property involved is of small value,

is guilty of petty forgery or petty use, a Class 1 petty offence, punishable with a definite term of imprisonment of not

less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 372. - Possession of Paper, Material and Equipment for Forgery.

A person who, with the intent to commit or to assist in any offence under this Chapter:

- (a) makes or repairs;
- (b) buys or sells; or
- (c) possesses

any plate, dye, machinery, ink or other means for producing a false document or writing, or revenue paper, or paper or material that is used to make stamps, bank notes, cheques or any other instrument of debt,

is guilty of possession of paper, material and equipment for forgery, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 373. - Fraudulent Destruction, Removal or Concealment of Recordable Writings or Documents.

A person who, with the intent to interfere with the civil rights of another or to procure for himself or another any unlawful advantage, destroys, damages, removes or conceals a writing or document for which he does not have the right to dispose of,

is guilty of the fraudulent destruction, removal or concealment of certain documents, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

Art. 374. - Unauthorized Use of a Computer.

- (1) A person who intentionally:
 - (a) obtains, directly or indirectly, any unauthorized computer service;
 - (b) by means of an electro-magnetic, acoustic, mechanical or other device, intercepts or causes to be intercepted, directly or indirectly, any function of a computer system;
 - (c) alters or destroys data in a computer, renders data meaningless, useless or ineffective, obstructs, interrupts or interferes with the lawful use of data; or
 - (d) permits another person to have access to a computer password that would enable a person to commit an offence under paragraphs (a), (b) or (c), or obstructs, interrupts or interferes with any person in the lawful use of data or denies access to data to any person who is entitled to such access,

is guilty of an unauthorized use of a computer, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

- (2) For purposes of this Article:
 - (a) “**computer password**” means any data by which a computer service or computer system is capable of being obtained or used;
 - (b) “**computer program**” means data representing instructions or statements that, when executed in a computer system,

causes the computer system to perform a function;

- (c) “**computer service**” means data processing and the storage or retrieval of data;
- (d) “**computer system**” means a device that, or a group of inter-connected or related devices one or more of which:
 - (i) contains computer programs or other data, and
 - (ii) pursuant to computer programs, performs logic and control and may perform any other function;
- (e) “**data**” means representation of information or of concepts that are being prepared or have been prepared in a form suitable for use in a computer system; and
- (f) “**electro-magnetic, acoustic, mechanical or other device**” means any device that is used or capable of being used to intercept any function of a computer system.

Art. 375. - Aggravated Unauthorized Use of a Computer.

A person who commits any unauthorized use of a computer as defined in Article 374 in relation to public or financial institutions,

is guilty of aggravated unauthorized use, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

BOOK V – OFFENCES INVOLVING DRUGS

Chapter 1. - Serious Drug Offences

Art. 376. - Interpretations.

In this Book:

- (1) Controlled Drugs, Controlled Plant, Trafficable, Commercial and Large Commercial Quantities of a Controlled Drug or Plant, Pure and Dilute Weights, Controlled Precursors or Derivatives and Trafficable, Commercial and Large Commercial Quantities of Controlled Precursors or Derivatives shall be defined in the Drug Offences Regulations issued by the Concerned Ministries, as may be amended from time to time.
- (2) Pure weight, that is the actual quantity of the drug in the mixture, or dilute weight, that is the actual quantity of the mixture instead of the quantity of the Controlled Drug, whichever would subject the offender to the more severe penalty, shall be used for purposes of establishing the trafficable, commercial or large commercial quantity of a Controlled Drug.

Chapter 2. - Trafficking in or Manufacturing of Controlled Drugs

Art. 377. - Definition of Trafficking and Manufacturing.

For purposes of this Book:

- (1) **“Trafficking in a Controlled Drug or Controlled Plant”** means:
 - (a) to sell, buy, administer, prepare, give, transfer, transport, send or deliver;

- (b) to sell or buy an authorization to obtain the Controlled Drug or Controlled Plant; or
 - (c) to offer to do any of the above.
- (2) Trafficking includes preparing a drug for supply by packaging or separating the drug into discrete units.
- (3) “**Manufacturing a Controlled Drug**” means any process by which a substance is produced, and includes providing financing for its manufacture.

Art. 378. - Trafficking in or Manufacturing of a Large Commercial Quantity of Controlled Drugs.

A person who traffics in or manufactures a large commercial quantity of a controlled drug,

is guilty of trafficking or manufacturing large commercial quantities, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 379. - Trafficking in or Manufacturing of a Commercial Quantity of Controlled Drugs.

A person who traffics in or manufactures a commercial quantity of a controlled drug,

is guilty of trafficking or manufacturing commercial quantities, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

Art. 380. - Trafficking in or Manufacturing of a Controlled Drug.

A person who traffics in or manufactures a controlled drug,

is guilty of trafficking or manufacturing a controlled drug, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 381. - Complicity in Drug Offences.

A person is not party to the trafficking merely because the person purchased or intended to purchase, for his own use, a controlled drug, or controlled plant from another person.

Art. 382. - Sale of a Controlled Precursor for Purposes of Manufacture of Controlled Drugs.

- (1) A person who sells a large commercial quantity of a controlled precursor, believing that the person to whom it is sold or another person intends to use any of it to manufacture a controlled drug,

is guilty of sale of a large commercial quantity of a controlled precursor, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

- (2) A person who sells a commercial quantity of a controlled precursor, believing that the person to whom it is sold or another person intends to use any of it to manufacture a controlled drug,

is guilty of sale of a commercial quantity of a controlled precursor, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (3) A person who sells a controlled precursor, believing that the person to whom it is sold or another person intends to use any of it to manufacture a controlled drug,

is guilty of sale of a controlled precursor, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 383. - Manufacture of a Controlled Precursor of Controlled Drugs.

- (1) A person who manufactures a controlled precursor with the intention of manufacturing a large commercial quantity of controlled drugs or selling any of the drugs so manufactured, or believing that another person intends to sell a large commercial quantity of the drugs so manufactured,

is guilty of the offence of manufacturing a controlled precursor for the manufacture or sale of a large commercial quantity of controlled drugs, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

- (2) A person who manufactures a controlled precursor with the intention of manufacturing a commercial quantity of controlled drugs or selling any of the drugs so manufactured, or believing that another person intends to sell a commercial quantity of the drugs so manufactured,

is guilty of manufacturing a controlled precursor for the manufacture or sale of a commercial quantity of controlled drugs, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years.

- (3) A person who manufactures a controlled precursor with the intention of manufacturing a quantity of controlled drugs or selling a quantity of the drug so manufactured, or believing that another person intends to sell a quantity of the drugs so manufactured,

is guilty of manufacturing controlled precursor for the manufacture or sale of controlled drugs, a Class 1 petty offence,

punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 384. - Possession of Substance, Equipment or Other Thing for Commercial Manufacture of Controlled Drugs.

A person who possesses any substance, equipment or other thing:

- (a) with the intention of using it to commercially manufacture or traffic in controlled drugs and trafficking of any of the drugs so manufactured; or
- (b) with the intention of using it to commercially manufacture or traffic in controlled drugs and believing that another person intends to sell any of the drugs so manufactured,

is guilty of the offence of possession for the commercial manufacture or commercial trafficking of controlled drugs, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Chapter 3. - Cultivation of Controlled Plants

Art. 385. - Cultivation of Large Commercial Quantity of Controlled Plants.

A person who cultivates a large commercial quantity of controlled plants,

is guilty of cultivation of large commercial quantities of controlled plants, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 386. - Cultivation of Commercial Quantity of Controlled Plants.

A person who cultivates a commercial quantity of controlled plants,

is guilty of cultivation of commercial quantities of controlled plant, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

Art. 387. - Cultivation of Controlled Plants.

A person who cultivates controlled plants,

is guilty of cultivation of controlled plants, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 388. - Trafficking in Controlled Plants.

- (1) A person who traffics in a large commercial quantity of a controlled plants,

is guilty of trafficking in a large commercial quantity of controlled plants, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

- (2) A person who traffics in a commercial quantity of controlled plants,

is guilty of trafficking in a commercial quantity of controlled plants, a Class 7 serious offence, punishable with a definite term of imprisonment of not less than 5 years and not more than 7 years.

- (3) A person who traffics in controlled plants,

is guilty of trafficking in controlled plants, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Art. 389. - Possession of Plant Material or Equipment for Commercial Cultivation of Controlled Plants.

Unless otherwise authorized, a person who possesses any controlled plants, any product of controlled plants, or any equipment with the intention of using it to cultivate controlled plants and:

- (1) with the intention of trafficking in any of the plants so cultivated or their products; or
- (2) believing that another person intends to traffic in any of the plants so cultivated or their products,

is guilty of the offence of possession of plant material or equipment, a Class 8 serious offence, punishable with a definite term of imprisonment of not less than 3 years and not more than 5 years.

Chapter 4. - Drug Offences Involving Minors

Art. 390. - Supply of Controlled Drugs or Controlled Plants to a Minor for Trafficking.

- (1) A person who supplies a commercial quantity of controlled drugs or controlled plants to a minor believing that the minor intends to traffic in any of the drug or plant,

is guilty of the offence of supplying commercial quantities of controlled drugs or plants to a minor for trafficking, a Class 3 serious offence, punishable with a definite term of imprisonment of not less than 16 years and not more than 19 years.

- (2) A person who supplies controlled drugs or controlled plant to a minor, believing that the minor intends to traffic any of the drug or plant,

is guilty of the offence of supplying controlled drugs or plants to a minor for trafficking, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

Art. 391. - Procuring a Minor to Traffic in Controlled Drugs or Controlled Plants.

- (1) A person who procures a minor to traffic in a commercial quantity of controlled drugs or controlled plants,

is guilty of procuring a minor to traffic in a commercial quantity of controlled drugs or controlled plants, a Class 3 serious offence, punishable with a definite term of imprisonment of not less than 16 years and not more than 19 years.

- (2) A person who procures a minor to traffic in a controlled drug or controlled plant, is guilty of procuring a minor to traffic, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

- (3) For purposes of this Article, a person procures a minor to traffic in controlled drugs or controlled plants where:

- (a) the person procures the minor to traffic in the drug or plant;
- (b) the person, with the intention of trafficking in any of the drug plant, or believing that another person intends to traffic in any of the drug or plant procures the minor to prepare the drugs or plants for supply or to transport the drugs or plants; or
- (c) the person, with the intention of trafficking in any of the drugs or plants or assisting another person to traffic in any of the drugs

or plants, procures a minor to guard or conceal the drugs or plants.

- (4) Preparing the drugs for supply includes packaging the drugs or separating the drugs into discrete units.

Art. 392. - Supply of Controlled Drugs or Controlled Plants to a Minor.

A person who supplies a controlled drugs or controlled plants to a minor

is guilty of supplying controlled drugs or plants to a minor, a Class 5 serious offence, punishable with a definite term of imprisonment of not less than 10 years and not more than 13 years.

Art. 393. - Mistake as to Age of a Minor.

In the prosecution of an offence under this Chapter, mistake as to the age of a minor is no defense.

Art. 394. - Exemption for Minors.

A person is not criminally responsible for an offence under this Chapter where, at the time of the conduct constituting the offence, such person was a minor.

Chapter 5. - Less Serious Drug Offences

Art. 395. - Possession of Controlled Drugs for Personal Use or Consumption.

A person who possesses controlled drugs for personal use or consumption,

is guilty of possession of controlled drugs for personal use, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12

months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

Art. 396. - Possession or Cultivation of a Controlled Plant for Personal Use or Consumption.

A person who possesses or cultivates a controlled plant for personal use or consumption,

is guilty of possession or cultivation of a controlled plant for personal use, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas.

ANNEXES TO THE PENAL CODE

ANNEX I – GRADUATED CLASSES FOR SELECT MONEY-RELATED OFFENCES

AMOUNT IN NAKFAS	PROPOSED PUNISHMENT (IN YEARS OF IMPRISONMENT) FOR THE OFFENCE ¹																	
> 5,000,000	19-23	16-19	16-19	16-19	16-19	16-19	13-16	13-16	13-16	13-16	13-16	10-13	10-13	10-13	10-13	7-10		
1,000,001-5,000,000	16-19	13-16	13-16	13-16	13-16	13-16	10-13	10-13	10-13	10-13	10-13	7-10	7-10	7-10	7-10	5-7		
100,001 - 1,000,000	13-16	10-13	10-13	10-13	10-13	10-13	7-10	7-10	7-10	7-10	7-10	5-7	5-7	5-7	5-7	3-5		
1 -100,000	10-13	7-10	7-10	7-10	7-10	7-10	5-7	5-7	5-7	5-7	5-7	3-5	3-5	3-5	3-5	1-3		
	Aggravated corruption of a public official	Corruption by a public official	Aggravated corrupting of a public official	Aggravated breach of official duties	Aggravated Robbery	Counterfeiting	Robbery	Alteration of currency, circulation of counterfeit or altered money	Aggravated forgery, Aggravated fraud	Corrupting a public official	Aggravated corruption by an agent / Aggravated corruption of an agent	Material forgery, fraud, breach of official duties, intentional issuance or Delivery of official papers	Corruption by an agent	Aggravated corruption with an agent / Aggravated corrupting of an agent	Aggravated theft / Aggravated receiving of stolen property	Theft of property, receiving of stolen property, fraud and false statements regarding taxation, usury, unlawful refusal to pay taxes	Corrupting an agent	
10,001-100,000																3-5		
2,001-10,000																	1-3	
101 - 2,000																	6-12 months	
up to 100																	1-6 months	

¹ All classes, unless otherwise indicated in brackets, are those contained in the classes for Serious Offences.

ANNEX II – AGGRAVATING CIRCUMSTANCES CHART

S.N.	AGGRAVATING CIRCUMSTANCE	WEIGHT DUE IN EACH OF THE RESPECTIVE CATEGORY OF CLASSES			
		Classes 1 and 2 Serious Offences	Classes 3, 4, 5 and 6 Serious Offences	Classes 7, 8 and 9 Serious Offences	Petty Offences
1	the offender acted together with others in pursuance of a criminal agreement, or as a member of a gang organized to commit offences, and especially where the offender acted as chief, organizer, or ringleader of the criminal activity	2-6 months	1-5 months	1-3 months	The Court's Discretion
2	the offender knew or reasonably should have known that the victim of the offence was vulnerable or incapable of resistance by reason of age, health, disability, or for any other reason or where the offender's exhibited lack of remorse or concern for the victim	1-4 months	up to 4 months	up to 2 months	The Court's Discretion
3	the offender was motivated by bias, prejudice or hate based on religion, national or ethnic origin, language, sex, race, or otherwise acted out of a base or evil motive	1-4 months	1-3 months	up to 2 months	The Court's Discretion
4	the offender was in an official position or other position of trust and abused his powers or authority	up to 4 months	up to 3 months	up to 2 months	The Court's Discretion
5	the offender committed the criminal activity through minors or mentally deficient or through persons who did not know the criminal nature of the act at the time of its commission	1-2 months	up to 1 month	up to 1 month	The Court's Discretion
6	the offender intentionally obstructed or impeded the investigation, gathering of evidence or prosecution of the offence	up to 2 months	up to 1 month	up to 1 month	The Court's Discretion
7	the offender has a substantial history of prior criminal convictions	up to 2 months	up to 1 month	up to 1 month	The Court's Discretion
8	other aggravating circumstances which the court may consider under Art. 67(2)	The Court's Discretion	The Court's Discretion	The Court's Discretion	The Court's Discretion

ANNEX III – MITIGATING CIRCUMSTANCES CHART

S.N.	MITIGATING CIRCUMSTANCE	WEIGHT DUE IN EACH OF THE RESPECTIVE CATEGORY OF CLASSES			
		Classes 1 and 2 Serious Offences	Classes 3, 4, 5 and 6 Serious Offences	Classes 7, 8 and 9 Serious Offences	Petty Offences
1	the offender has manifested sincere repentance for the criminal activity, especially by seeking to aid the victim, surrendering to the authorities, voluntarily assisting the authorities in investigating the offence and apprehending other offenders, or by providing compensation to the victim before being ordered by a Court to do so	2-6 months	1-5 months	1-3 months	The Court's Discretion
2	the offender committed the offence under some degree of mental impairment, provocation, necessity, defense of self or another, or coercion, although insufficient to constitute a defense under the law	1-4 months	up to 4 months	up to 2 months	The Court's Discretion
3	the offender acted under the influence of another person or played only a minor role in the offence	1-4 months	1-3 months	up to 2 months	The Court's Discretion
4	the offender acted in a great distress or under the apprehension of a grave threat or justified fear, or under the influence of a person to whom he owes obedience or upon whom he depends	up to 4 months	up to 3 months	up to 2 months	The Court's Discretion
5	the offender acted contrary to law for the purpose of not exposing a relative or a person under his care to a criminal penalty, dishonor, or grave injury	1-2 months	up to 1 month	up to 1 month	The Court's Discretion
6	the offender's participation in the criminal activity was due to youthfulness, lack of intelligence, mistake of fact or ignorance of law, ignorance or simplicity of mind, or that honorable or disinterested motives prompted the offender's acts	up to 2 months	up to 1 month	up to 1 month	The Court's Discretion
7	the offender has no history of prior criminal convictions	up to 2 months	up to 1 month	up to 1 month	The Court's Discretion
8	other mitigating circumstances which the court may consider under Art. 68(2)	The Court's Discretion	The Court's Discretion	The Court's Discretion	The Court's Discretion

ANNEX IV – RECIDIVISM CHART

Stage of Recurrence	CLASS OF OFFENCE FOR WHICH THE OFFENDER HAD PREVIOUSLY SERVED A SENTENCE OF IMPRISONMENT AND THE PERIOD OF TIME WITHIN WHICH THE OFFENDER HAS COMMITTED THE CURRENT OFFENCE AFTER HIS RELEASE		
	Class 1 or 2 Petty Offences (Three Years)	Class 5, 6, 7, 8 or 9 Serious Offences (Five Years)	Class 1, 2, 3 or 4 Serious Offences (Seven Years)
	maximum amount by which the sentence for the current offence may be increased (<i>but the sentence may, under no circumstances, exceed 27 years as such</i>)		
First Recurrence	a fourth (1/4)	a third (1/3)	half (1/2)
Second Recurrence	half (1/2)	two thirds (2/3)	three fourths (3/4)
Third Recurrence and Above	A sentence of the court's discretion within the range for the class <u>two levels above</u> the class for the current offence	A sentence of the court's discretion within the range for the class <u>three levels above</u> the class for the current offence	A sentence of the court's discretion within the range for the class <u>four levels above</u> the class for the current offence

ANNEX V – GRADUATED CLASSES FOR BODILY INJURY AND ASSAULT OFFENCES

S/N	TYPE OF INSTRUMENT, WEAPON etc. USED IN THE OFFENCE	TYPE OF INJURY SUSTAINED	CIRCUMSTANCES UNDER WHICH THE OFFENCE WAS COMMITTED
1	hand grenade, rifle (pistol, gun), knife (pocketknife), spear (assegai, javelin, arrow), sword, dagger (bayonet), saber, double-edged knife, poison and the likes (<i>offence shall be considered as attempted homicide in two respective degrees, i.e., Art. 42(1) and (2) of this Code, based on whether the intent was to kill or to injure the victim</i>)	cutting both hands or legs, loss of both eyes, paralysis, cutting of the nose, both ears or the tongue, damage to reproductive organs leading to inability to bear children, and the likes <i>(Raises a class by three levels)</i>	when the offence was committed against a handicap, pregnant women, hospitalized patients, or other persons incapable of defending themselves; or against a person for whom the offender has an obligation to give a special care <i>(Raises a class by one level)</i>
2	pickax, ax, sickle, blade (razor), machete, hammer, and the likes <i>(Class 9 Serious Offence)</i>	slashing of the nose or ears, loss of one eye, cutting of one hand or leg, severe and permanent disfigurement of the face or posture <i>(Raises a class by two levels)</i>	When the offence was committed in places where there were no other people, in religious places, or in Courts, public assemblies, or government offices on duty; together with a group ² <i>(Raises a class by one level)</i>
3	thick and heavy stick, blunt metals, boulder and the likes <i>(Class 1 Petty Offence)</i>	Bone fracture, loss of tooth (teeth), cutting of fingers or toes, knock or blow causing heavy loss of blood, laceration (gash), heavy internal pain and the likes <i>(Raises a class by one level)</i>	Committing the offence the victim by lying in wait, taking him by surprise, or at night <i>(Raises a class by one level)</i>
4	rod, stone, whip, scourge, thin branch (not a bough which shall fall in the category above), small stick and the likes <i>(Class 2 Petty Offence)</i>	swelling, bruises (contusion), wound or a similar pain, and the rest of simple injuries <i>(use only for aggravation under Art. 67(2))</i>	committing the offence in places where people gather like weddings, bars/cafes, markets, sporting places, schools etc. <i>(use only for aggravation under Art. 67(2))</i>
5	Hands, legs, other human body parts, or any other materials naturally not dangerous <i>(Class 3 Petty Offence)</i>	hit and beatings, shoving, applying force on another (but all these not leading to any one of the injuries listed above) <i>(use only for aggravation under Art. 67(2))</i>	

² The phrase 'together with a group' shall carry the meaning of assaulting or injuring the victim along with other persons, but shall not interfere with the substance of Arts. 37 and 38 which provide for the varying degree of culpability of persons who commit an offence together.