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PROCLAMATION No.185 OF 1961

Criminal Procedure Code Of Ethiopia



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The Criminal Procedure Code Proclamation 1961

CONQUERING LION OF THE TRIBE OF JUDAH

HAILE SELASSIE I

ELECT OF GOD, EMPEROR OF ETHIOPIA

WHEREAS a Criminal Procedure Code has been prepared under Our supervision and has received the approval of Our Senate and Chamber of Deputies;

NOW THEREFORE, in accordance with Articles 34 and 88 of Our Revised Constitution We approve the resolutions of Our Senate and Chamber of Deputies and We accordingly proclaim as follows:

1. This proclamation may be cited as "The Criminal Procedure Code Proclamation 1961."
2. The Criminal Procedure Code 1961 as published in a separate volume appearing as Extraordinary Issue No. 1 of 1961 of the Negarit Gazeta shall come into force three months from the date of its publication in the Negarit Gazeta.

Given at Addis Ababa, this 2nd day of November, 1961

TSAHAFE TAEZAZ AKLILU HABTE WOLD

Prime Minister and Minister of Pen

Table of Contents

PRELIMINARY TITLE

- Art. 1. — *Scope of application.* 19
2. — *Application as to time.*
3. — *Interpretation.*

BOOK I

Jurisdiction of Courts,

Public Prosecution Department And Police

- Chapter 1. — JURISDICTION OF COURTS** 20
Art. 4. — *Jurisdiction as regards offences.*
5. — *Persons to be tried.*
6. — *Area of jurisdiction.*
7. — *Appellate jurisdiction.*

- Chapter 2. — PUBLIC PROSECUTION DEPARTMENT AND POLICE** 20
Art. 8. — *Powers of public prosecution department.*
9. — *Duties of the police.*
10. — *Police public prosecutors.*

BOOK II

Prosecution And Inquiry

TITLE I

Setting in Motion Prosecution and Inquiry

- Chapter 1. — SETTING JUSTICE IN MOTION** 22
Section 1. — Accusation and complaint 22
Art. 11. — *Accusation in general.*
12. — *Anonymous accusations.*
13. — *Offences punishable on complaint.*
14. — *Form of accusation or complaint.*
15. — *Accusation or complaint against an unknown offender.*

16. — *Authority competent for receiving accusation or complaint.*
17. — *Accusation or complaint addressed to wrong authority.*
18. — *False accusation or complaint.*

Section 2. — Setting justice in motion in flagrant cases

23

- Art. 19. — *Flagrant offences.*
20. — *Assimilated cases.*
21. — *Effect as regards setting in motion of proceedings or arrest.*

Chapter 2. — POLICE INVESTIGATION

24

- Art. 22. — *Principle.*
23. — *Duty of police to investigate.*
24. — *Recording of statement.*
25. — *Summoning of accused or suspected person.*
26. — *Arrest.*
27. — *Interrogation.*
28. — *Release on bond.*
29. — *Procedure after arrest.*
30. — *Examination of witnesses by the police.*
31. — *No inducement to be offered.*
32. — *Searches and seizures.*
33. — *Issue of search warrant.*
34. — *Physical examination.*
35. — *Power of court to record statements and confessions.*
36. — *Diary of investigation.*
37. — *Report of police investigation.*
38. — *Action by public prosecutor on receiving report.*
39. — *Closure of police investigation file.*

Chapter 3. — INSTITUTION OF PROCEEDINGS

28

- Art. 40. — *Duty to institute proceedings.*
41. — *Doubtful cases.*
42. — *Cases where proceedings shall not be instituted.*
43. — *Form of refusal.*
44. — *Effect of refusal.*
45. — *Form of and decision on application.*
46. — *Liability of private prosecutor.*
47. — *Persons entitled to conduct private prosecutions.*
48. — *Stay of proceedings in private prosecution pending institution of proceedings by public prosecutor.*

Steps to be Taken Pending Investigation

Chapter 1. — ARREST	30
<i>Section 1. — Arrest without warrant</i>	30
Art. 49. — <i>Principle.</i>	
50. — <i>Arrest without warrant in flagrant cases.</i>	
51. — <i>Arrest without warrant by the police.</i>	
<i>Section 2. — Warrant of arrest</i>	31
Art. 52. — <i>Principle.</i>	
53. — <i>Issue of warrant.</i>	
54. — <i>When warrant of arrest to be issued.</i>	
55. — <i>Application for warrant in urgent cases.</i>	
<i>Section 3. — General provisions.</i>	32
Art. 56. — <i>Arrest how made.</i>	
57. — <i>Assistance may be required to effect arrest.</i>	
58. — <i>Handing over of arrested person.</i>	
59. — <i>Detention.</i>	
Chapter 2. — REMAND	33
Art. 60. — <i>Conditions of remand.</i>	
Art. 61. — <i>Detained persons right to consult advocate.</i>	
Art. 62. — <i>Finding of sureties.</i>	
Chapter 3. — BAIL	33
<i>Section 1. — Bail Bond</i>	33
Art. 63. — <i>Principle.</i>	
64. — <i>Application for bail.</i>	
65. — <i>Court may direct by endorsement on warrant security to be taken.</i>	
66. — <i>Decision on application for bail.</i>	
67. — <i>Bail not allowed.</i>	
68. — <i>Bail allowed.</i>	
69. — <i>Amount to be secured.</i>	
70. — <i>Obligations of guarantors.</i>	
71. — <i>Duration of bail bond.</i>	
72. — <i>Release.</i>	

- 73. — *Mistake or fraud.*
- 74. — *New facts.*
- 75. — *Application to court of appeal where bail refused.*

Section 2. — Effect of bail bond

36

- Art. 76. — *Failure to appear.*
- 77. — *Released person likely to abscond.*
- 78. — *Discharge of sureties.*
- 79. — *Forfeiture of recognisances.*

BOOK III

Preliminary Inquiry And Committal For Trial

37

- Art. 80. — *Principle.*
- 81. — *Court having jurisdiction.*
- 82. — *Procedure.*
- 83. — *Opening of preliminary inquiry.*
- 84. — *Taking evidence for prosecution.*
- 85. — *Accused asked whether he wishes to make a statement.*
- 86. — *Statement of accused.*
- 87. — *Additional witnesses.*
- 88. — *Recording of evidence.*
- 89. — *Committal for trial.*
- 90. — *Bond of witnesses.*
- 91. — *Record to be forwarded to registrar.*
- 92. — *Contents of record.*
- 93. — *Accused may be remanded.*

BOOK IV

Trial

TITLE I

Chapter 1. — GENERAL PROVISIONS

41

- Art. 94. — *Adjournment. — Conditions.*
- 95. — *New adjournment and summonses.*
- 96. — *Effect of adjournment*
- 97. — *Exhibits.*
- 98. — *Contents of record.*

Art. 99. — *Ordinary place of trial.*

100. — *Accused triable in place where act is done or where consequences ensued.*

101. — *Place of trial where act is an offence by reason of relation to other offence.*

102. — *Trial where place of offence is uncertain.*

103. — *Offence committed on a journey.*

104. — *Place of trial of offence committed outside Ethiopia on an Ethiopian ship or aircraft.*

105. — *Court having jurisdiction in cases of reinstatement.*

106. — *Change of venue.*

107. — *Public prosecutor to direct place of trial.*

Chapter 3. — THE CHARGE 45

Art. 108. — *Principle.*

109. — *Framing, filing and service of the charge.*

110. — *Charge wrongly filed.*

111. — *Contents and form of the charge.*

112. — *Description of circumstances.*

113. — *Where it is doubtful what offence has been committed.*

114. — *Aggravated offences how charged and procedure.*

115. — *Person charged with an offence may be convicted of an attempt or as accessory or instigator.*

116. — *More than one charge.*

117. — *Joinder of charges.*

118. — *Effect of errors.*

119. — *Alteration or addition to charge.*

120. — *Effect of alteration or addition.*

121. — *Recall of witnesses.*

122. — *Withdrawal of charges.*

Chapter 4. — THE TRIAL 49

Section 1. — The hearing 49

Art. 123. — *Trial to be fixed.*

124. — *Witness summonses.*

125. — *Bench warrant.*

126. — *Opening of hearing.*

127. — *Attendance of accused.*

128. — *Verification of identity.*

- 129. — *Reading out of charge.*
- 130. — *Objections to the charge.*
- 131. — *Settlement of objections.*
- 132. — *Plea of accused.*
- 133. — *Plea of not guilty.*
- 134. — *Plea of guilty.*
- 135. — *Amendment of plea.*

Section 2. — Evidence and judgment.

51

- Art. 136. — *Opening of case and calling of witnesses for prosecution.*
- 137. — *Form of questions put in examination-in-chief.*
- 138. — *Antecedents of accused.*
- 139. — *Re-examination.*
- 140. — *Absence of cross-examination.*
- 141. — *Acquittal of accused when no case for prosecution.*
- 142. — *Opening of case for defence.*
- 143. — *Additional witnesses.*
- 144. — *Depositions taken in preliminary inquiry may be put in evidence.*
- 145. — *Statements made in police investigation may be put in evidence.*
- 146. — *Objection to evidence.*
- 147. — *Recording of evidence.*
- 148. — *Final addresses.*
- 149. — *Judgment and sentence.*

Chapter 5. — PRIVATE PROSECUTION

55

- Art. 150. — *Filing complaint and charge.*
- 151. — *Attempt to reconcile the parties.*
- 152. — *Security for costs.*
- 153. — *Hearing and judgment.*

Chapter 6. — INJURED PARTY IN CRIMINAL PROCEEDINGS

55

- Art. 154. — *Principle.*
- 155. — *Application dismissed.*
- 156. — *Application allowed.*
- 157. — *Injured party may withdraw.*
- 158. — *Acquittal or discharge.*
- 159. — *Order on award of compensation.*

Special Procedures

Chapter 1. — PROCEDURE IN CASES OF DEFAULT	57
Art. 160. — <i>Principle.</i>	
Section 1. — <i>Failure to appear in public proceedings</i>	57
Art. 161. — <i>Conditions for trying accused person in his absence.</i>	
162. — <i>Publication of summons.</i>	
163. — <i>Hearing and judgment.</i>	
164. — <i>Setting aside of judgment.</i>	
Section 2. — <i>Failure to appear in private proceedings.</i>	58
Art. 165. — <i>Absence of private prosecutor.</i>	
166. — <i>Absence of accused.</i>	
Chapter 2. — PROCEDURE IN CASES OF PETTY OFFENCES	59
Art. 167. — <i>Summoning of accused.</i>	
168. — <i>Accused may plead guilty in writing to petty offence.</i>	
169. — <i>Proceedings and judgment.</i>	
170. — <i>Procedure where accused appears before the court charged with petty offence.</i>	
Chapter 3. — PROCEDURE IN CASES CONCERNING YOUNG PERSONS	60
Art. 171. — <i>Principle.</i>	
172. — <i>Institution of proceedings.</i>	
173. — <i>Summoning of young person's guardian.</i>	
174. — <i>Young person may be assisted by counsel.</i>	
175. — <i>Removal of young person from chambers.</i>	
176. — <i>Hearing.</i>	
177. — <i>Judgment.</i>	
178. — <i>Orders which may be made against parents and guardians.</i>	
179. — <i>Cost of upkeep of young person in certain circumstances.</i>	
180. — <i>Variation or modification of order made in respect of young person.</i>	

**Appeals and Applications to set Aside Judgments
Given in Default**

TITLE I

Appeal

- Art. 181. — *Principle.* 63
182. — *Courts having appellate jurisdiction.*
183. — *Application to His Imperial Majesty's Chilot.*
184. — *No interlocutory appeals.*
185. — *Appeal against conviction and sentence.*
186. — *Appeal where injured party claims compensation.*
187. — *Notice of appeal and memorandum of appeal.*
188. — *Stay of execution.*
189. — *Contents of memorandum of appeal.*
190. — *Record and exhibits to be forwarded to court of appeal.*
191. — *Application for leave to appeal out of time.*
192. — *Hearing.*
193. — *Absence of a party to the appeal.*
194. — *Additional evidence.*
195. — *Powers of court of appeal.*
196. — *Where one appeal in case concerning several convicted persons.*

TITLE II

Application to set Aside Judgment Given in Default

- Art. 197. — *Court having jurisdiction.* 67
198. — *Time and form of application.*
199. — *Grounds for granting application.*
200. — *Action upon filing of application.*
201. — *Hearing.*
202. — *Judgment.*

BOOK VI

Execution of Sentences

Chapter 1. — GENERAL PROVISIONS	69
Art. 203. — <i>Principle.</i>	
204. — <i>Warrant in respect of person sentenced to death.</i>	
205. — <i>Warrant in respect of person sentenced to loss of liberty.</i>	
206. — <i>Execution may be postponed in certain cases.</i>	
207. — <i>Warrant in respect of person sentenced to flogging.</i>	
208. — <i>Warrant in respect of irresponsible persons.</i>	
209. — <i>Recovery of fines.</i>	
210. — <i>Payment of costs and compensation.</i>	
211. — <i>Confiscation of property</i>	
212. — <i>Sequestration of property.</i>	
213. — <i>Orders in respect of young persons.</i>	
214. — <i>Compulsory labour, secondary penalties and measures.</i>	
215. — <i>Recording of orders for execution.</i>	
Chapter 2. — VARIATION OF ORDERS CONTAINED IN SENTENCES	72
Art. 216. — <i>Principle.</i>	
217. — <i>Procedure and decision.</i>	
Chapter 3. — REINSTATEMENT	73
Art. 218. — <i>Application for reinstatement.</i>	
219. — <i>Procedure and decision.</i>	

BOOK VII

Costs in Criminal Cases

Art. 220. — <i>Costs of public prosecution.</i>	74
221. — <i>Costs of private prosecution.</i>	
222. — <i>Injured party.</i>	

BOOK VIII

Atbia Dagnias with Summary Jurisdiction

Art. 223. — <i>Jurisdiction.</i>	75
224. — <i>Appeal.</i>	

<i>First Schedule: Places of Trial</i>	77
<i>Second Schedule: Forms of Charges</i>	89
<i>Third Schedule: Forms</i>	95

Art. 1. — Scope of application.

- (1) Unless otherwise expressly provided, the provisions of this Code shall apply to all persons alike.
- (2) Unless otherwise expressly provided, the provisions of this Code shall apply to all matters coming within the jurisdiction of the courts, the prosecution and police authorities.

Art. 2. — Application as to time.

- (1) The provisions of this Code shall apply from the day of its coming into force to all cases pending on such day and occurring thereafter.
- (2) Any case pending on the coming into force of this Code shall be completed by the court having jurisdiction under the law repealed by this Code:
Provided that where any case is pending before a court not mentioned in this Code, such case shall be completed by the court having jurisdiction under this Code.

Art. 3. — Interpretation

In this Code the following expressions shall have the following meanings:

“Advocate General” shall mean the Advocate General appointed under the provisions of the Public Prosecutors Proclamation No. 123 of 1952 and shall include the Attorney General in whatsoever law mentioned;

“court” shall mean a court established by law;

“Deputy Advocate General” shall mean the Deputy Advocate General appointed under the provisions of the Public Prosecutors Proclamation No. 123 of 1952;

“law” shall include proclamations, decrees, orders and any subsidiary legislation made thereunder;

“Minister” shall mean the Minister of Justice;

“prescribed” shall mean prescribed by this Code or by regulations made thereunder;

“public prosecutor” shall mean a public prosecutor appointed under the provisions of the Public Prosecutors Proclamation No. 123 of 1952;

“registrar” shall include the deputy registrar, an assistant registrar and a clerk of the court;

“young person” shall mean a person between the ages of nine and fifteen.

BOOK I

Jurisdiction of Courts, Public Prosecution Department and Police

Chapter 1. — Jurisdiction of Courts

Art. 4. — Jurisdiction as regards offences.

- (1) The courts mentioned in the third column of the First Schedule to this Code shall have jurisdiction to try the offences mentioned in the first and second columns and impose the punishments provided by law.
- (2) The Minister may by order published in the *Negarit Gazeta* alter or vary the First Schedule.

Art. 5. — Persons to be tried.

- (1) No young person (Art. 53 Penal Code) may be tried together with an adult.
- (2) No member of the Armed Forces may be tried together with a civilian except for an offence which does not come within the jurisdiction of a military court.

Art. 6. — Area of jurisdiction.

Courts shall exercise local jurisdiction in accordance with the provisions of Art. 99-107.

Art. 7. — Appellate jurisdiction.

Courts shall exercise appellate jurisdiction in accordance with the provisions of Arts. 182.

Chapter 2. — Public Prosecution Department and Police

Art. 8. — Powers of public prosecution department.

- (1) The Advocate General, the Deputy Advocate General and the public prosecutors shall be responsible for carrying out the duties imposed on them under this Code.
- (2) The public prosecution department may in the discharge of its duties give the necessary orders and instructions to the police and ensure that the police carry out their duties in accordance with law.

Art. 9. — Duties of the police.

The police shall in accordance with the provisions of this Code assist the public prosecution department in:

- (a) preserving the peace and preventing crime;
- (b) discovering the commission of offences;
- (c) apprehending offenders; and
- (d) prosecuting offences when members of the police are appointed as public prosecutors.

Art. 10. — Police public prosecutors.

Where a member of the police force is appointed as a public prosecutor he shall carry out the instructions of the public prosecution department.

BOOK II

Prosecution and Inquiry

TITLE I

Setting in Motion Prosecution and Inquiry

Chapter 1. — Setting Justice in Motion

Section 1. — Accusation and complaint

Art. 11. — Accusation in general.

- (1) Any person has the right to report any offence, whether or not he has witnessed the commission of the offence, with a view to criminal proceedings being instituted.
- (2) There shall be a duty to report in the cases provided in Art. 267, 344 and 438 Penal Code.

Art. 12. — Anonymous accusations.

Anonymous accusations which disclose serious breaches of the law and are on the face of them circumstantial and credible shall be investigated by the competent police authorities in the manner prescribed by Art. 22 et seq. with a view to ascertaining the truth or otherwise of the accusation.

Art. 13. — Offences punishable on complaint.

In the case of offences which under the law may be prosecuted and punished only upon a formal complaint by the injured party or those deriving rights from him, the provisions of Art. 217-222 and 721 Penal Code shall apply.

Art. 14. — Form of accusation or complaint.

- (1) Any accusation (Art. 11) or complaint (Art. 13) shall be reduced to writing by the person to whom it is made and when completed shall be read over to the complainant who shall sign and date it.
- (2) Where an accusation or complaint is made by more than one person (Art. 219 Penal Code), all such persons shall sign it.

Art. 15. — Accusation or complaint against an unknown offender.

Where the offender cannot be identified because he is unknown to the person making the accusation or complaint, such person shall furnish such details as are known to him with a view to establishing the identity of the offender.

Art. 16. — Authority competent for receiving accusation or complaint.

- (1) Any accusation (Art. 11) or complaint (Art. 13) may be made to the police or the public prosecutor. An accusation or complaint regarding a young person shall be made in accordance with Art. 172.
- (2) Where it is made to the public prosecutor, the prosecutor shall forward it to the competent police officer with a view to an investigation being made under Art. 22 et seq.

Art. 17. — Accusation or complaint addressed to wrong authority.

Where an accusation or complaint is made to a person or authority other than the police or the public prosecutor or to a police authority or a prosecutor having no jurisdiction, such person, authority or prosecutor shall without delay forward the accusation or complaint to the appropriate police authority or public prosecutor.

Art. 18. — False accusation or complaint.

Whosoever makes a false accusation or false complaint shall be liable to the punishments laid down in Art. 441 and 580 Penal Code.

Section 2. — Setting justice in motion in flagrant cases

Art. 19. — Flagrant offences.

- (1) An offence shall be deemed to be flagrant where the offender is found committing the offence, attempting to commit the offence or has just committed the offence.
- (2) An offence shall be deemed to be quasi-flagrant when, after it has been committed, the offender who has escaped is chased by witnesses or by members of the public or when a hue and cry has been raised.

Art. 20. — Assimilated cases.

An offence shall be deemed to be flagrant and to fall under the provisions of Art. 19 when:

- (a) the police are immediately called to the place where the offence has been committed; or
- (b) a cry for help has been raised from the place where the offence is being or has been committed.

Art. 21. — Effect as regards setting in motion of proceedings or arrest.

- (1) In the case of offences as defined in Art. 19 and 20, proceedings may be instituted without an accusation or complaint being lodged, unless the offence cannot be prosecuted except upon a formal complaint.

- (2) An arrest without warrant may in such cases be made on the conditions laid down in Art. 49 et seq.

Chapter 2. — Police Investigation

Art. 22. — Principle.

- (1) Whenever the police know or suspect that an offence has been committed, they shall proceed to investigate in accordance with the provisions of this Chapter.
- (2) Investigation into offences committed by young persons shall be carried out in accordance with instructions given by the court under Art. 172 (2).

Art. 23. — Duty of police to investigate.

Investigating police officers shall carry out their duties under this Chapter notwithstanding that they are of opinion that the accusation, complaint or information they may have received is open to doubt.

Art. 24. — Recording of statement.

After having recorded an accusation or complaint in the manner laid down in Art. 14, the investigating police officer shall elicit from the person making the accusation or complaint all relevant facts and dates, the name or description of the offender, the names and addresses of principal witnesses and all other evidence which may be available and shall record them.

Art. 25. — Summoning of accused or suspected person.

Where the investigating police officer has reason to believe that a person has committed an offence, he may by written summons require such person to appear before him.

Art. 26. — Arrest.

- (1) Where the accused or the suspect has not been arrested and the offence is such as to justify arrest or where the person summoned under Art. 25 fails to appear, the investigating police officer shall take such steps as are necessary to effect his arrest.
- (2) Where the arrest cannot be made without warrant, the investigating police officer shall apply to the court for a warrant of arrest in accordance with the provisions of Art. 53.

Art. 27. — Interrogation.

- (1) Any person summoned under Art. 25 or arrested under Art. 26, 50 or 51 shall, after his identity and address have been established, be asked to answer the accusation or complaint made against him.

- (2) He shall not be compelled to answer and shall be informed that he has the right not to answer and that any statement he may make may be used in evidence.
- (3) Any statement which may be made shall be recorded.
- (4) Where the arrested person is unable properly to understand the language in which his answers are to be recorded, he shall be supplied with a competent interpreter, who shall certify the correctness of all questions and answers.

Art. 28. — Release on bond.

- (1) Where the offence committed or complained of is not punishable with rigorous imprisonment as a sole or alternative punishment; or where it is doubtful that an offence has been committed or that the summoned or arrested person has committed the offence complained of, the investigating police officer may in his discretion release such person on his executing a bond with or without sureties that he will appear at such place, on such day and at such time as may be fixed by the police.
- (2) Where the accused is not released on bond under this Article, he may apply to the court to be released on bail in accordance with the provisions of Art. 64.

Art. 29. — Procedure after arrest.

- (1) Where the accused has been arrested by the police or a private person and handed over to the police (Art. 58), the police shall bring him before the nearest court within fortyeight hours of his arrest or so soon thereafter as local circumstances and communications permit. The time taken in the journey to the court shall not be included.
- (2) The court before which the accused is brought may make any order it thinks fit in accordance with the provisions of Art. 59.

Art. 30. — Examination of witnesses by the police.

- (1) The investigating police officer may, where necessary, summon and examine any person likely to give information on any matter relating to the offence or the offender.
- (2) Any person so examined shall be bound to answer truthfully all questions put to him. He may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge.
- (3) Any statement which may be made shall be recorded.

Art. 31. — No inducement to be offered.

- (1) No police officer or person in authority shall offer or use or make or cause to be offered, made or used any inducement, threat, promise or any other improper method to any person examined by the police.

- (2) No police officer or other person shall prevent or discourage by whatever means any person from making or from requiring to be recorded in the course of the police investigation any statement relating to such investigation which he may be disposed to make of his own free will.

Art. 32. — Searches and seizures.

Any investigating police officer or member of the police may make searches or seizures in accordance with the provisions which follow:

- (1) No arrested person shall be searched except where it is reasonably suspected that he has about his person any articles which may be material as evidence in respect of the offence with which he is accused or is suspected to have committed. A search shall be made by a person of the same sex as the arrested person.
- (2) No premises may be searched unless the police officer or member of the police is in possession of a search warrant in the form prescribed in the Third Schedule to this Code except where:
 - (a) an offender is followed in hot pursuit and enters premises or disposes of articles the subject matter of an offence in premises;
 - (b) information is given to an investigating police officer or member of the police that there is reasonable cause for suspecting that articles which may be material as evidence in respect of an offence in respect of which an accusation or complaint has been made under Art. 14 of this Code and the offence is punishable with more than three years imprisonment, are concealed or lodged in any place and he has good grounds for believing that by reason of the delay in obtaining a search warrant such articles are likely to be removed.

Art. 33. — Issue of search warrant.

- (1) A search warrant may be issued by any court. No search warrant shall be issued unless the court is satisfied that the purposes of justice or of any inquiry, trial or other proceedings under this Code will be served by the issue of such warrant.
- (2) Every search warrant issued shall specify the property to be searched for and seized and no investigating police officer or member of the police may seize any property other than that specified in such warrant.
- (3) On seizing any property such investigating police officer or member of the police shall make a list of the property seized and where possible shall have the list checked and signed by an independent person. Any property seized which is required for the trial shall be preserved in a safe place until handed over to the court as an exhibit. Any property not so required may be returned to the person from whom it was taken and a receipt shall be taken.

- (4) In effecting a search the investigating police officer or member of the police may use such force as is necessary and may where access to premises is denied use reasonable force to effect entry.
- (5) Unless otherwise expressly ordered by the Court, searches shall be carried out only between the hours of 6 A.M. and 6 P.M.

Art. 34. — Physical examination

- (1) Notwithstanding the provisions of Art. 20 Civil Code where an investigating police officer considers it necessary, having regard to the offence with which the accused is charged, that a physical examination of the accused should be made, he may require a registered medical practitioner to make such examination and require him to record in writing the results of such examination. Examination under this Article shall include the taking of a blood test.
- (2) An investigating police officer may, with the agreement of the victim of an offence or, where he is incapable with the consent of the parent or guardian, require a registered medical practitioner to make such physical examination as the offence being inquired into would appear to require. He shall require the registered medical practitioner to record in writing the results of such examination.

Art. 35. — Power of court to record statements and confessions.

- (1) Any court may record any statement or confession made to it at any time before the opening of a preliminary inquiry or trial.
- (2) No court shall record any such statement or confession unless, upon questioning the person making it, it ascertains that such person voluntarily makes such statement or confession. A note to this effect shall be made on the record.
- (3) Such statement or confession shall be recorded in writing and in full by the court and shall thereafter be read over to the person making the statement or confession, who shall sign and date it. The statement shall then be signed by the president of the court.
- (4) A copy of the record shall then be sent to the court before which the case is to be inquired into or tried, and to the public prosecutor.

Art. 36. — Diary of investigation.

- (1) Every police officer making a police investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary setting forth:
 - (a) the day on which he started and closed his investigation; and
 - (b) all the steps taken in the course of the investigation; and
 - (c) the circumstances which the investigation disclosed; and
 - (d) all the means of evidence which may have been collected.

- (2) He shall enter in the diary any order which he may have received from a court or the public prosecutor in the course of the investigation.

Art. 37. — Report of police investigation.

- (1) Every police investigation under this Chapter shall be completed without unnecessary delay.
- (2) As soon as the investigation is completed, the investigating police officer shall forward to the public prosecutor a report setting forth:
- (a) the name of the parties; and
 - (b) the nature of the information and the names of all persons who appear to be acquainted with the circumstances of the case; and
 - (c) all the means of evidence which have been collected.
- (3) The report shall specify all the steps which may have been taken with a view to preservation or otherwise.

Art. 38. — Action by public prosecutor on receiving report.

On receiving the report under Art. 37 the public prosecutor may:

- (a) prosecute the accused on a charge drawn up by him under Art. 109-122;
- or
- (b) order that a preliminary inquiry be held under Art. 80-93; or
- (c) order further investigations; or
- (d) refuse to institute proceedings under Art. 42.

Art. 39. — Closure of police investigation file.

- (1) The public prosecutor shall close the police investigation file where the accused:
- (a) has died; or
 - (b) is under nine years of age; or
 - (c) cannot be prosecuted under any special law or under public international law (diplomatic immunity).
- (2) The provisions of Art. 43-45 shall not apply where the case file is closed under this Article.
- (3) On closing the case file, the public prosecutor shall send a copy of his decision to the Advocate General, the private complainant, if any, and the investigating police officer.

Chapter 3. — Institution of Proceedings

Art. 40. — Duty to institute proceedings.

- (1) Subject to the provisions of Art. 42, the public prosecutor shall institute proceedings accordance with the provisions of this Chapter whenever he is of opinion that there are sufficient grounds for prosecuting the accused.

- (2) The public prosecutor shall not institute proceedings against a young person unless instructed so to do by the court under Art. 172.

Art. 41. — Doubtful cases.

Where it is not clear whether proceedings should be instituted, the public prosecutor shall refer the matter for instructions to the Advocate General.

Art. 42. — Cases where proceedings shall not be instituted

- (1) No proceedings shall be instituted where:
- (a) the public prosecutor is of opinion that there is not sufficient evidence to justify a conviction; or
 - (b) there is no possibility of finding the accused and the case is one which may not be tried in his absence; or.
 - (c) the prosecution is barred by limitation or the offence is made the subject of a pardon or amnesty; or
 - (d) the public prosecutor is instructed not to institute proceedings in the public interest by the Minister by order under his hand.
- (2) On no other grounds may the public prosecutor refuse to institute proceedings.
- (3) The public prosecutor shall institute proceedings in cases affecting the Government when so instructed by the Minister.

Art. 43. — Form of refusal.

- (1) A refusal to institute proceedings under Art. 42 shall be in writing and shall record clearly the reasons for such refusal.
- (2) A copy thereof shall be sent to the appropriate person mentioned in Art. 47 and to the investigating police officer.

Art. 44. — Effect of refusal.

- (1) Where the public prosecutor refuses to institute proceedings under Art. 42
 - (1) (a) in relation to an offence punishable on complaint only, he shall authorise in writing the appropriate person mentioned in Art. 47 to conduct a private prosecution. A copy of such authorisation shall be sent to the court having jurisdiction.
- (2) Where the public prosecutor refuses to institute proceedings under Art. 42
 - (1) (a) in relation to an offence which is not punishable on complaint only, the appropriate person mentioned in Art. 47 may, within thirty days from having received the decision of the public prosecutor, apply for an order that the public prosecutor institute proceedings.

Art. 45. — Form of and decision on application.

- (1) An application under Art. 44 (2) shall be made to the court to which an

appeal lies from decisions of the court which would have had jurisdiction, had proceedings been instituted.

- (2) The court shall, after considering the refusal of the public prosecutor to institute proceedings under Art. 42 (1) (a) and the reasons therefor either confirm the decision of the public prosecutor or order him to institute proceedings:

Art. 46. — Liability of private prosecutor.

The private prosecutor authorised to conduct a private prosecution under Art. 44 (1) shall conduct the private prosecution at his peril and at his own expense.

Art. 47. — Persons entitled to conduct private prosecutions.

No person other than:

- (a) the injured party or his legal representative; or
 - (b) the husband or wife on behalf of the spouse; or
 - (c) the legal representative of an incapable person; or
 - (d) the attorney or a body corporate;
- may conduct a private prosecution.

Art. 48. — Stay of proceedings in private prosecution pending institution of proceedings by public prosecutor.

Where the evidence in a private prosecution discloses that a more serious offence has resulted than has been charged in a private prosecution, the public prosecutor may apply to the court to stay the proceedings pending the institution of fresh proceedings by the public prosecutor, and the court shall thereon stay the proceedings.

TITLE II

Steps to be taken Pending Investigation

Chapter 1. — Arrest

Section 1. — Arrest without warrant

Art. 49. — Principle.

Save as is otherwise expressly provided, no person may be arrested unless a warrant is issued and no person may be detained in custody except on an order by the court. An arrest without warrant may only be made on the conditions laid down in this Section.

Art. 50. — Arrest without warrant in flagrant cases.

Any private person or member of the police may arrest without warrant a person who has committed a flagrant offence as defined in Art. 19 and 20 of this Code, where the offence is punishable with simple imprisonment for not less than three months.

Art. 51. — Arrest without warrant by the police.

- (1) Any member of the police may arrest without warrant any person:
 - (a) whom he reasonably suspects of having committed or being about to commit an offence punishable with imprisonment for not less than one year;
 - (b) who is in the act of committing a breach of the peace;
 - (c) who obstructs a member of the police while in the execution of his duties or who has escaped or attempted to escape from lawful custody;
 - (d) who has evaded or is reasonably suspected of having evaded police supervision;
 - (e) who is reasonably suspected of being a deserter from the armed forces or the police forces;
 - (f) who has in his possession without lawful excuse housebreaking implements or weapons;
 - (g) who has in his possession without lawful excuse anything which may reasonably be suspected of being stolen or otherwise obtained by the commission of an offence;
 - (h) who may reasonably be suspected of being a dangerous vagrant within the meaning of Art. 471 Penal Code.
- (2) Nothing in this Article shall affect the powers of other government officers to make an arrest without warrant under special provisions of other laws.

Section 2. — Warrant of arrest

Art. 52. — Principle.

- (1) Where a warrant is required by law to be issued by a court before a person is arrested the provisions which follow shall apply.
- (2) A warrant of arrest shall be in the form prescribed in the Third Schedule to this Code.
- (3) A warrant of arrest shall remain in force until executed or cancelled by the court which issued it notwithstanding the death, retirement or replacement of the judge having issued the warrant.

Art. 53. — Issue of warrant.

- (1) A warrant of arrest may be issued on the application of any investigating

police officer by any court and shall be addressed to the chief of the police in the Taklay Guezat in which it is issued.

- (2) A warrant may be issued at any time and on any day of the year.
- (3) A warrant of arrest may be executed in any part of the Empire by any member of the police.

Art. 54. — When warrant of arrest to be issued.

A warrant of arrest shall only be issued where the attendance of a person before the court is absolutely necessary and cannot otherwise be obtained.

Art. 55. — Application for warrant in urgent cases.

- (1) In cases of urgency the investigating police officer may apply for a warrant by telephone or telegraph.
- (2) In such cases the application to the court in question shall be confirmed in writing within 24 hours.

Section 3. — General provisions

Art. 56. — Arrest how made.

- (1) The police officer making an arrest shall first establish the identity of the person to be arrested.
- (2) Where the arrest is made with a warrant, the police officer shall read out the warrant to the person to be arrested and shall show it to the person arrested if he so requests.
- (3) He shall then actually touch or confine the body of the person to be arrested unless there be a submission to his custody by word or action.
- (4) If such person forcibly resists the endeavours to arrest or attempts to evade the arrest, such officer may use all means proportionate to the circumstances to effect the arrest.
- (5) The provisions of this Article shall also apply to bench warrants.

Art. 57. — Assistance may be required to effect arrest.

Where the police call for assistance in making an arrest with or without warrant there shall be a duty to assist where assistance can be given without risk (Art. 761 Penal Code).

Art. 58. — Handing over of arrested person.

- (1) Where an arrest is made the person making the arrest shall without unnecessary delay hand over the person so arrested to the nearest police station.

- (2) Where the person making the arrest has witnessed the commission of the offence, he shall make a statement in accordance with the provisions of Art. 30.

Art. 59. — Detention.

- (1) The court before which the arrested person is brought (Art. 29) shall decide whether such person shall be kept in custody or be released on bail.
- (2) Where the police investigation is not completed the investigating police officer may apply for a remand for a sufficient time to enable the investigation to be completed.
- (3) A remand may be granted in writing. No remand shall be granted for more than fourteen days on each occasion.

Chapter 2. — Remand

Art. 60. — Conditions of remand.

Any arrested person shall be detained on the conditions prescribed by the law relating to prisons.

Art. 61. — Detained persons right to consult advocate.

Any person detained on arrest or on remand shall be permitted forthwith to call and interview his advocate and shall, if he so requests, be provided with the means to write.

Art. 62. — Finding of sureties.

Any person on remand who may be released on bail shall be given the opportunity to find sureties.

Chapter 3. — Bail

Section 1. — Bail Bond

Art. 63. — Principle.

- (1) Whosoever has been arrested may be released on bail where the offence with which he is charged does not carry the death penalty or rigorous imprisonment for fifteen years or more and where there is no possibility of the person in respect of whom the offence was committed dying.
- (2) No person shall be released on bail unless he has entered into a bail bond, with or without sureties, which, in the opinion of the court, is sufficient to secure his attendance at the court when so required to appear.
- (3) Nothing in this Article shall affect the provisions of Art. 67.

Art. 64. — Application for bail.

- (1) A person under arrest may at any time apply for bail.
- (2) The application shall be made in writing and signed by the applicant. It shall contain a summary of the reasons for making the application and the nature of the bail bond the applicant is prepared to enter into.
- (3) An application for bail may be granted by any court.

Art. 65. — Court may direct by endorsement on warrant security to be taken.

- (1) Any court issuing a warrant for the arrest of any person may, in its discretion, direct by endorsement on the warrant that if such person enters into a bail bond on the terms laid down by the court, the police officer to whom the warrant is directed by the court shall take such security and shall release such person from custody.
- (2) The endorsement shall state:
 - (a) the amount to be guaranteed and the guarantors, if any; and
 - (b) the time at which the person released is to attend before the court.
- (3) Where a bail bond is entered into as required under this Article, the police officer to whom the warrant is directed shall release the arrested person and forward the bond to the court.

Art. 66. — Decision on application for bail.

Any court to which an application for bail is made shall consider it without delay and shall call upon the prosecutor or the investigating police officer in his absence for comments and recommendations. It shall make its decision within 48 hours.

Art. 67. — Bail not allowed

An application for bail shall not be allowed where:

- (a) the applicant is of such nature that it is unlikely that he will comply with the conditions laid down in the bail bond;
- (b) the applicant, if set at liberty, is likely to commit other offences;
- (c) the applicant is likely to interfere with witnesses or tamper with the evidence.

Art. 68. — Bail allowed.

Where the application is allowed, the court shall fix the conditions on which bail is granted.

Art. 69. — Amount to be secured.

- (1) The choice of the guarantors and the amount to be guaranteed shall be in the discretion of the court.
- (2) The court shall decide such matter having regard to:
 - (a) the seriousness of the charge; and

- (b) the likelihood of the accused's appearance; and
 - (c) the danger to public order which his release may occasion; and
 - (d) the resources of the accused and his guarantors.
- (3) Any decision granting or refusing the application shall be in writing and shall give reasons.

Art. 70. — Obligations of guarantors.

- (1) Unless otherwise expressly provided in the bail bond the guarantor shall be responsible for securing the appearance of the person released on bail at any time and place to which during the course of the proceedings the hearing may from time to time be adjourned.
- (2) Nothing herein contained shall affect the provisions of Art. 77 and 78.
- (3) Where the guarantor of a bail bond dies, his guarantee shall lapse. Any recognisance which has been deposited shall be returned to the guarantor's personal representative. The person released on bail may be required to produce new sureties.

Art. 71. — Duration of bail bond.

- (1) The bail bond shall be in the form prescribed in the Third Schedule to this Code.
- (2) The bail bond shall remain in force for such period as shall be fixed by the court but may be extended from time to time by the court.
- (3) Where the charge against the person released on bail is withdrawn the court shall discharge the bail bond.

Art. 72. — Release.

When the bail bond has been entered into and all formalities complied with, the accused shall be released from custody.

Art. 73. — Mistake or fraud.

- (1) If through mistake, fraud or otherwise, insufficient sureties have been accepted the court may issue a warrant for the arrest of the person released on bail and when such person appears, the court may order him to find sufficient sureties.
- (2) Where he refuses or is unable to do so, the court shall order that he be remanded.

Art. 74. — New facts.

Where certain facts are disclosed which were unknown when bail was granted, the court may at any time of its own motion or on application reconsider the conditions on which bail has been granted and may order the released person to produce new sureties or to be remanded.

Art. 75. — Application to court of appeal where bail-refused.

- (1) Where bail has been refused by a court, the accused may apply in writing within twenty days against such refusal to the court having appellate jurisdiction under Art. 182 (1) to grant bail. The application shall set forth concisely the reasons why bail should be granted.
- (2) The court of appeal after considering the application shall dismiss the application or grant bail on such conditions as it shall fix. No appeal shall lie against a decision given by the court of appeal under this Article.

Section 2. — Effect of bail bond

Art. 76. — Failure to appear.

- (1) Where the person released on bail fails to appear on the date fixed a warrant for his arrest shall be issued.
- (2) The guarantors shall be summoned and required to show cause why their recognisances should not be estreated.
- (3) The court shall make such order regarding the bail bond as the circumstances of the case may require.

Art. 77. — Released person likely to abscond.

- (1) Where the guarantors are of opinion that the accused may abscond, they shall inform the court and may apply to the court to be released from their obligations.
- (2) The court shall issue a warrant of arrest and when the accused has been arrested the court shall release the guarantors.

Art. 78. — Discharge of sureties.

- (1) The guarantors may at any time bring the released person to the court which released him and thereupon they shall be discharged.
- (2) All or any of the guarantors may at any time apply to the court which caused the bond to be taken to discharge the bail bond either wholly or so far as relates to the applicant. On such application the court shall issue a warrant for the arrest of the person on whose behalf the bail bond was executed and upon his appearance shall discharge the bond either wholly or so far as relates the applicant.
- (3) In the case provided in sub-art. (1) and (2), the court shall require the accused to find other sufficient sureties and, if he is unable or refuses to do so, shall order his remand.

Art. 79. — Forfeiture of recognisances.

Whenever the accused fails to comply with a condition in a bail bond, the bail bond shall be forfeited unless the accused or his guarantors can show cause why the bond shall not be forfeited.

BOOK III

Preliminary Inquiry and Committal for Trial

Art. 80. — Principle.

- (1) Where any person is accused of an offence under Art. 522 (homicide in the first degree) or Art. 637 (aggravated robbery) a preliminary inquiry shall be held under the provisions of this Book :

Provided that nothing in this Article shall prevent the High Court from dispensing with the holding of a preliminary inquiry where it is satisfied by the public prosecutor that the trial can be held immediately.

- (2) Where any person is accused of any other offence triable only by the High Court no preliminary inquiry shall be held unless the public prosecutor under Art. 38 (b) so directs.
- (3) The provisions of this Book shall not apply to offences coming within the jurisdiction of the High Court which have been committed by young persons.

Art. 81. — Court having jurisdiction.

Without prejudice to the provisions of Art. 99-107, the preliminary inquiry shall be held before the Woreda Guezat Court within whose area of jurisdiction the offence was committed.

Art. 82. — Procedure.

- (1) All preliminary inquiries shall be held in the manner provided by the following Articles.
- (2) An adjournment may be granted on the conditions laid down in Art. 94.

Art. 83. — Opening of preliminary inquiry.

- (1) Where the public prosecutor decides under Art. 80 (2) that a preliminary inquiry shall be held, he shall send a copy of his decision to the Woreda Guezat Court having jurisdiction and, where appropriate, to the public prosecutor acting before such court.
- (2) The court shall fix the day on which the inquiry shall be held and cause to be summoned such witnesses as the prosecutor may wish to call in support of the prosecution.
- (3) The case for the prosecution shall be conducted by the public prosecutor acting before the committing court.

Art. 84. — Taking evidence for prosecution.

Where the accused person appears or is brought before it, the court shall require the prosecutor to open his case and to call his witnesses.

Art. 85. — Accused asked whether he wishes to make a statement.

- (1) After the witnesses for the prosecution have been heard and their evidence recorded, the court shall ask the accused whether he wishes to make a statement in answer to the charge.
- (2) He shall be informed that the preliminary inquiry does not constitute a trial and that the decision as to his guilt or innocence will be taken by the High Court and not by the committing court.
- (3) He shall be informed that he is not bound to say anything but that any statement he may wish to make will be taken down in writing and may be put in at his trial.

Art. 86. — Statement of accused.

- (1) If the accused elects to make no statement, he shall forthwith be committed for trial before the High Court.
- (2) If the accused elects to make a statement, such statement shall be taken down in writing, read over to him, signed by the accused and kept in the file.

Art. 87. — Additional witnesses.

The court may at any time call any witness whose testimony it thinks necessary in the interests of justice, notwithstanding that the prosecutor has not applied for such witness to be summoned.

Art. 88. — Recording of evidence.

Evidence shall be recorded in accordance with Art. 147 and the evidence of each witness shall be recorded on separate sheets of paper.

Art. 89. — Committal for trial.

- (1) After the statement, if any, of the accused has been taken down, the court shall commit the accused for trial before the High Court without specifying the charge or charges on which he is committed for trial.
- (2) Such charge or charges shall be specified in the charge framed by the public prosecutor in accordance with Art. 109-122 of this Code.
- (3) The court shall then require the accused to give a list of the witnesses he wishes to call at his trial together with their addresses.

Art. 90. — Bond of witnesses.

- (1) All witnesses who have given evidence at the preliminary inquiry shall

execute before the committing court bonds binding themselves to be in attendance before such court and on such date as they shall be summoned to appear.

- (2) Any witness who refuses to execute the bond may be kept in custody until the trial or until he binds himself.

Art. 91. — Record to be forwarded to registrar.

- (1) When the accused is committed for trial, the committing court shall send the original record and the exhibits (if any) to the registrar of the High Court. Any exhibit which from its bulk or otherwise cannot conveniently be forwarded to the registrar of the High Court may remain in the custody of the police.
- (2) A list of all exhibits showing which of them are forwarded with the record and which remain in the custody of the police shall be sent to the registrar of the High Court with the record.
- (3) The registrar of the High Court shall be responsible for making copies of the record and sending one to the public prosecutor and one to the accused.

Art. 92. — Contents of record.

- (1) The record shall contain the following particulars:
- (a) The serial number of the case; and
 - (b) the date of the commission of the offence; and
 - (c) the date of the accusation, if any; and
 - (d) the name and address of the accuser, if any; and
 - (e) the name, address, occupation and age, if known, and nationality of the accused; and
 - (f) the offence shown and, where appropriate, the value of the property in respect of which or the special status of the person against whom the offence was committed; and
 - (g) the date of the warrant of arrest, if any, or on which the accused was first arrested; and
 - (h) the date on which the accused was first brought before a court; and
 - (i) the name of the prosecutor and, where appropriate, of the advocate for the defence; and
 - (j) the date of and reasons for any adjournment that may have been granted; and
 - (k) the date on which the preliminary inquiry was completed; and
 - (l) all statements made in the course of the preliminary inquiry, including those which may have been made by the accused; and
 - (m) the list of defence witnesses.
- (2) The same particulars shall appear in the copy of the proceedings sent to the public prosecutor and the accused.

Art. 93. — Accused may be remanded.

Without prejudice to the provisions of this Code relating to release on bail the committing court may order that the accused be kept on remand until the trial.

BOOK IV

TITLE I

Trial

Chapter 1. — General Provisions

Art. 94. — Adjourment. — Conditions.

- (1) The court may of its own motion or on the application of the prosecution or the defence adjourn any hearing at any stage thereof where the interests of justice so require.
- (2) An adjournment may not be granted unless:
 - (a) the prosecutor, public or private, or the accused fails for good cause to appear; or
 - (b) witnesses for the prosecution or the defence are not present; or
 - (c) in a trial other than that of a case committed on preliminary inquiry to the High Court, the prosecution require time for investigation; or
 - (d) further evidence requires to be produced; or
 - (e) evidence is produced either by the prosecution or the defence which takes the other side by surprise and the production of which could not have been foreseen; or
 - (f) the charge has been altered or added to and the prosecutor or the accused requires time to reconsider the prosecution or defence; or
 - (g) the accused has not been served with a copy of the charge or of the preliminary inquiry or has been served too short a time before the trial to enable him properly to prepare his defence; or
 - (h) prior sanction for a prosecution is required before the trial may start; or
 - (i) a decision in the trial cannot be given unless other proceedings be first completed; or
 - (j) the mental stability of an accused requires to be established by an expert; or
 - (k) the court considers that the accused, if a young person, should be placed under observation; or
 - (l) the trial cannot be completed in one day and is adjourned to the following day.
- (3) No adjournment under paragraphs (a) and (f) - (h) inclusive shall be granted for more than one week.

Art. 95. — New adjourment and summonses.

- (1) Subject to the provisions of sub-art. (3) of Art. 94, the court shall adjourn

the hearing for such time only as is sufficient to enable the purpose for which the adjournment was granted to be carried out.

- (2) Where the purpose for which the adjournment was granted has not been carried out for a reason not attributable to the fault of the prosecution or the defence, a further adjournment of the same or less duration shall be granted.
- (3) Where a hearing has been adjourned under paragraphs (c) or (i) - (k) of Art. 94 (2), the court shall, when the purpose for which the adjournment was granted has been carried out, issue new summonses to the parties and witnesses.

Art. 96. — Effect of adjournment.

- (1) On granting an adjournment, the court shall make such order as is necessary to ensure that the purpose for which the adjournment is granted is carried out. This shall include the issue of warrants on the conditions laid down in Art. 33, 53 and 125.
- (2) Where an adjournment has been granted under paragraphs (j) or (k) of Art. 94 (2) the court shall order that the accused be remanded to a place where his state of mind can be examined into by an expert.

Art. 97. — Exhibits.

All exhibits including depositions and statements under Art. 27 and 30 shall be marked and numbered by the registrar of the court. Such exhibits shall be kept by the registrar in a safe place and shall not be withdrawn without an order of the court.

Art. 98. — Contents of record.

- (1) The record of a trial shall be signed by the court and shall contain:
 - (a) a copy of the complaint or accusation;
 - (b) the record of the preliminary inquiry, if any;
 - (c) the date of the warrant of arrest, if any, or on which the accused was first arrested;
 - (d) the date on which the accused was first brought before a court;
 - (e) the charge filed by the public or private prosecutor and any alterations or additions thereto and in the case of a private prosecution the certificate of the public prosecutor shall be attached;
 - (f) the plea of the accused;
 - (g) a copy of the opening address of the public or private prosecutor;
 - (h) a full record of the evidence of all the witnesses including the cross-examination and the re-examination;
 - (i) a note of any objection made by the prosecutor or the accused and the ruling given thereon. Such note shall be made at the time the objection

- was raised and where made during the giving of evidence by a witness, the record of the evidence shall be interrupted and the note inserted in the record at the point where such evidence was interrupted;
- (j) a note of the exhibits admitted as evidence and the number attached thereto including whether the exhibit has been put in by the prosecutor or the accused;
 - (k) a full note of any submission on points of law and the ruling thereon. Such note shall be included in the record at the time when the submission was made;
 - (l) a note of all adjournments granted and the date to which the trial is adjourned together with a note of the reasons for granting such adjournment;
 - (m) a note that the prosecutor and the accused have been informed of their right of appeal.
- (2) The record of the trial at each hearing shall start with:
- (a) the name of the case and number;
 - (b) the date and time;
 - (c) the names of the prosecutor and defence advocate;
 - (d) the names of the judges.
- (3) The record of the trial at each hearing shall close with a note of the time of closure and the date and time to which the hearing is adjourned.

Chapter 2. — Place of Trial

Art. 99. — Ordinary place of trial.

Every offence shall be tried by the court within the local limits of whose jurisdiction it was committed.

Art. 100. — Accused triable in place where act is done or where consequences ensued.

Where a person is accused of the commission of any offence by reason of anything which has been done and of any consequence which has ensued such offence may be tried by a court within the local limits of whose jurisdiction any such thing has been done or any such consequence has ensued.

Art. 101. — Place of trial where act is an offence by reason of relation to other offence.

Where an act is an offence by reason of its relation to another offence a charge of the first mentioned offence may be tried by a court within the local limits of whose jurisdiction either act was done.

Art. 102. — Trial where place of offence is uncertain.

- (a) Where it is uncertain in which of several local areas an offence was committed; or

- (b) where an offence is committed partly in one local area and partly in another;
or
- (c) where an offence continues to be committed in more than one local area;
or
- (d) where an offence consists of several acts done in different local areas, it may be tried by a court having jurisdiction over any of such local areas.

Art. 103. — Offence committed on a journey.

An offence committed whilst the offender is in the course of performing a journey or voyage may be tried by a court through or into the local limits of whose jurisdiction the offender or the person against whom or the thing in respect of which the offence was committed passed in the course of that journey or voyage.

Art. 104. — Place of trial of offence committed outside Ethiopia on an Ethiopian ship or aircraft.

An offence committed outside Ethiopia on an Ethiopian ship or aircraft shall be deemed to have been committed in Ethiopia.

Art. 105. — Court having jurisdiction in cases of reinstatement.

Requests for reinstatement shall be brought before the court having passed the sentence the cancellation of which is sought.

Art. 106. — Change of venue.

Whenever it is made to appear to the High Court by application before a trial has started either by the public prosecutor or by the accused:

- (a) that a fair and impartial trial cannot be held in any criminal court subordinate thereto; or
- (b) that some question of law of unusual difficulty is likely to arise; or
- (c) that an order under this Article will tend to the general convenience of the parties or witnesses; or
- (d) that such an order is expedient for the ends of justice or is required by any provision of this Code,

it may make an order against which no appeal shall lie to the effect that:

- (i) any offence be tried by any court not empowered under the provisions of Art. 99-104 of this Chapter but in other respects competent to try such offence;
- (ii) an accused person be committed for trial to itself.

Art. 107. — Public prosecutor to direct place of trial.

In cases under Art. 100-104, 116 or 117 the public prosecutor shall decide the court in which the charge shall be filed and on the filing of the charge in accordance with such decision the court shall have jurisdiction.

Chapter 3. — The Charge

Art. 108. — *Principles.*

- (1) No person may be tried for an offence other than a petty offence unless a charge has been framed in accordance with the provisions of this Chapter.
- (2) The provisions of this Chapter shall apply to charges framed:
 - (a) by the public prosecutor, whether the case is to be tried by the High Court or a subordinate court; and
 - (b) by the private prosecutor, where he has been authorised to conduct a private prosecution.
- (3) The provisions of this Chapter shall not apply in cases concerning young persons unless an order to the contrary be made under Art. 172.

Art. 109. — *Framing, filing and service of the charge.*

- (1) The public prosecutor shall within fifteen days of the receipt of the police report (Art. 37) or the record of a preliminary inquiry (Art. 91) frame such charge as he thinks fit, having regard to the police investigation or preliminary inquiry, and shall file it in the court having jurisdiction.
- (2) If, before the trial by the High Court, the prosecutor is of opinion upon the record of the preliminary inquiry received by him that the case is one which is to be tried by a subordinate court, he shall, notwithstanding the decision of the committing court, frame such charge as he thinks fit and shall file it in the subordinate court having jurisdiction.
- (3) Where the preliminary inquiry discloses offences some of which are to be tried by the High Court and some by a subordinate court, the prosecutor shall frame such charges as he thinks fit and shall file them in the High Court which shall have jurisdiction to try all offences thus charged.
- (4) A copy of every charge shall be given to the accused free of cost.

Art. 110. — *Charge wrongly filed.*

Where the public prosecutor files a charge in a court having no jurisdiction the court shall refuse to accept such charge and shall direct the public prosecutor to file the charge in a court having jurisdiction and shall so specify in writing in the charge sheet:

Provided that the court may not refuse to accept a charge filed by the public prosecutor under Art. 630 Penal Code by reason only that a court subordinate thereto has jurisdiction to try such charge and on the filing of such charge the court shall have jurisdiction to try such offence.

Art. 111. — *Contents and form of the charge.*

- (1) Every charge shall be dated and signed and shall contain:
 - (a) the name of the accused; and

- (b) the offence with which the accused is charged and its legal and material ingredients; and
 - (c) the time and place of the offence and, where appropriate, the person against whom or the property in respect of which the offence was committed; and
 - (d) the law and article of the law against which the offence is said to have been committed.
- (2) The charge shall be in the form set out in the Second Schedule to this Code or shall conform thereto as nearly as may be.

Art. 112. — Description of circumstances.

Each charge shall describe the offence and its circumstances so as to enable the accused to know exactly what charge he has to answer. Such description shall follow as closely as may be the words of the law creating the offence.

Art. 113. — Where it is doubtful what offence has been committed.

- (1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed the offence which appears the more probable to have been committed and he may be charged in the alternative with having committed all other offences which the facts which can be proved might constitute.
- (2) Where the evidence shows that the accused committed an offence with which he might have been charged in the alternative and the offence is within the jurisdiction of the court, he may be convicted of such offence notwithstanding that he was not charged with it, where such offence is of lesser gravity than the offence charged.
- (3) Nothing in this Article shall prevent the court from applying the provisions of Art. 6 and 9 Penal Code.

Art. 114. — Aggravated offences how charged and procedure.

- (1) Where an accused person may be charged with an aggravated offence by reason of previous convictions, he shall be charged with the unaggravated offence and the charge shall be filed in the court having jurisdiction to try the aggravated offence.
- (2) Where the accused is convicted of the unaggravated offence the public prosecutor may, after conviction and before sentence, prove the previous convictions of the accused which, had they been proved at the trial, would have resulted in his conviction of the aggravated offence. The court may sentence him as though he had been convicted accordingly.

Art. 115. — Person charged with an offence may be convicted of an attempt or as accessory or instigator.

- (1) Where the accused is charged with an offence, he may be convicted of having attempted to commit the offence although the attempt is not separately charged.
- (2) Where an accused is charged with an offence as principal, he may be convicted as an instigator or as an accessory, although he was not charged as such.

Art. 116. — More than one charge.

- (1) A charge may contain several different counts relating to the same accused and each offence so charged shall be described separately.
- (2) All charges may be tried together but where the accused is likely to be embarrassed in his defence, the court shall order the charges to be tried separately.

Art. 117. — Joinder of charges.

- (1) All persons accused of having participated in whatever capacity in the offence or offences even at different times shall be charged and tried together.
- (2) Nothing in this Article shall prevent the court from ordering separate trials where separation is required in the interests of justice.
- (3) Where several persons have committed different offences connected with the same criminal activity they may where necessary be charged and tried together.

Art. 118. — Effect of errors.

No error in stating either the offence or the particulars required to be stated in the charge and no omission to state the offence or those particulars shall be regarded as material and no charge containing such errors or omissions shall be regarded as invalid unless they relate to essential points or the accused was in fact misled by such error or omission or justice is likely to be thereby defeated.

Art. 119. — Alteration or addition to charge.

- (1) Where the accused is brought to trial on a charge containing essential errors or omissions or such errors or omissions that the accused has been or is likely to be misled, the court may at any time before judgment of its own motion or on application order the charge to be altered or added to or a new charge to be framed, as the case may be.
- (2) Every such alteration, addition or new charge shall be read and explained to the accused.

- (3) The provisions of this Article shall also apply in the case of errors or omissions within the meaning of Art. 118.

Art. 120. — Effect of alteration or addition.

- (1) Where a charge is altered or added to or a new charge is framed, the court shall ask the accused to state whether he is ready to be tried on such altered, added or new charge.
- (2) Where the accused declares that he is not ready, the court shall consider the reasons he gives. If proceeding immediately with the trial is not likely, in the opinion of the court, to prejudice the accused in his defence the court may proceed with the trial as if the altered, added or new charge had been the original charge.
- (3) If proceeding immediately with the trial is likely in the opinion of the court to prejudice the accused in his defence or the prosecutor in the conduct of the case, an adjournment shall be ordered (Art. 94).

Art. 121. — Recall of witnesses.

Whenever a charge is altered or added to or a new charge is framed after the beginning of the trial, the prosecutor and the accused shall be allowed to recall and examine, with reference to such alteration, addition or new charge, any witnesses who may have been examined and may also call any further evidence which may be material.

Art. 122. — Withdrawal of charges.

- (1) With the permission of the court the public prosecutor may before judgment at any stage of the proceedings withdraw any charge other than a charge under Art. 522 (homicide in the first degree) or Art. 637 (aggravated robbery).
- (2) Where the public prosecutor informs the court that the withdrawal of a charge is on the instructions of government, the court shall, if it is satisfied that the public prosecutor has been so ordered, grant permission to the public prosecutor to withdraw the charge.
- (3) Where no new charge is framed under the provisions of Art. 119 the accused shall be discharged.
- (4) The court shall give reasons for allowing or refusing withdrawal of a charge.
- (5) The withdrawal of a charge under the provisions of this Article is no bar to subsequent proceedings.

Chapter 4. — The Trial

Section 1 — The hearing

Art. 123. — Trial to be fixed.

When the charge has been filed under Art. 109, the court shall forthwith fix the date of trial and cause the accused and the public prosecutor to be summoned to appear on the date and at the time fixed by the court. It shall take such steps as are necessary to secure the attendance of the accused, if in custody.

Art. 124. — Witness summonses.

- (1) So soon as the date of the trial has been fixed, the public prosecutor and the accused shall give the registrar a list of their witnesses and experts, if any, whose presence is necessary. The registrar shall forthwith issue summonses in the form prescribed in the Third Schedule to this Code.
- (2) The public prosecutor and the accused shall be responsible for ensuring that all exhibits to be produced at the trial shall be in court on the day fixed for the trial.

Art. 125. — Bench warrant.

Where an accused person or a witness, who has been duly summoned and there is proof of service of such summons, has failed to appear as required, the court may issue a bench warrant and such accused person or witness shall be brought before the court by the police.

Art. 126. — Opening of hearing.

- (1) The court shall sit on the day and at the hour fixed for the hearing.
- (2) Where an interpreter is required for the purposes of any proceedings, the court shall select a qualified court interpreter. Where none is available it will select a competent interpreter but no person shall be selected who is a relative to the accused or prosecutor or is himself a witness.
- (3) The case shall be called and the accused shall be produced.

Art. 127. — Attendance of accused.

- (1) The accused shall appear personally to be informed of the charge and to defend himself. When he is assisted by an advocate the advocate shall appear with him.
- (2) The accused shall be adequately guarded and shall not be chained unless there are good reasons to believe that he is dangerous or may become violent or may try to escape.

Art. 128. — Verification of identity.

When the accused has been brought into the dock his identity, age and trade shall be established.

Art. 129. — Reading out of charge.

The charge shall be read out to the accused by the presiding judge who shall then ask the accused if he has any objection to the charge.

Art. 130. — Objections to the charge.

- (1) If the accused has anything to say as to the form or contents of the charge, the provisions of Art. 119 et seq. shall apply.
- (2) The provisions of Art. 131 shall apply where the accused states:
 - (a) that the case is pending before another court; or
 - (b) that he has previously been acquitted or convicted on the same charge; or
 - (c) that the charge against him has been barred by limitation or the offence with which he has been charged has been made the subject of pardon or amnesty; or
 - (d) that he will be embarrassed in his defence if he is not granted a separate trial, where he is tried with others; or
 - (e) that no permission to prosecute as required by law has been obtained; or
 - (f) that the decision in the criminal case against him cannot be given until other proceedings have been completed; or
 - (g) that he is not responsible for his acts.
- (3) Where no objection is raised under this Article immediately after the accused has been required by the court to state his objections, the accused shall be barred from raising any such objection at any later stage in the trial, unless the objection be such as to prevent a valid judgment being given.

Art. 131. — Settlement of objections.

- (1) The court shall take down any objection that may have been raised under Art. 130 (2) and shall ask the prosecutor whether he has any statement to make in relation to such objection.
- (2) The court shall decide forthwith on the objection where the objection can be disposed of by reference to the law or the facts on which the objection is based are not disputed by the prosecutor.
- (3) Where a decision cannot be made forthwith owing to lack of evidence, the court shall order that the necessary evidence be submitted without delay.
- (4) The court shall make its decision forthwith upon the necessary evidence having been produced.

Art. 132. — Plea of accused.

- (1) After the charge has been read out and explained to the accused, the presiding judge shall ask the accused whether he pleads guilty or not guilty.
- (2) Where there is more than one charge the presiding judge shall read out and explain each charge one by one and shall record the plea of the accused in respect of each charge separately.
- (3) The plea of the accused shall be recorded as nearly as possible in the words of the accused.

Art. 133. — Plea of not guilty.

- (1) Where the accused says nothing in answer to the charge or denies the charge, a plea of not guilty shall be entered.
- (2) Where the accused admits the charge with reservations, the court shall enter a plea of not guilty.

Art. 134. — Plea of guilty.

- (1) Where the accused admits without reservations every ingredient in the offence charged, the court shall enter a plea of guilty and may forthwith convict the accused.
- (2) Where a plea of guilty has been entered, the court may require the prosecution to call such evidence for the prosecution as it considers necessary and may permit the accused to call evidence.

Art. 135. — Amendment of plea.

- (1) Where a plea of guilty has been entered and it appears to the court in the course of proceedings that a plea of not guilty should have been entered, the court may change the plea to one of not guilty.
- (2) The conviction, if any, shall then be set aside.

Section 2. — Evidence and judgment

Art. 136. — Opening of case and calling of witnesses for prosecution.

- (1) After the plea of the accused has been entered, the public prosecutor shall open his case explaining shortly the charges he proposes to prove and the nature of the evidence he will lead. He shall do so in an impartial and objective manner.
- (2) The public prosecutor shall then call his witnesses and experts, if any. The witnesses and experts shall be sworn or affirmed before they give their testimony.
- (3) They shall be examined in chief by the public prosecutor, cross-examined by the accused or his advocate and may be re-examined by the public prosecutor.

- (4) The court may at any time put to a witness any question which appears necessary for the just decision of the case.

Art. 137. — Form of questions put in examination-in-chief.

- (1) Questions put in examination-in-chief shall only relate to facts which are relevant to the issues to be decided and to such facts only of which the witness has direct or indirect knowledge.
- (2) No leading question shall be put to a witness without the permission of the accused or his advocate or the public prosecutor, as the case may be.
- (3) Questions put in cross-examination shall tend to show to the court what is erroneous, doubtful or untrue in the answers given in examination-in-chief. Leading questions may be to a witness in cross-examination.

Art. 138. — Antecedents of accused.

- (1) Unless otherwise expressly provided by law, the previous convictions of an accused person shall not be disclosed to the court until after he has been convicted.
- (2) The previous convictions of an accused person shall not be included in the record of any preliminary inquiry.

Art. 139. — Re-examination.

The public prosecutor, the accused or his advocate may on re-examination only ask questions for the purpose of clarifying matters which have been raised in cross-examination.

Art. 140. — Absence of cross-examination.

Failure to cross-examine on a particular point does not constitute an admission of the truth of the point by the opposite party.

Art. 141. — Acquittal of accused when no case for prosecution.

When the case for the prosecution is concluded, the court, if it finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, shall record an order of acquittal.

Art. 142. — Opening of case for defence.

- (1) Where the court finds that a case against the accused has been made out and the witnesses for the injured party, if any, have been heard it shall call on the accused to enter upon his defence and shall inform him that he may make a statement in answer to the charge and may call witnesses in his defence.
- (2) The accused or his advocate may then open his case and shortly explain his defence stating the evidence he proposes to put forward. He shall then

call his witnesses and experts, if any, who shall be sworn or affirmed before they give their testimony.

- (3) The witnesses for the defence may be called in any order:

Provided that, where the accused wishes to make a statement, he shall speak first.

The accused may not be cross-examined on his statement but the court may put questions to him for the purpose of clarifying any part of his statement.

Art. 143. — Additional witnesses.

- (1) The court may at any time before giving judgment call any witness whose testimony it thinks is necessary in the interests of justice.
- (2) The prosecution and the accused may call any witness whose name does not appear on the list of witnesses. Such witness shall be summoned where the court is satisfied that he is a material witness and the application for a summons is not being made for the purpose of delaying the case.
- (3) The prosecutor may in a case committed for trial to the High Court call any witness who has not given evidence at the preliminary inquiry where he informs the accused in writing of the name of the witness he proposes to call and of the nature of the testimony he will give.

Art. 144. — Depositions taken in preliminary inquiry may be put in evidence.

- (1) The deposition of a witness taken at a preliminary inquiry may be read and put in evidence before the High Court where the witness is dead or insane, cannot be found, is so ill as not to be able to attend the trial or is absent from the Empire.
- (2) The deposition of an expert taken at a preliminary inquiry may be read and put in evidence before the High Court although he is not called as a witness.

Art. 145. — Statements made in police investigation may be put in evidence.

- (1) The court may, on the request of the accused or the prosecutor, refer to statement made by a witness to a police officer in the course of police investigation.
- (2) It may then, if it thinks it expedient in the interests of justice, direct the accused to be furnished with a copy thereof and such statement may be used to impeach the credit of such witness.

Art. 146. — Objection to evidence.

Where the prosecutor or the accused objects to the admission of any evidence or the putting of a question to a witness, the court shall decide forthwith on the admissibility of such evidence.

Art. 147. — Recording of evidence.

- (1) The evidence of every witness shall start with his name, address, occupation and age and an indication that he has been sworn or affirmed.
- (2) The evidence of each witness shall be taken down in writing by the presiding judge or, if, for some reason, he is unable to record the evidence, by another judge or clerk under his personal direction and superintendence.
- (3) The evidence shall be divided into evidence-in-chief, cross-examination and re-examination with a note as to where the cross-examination and re-examination begin and end.
- (4) The evidence shall ordinarily be taken down in the form of a narrative:
Provided that the presiding judge may, in his direction, take down or cause to be taken down any particular question and answer.

Art. 148. — Final addresses.

- (1) After the evidence for the defence has been concluded the prosecutor may address the court on questions of law and fact.
- (2) The accused or his advocate shall then address the court on questions of law and fact. He shall always have the last word.
- (3) Where there are more than one accused the presiding judge shall decide in which order the accused or their advocates shall address the court.

Art. 149. — Judgment and sentence.

- (1) When the final addresses including the addresses under Art. 156, if any, have been concluded, the court shall give judgment. The judgment shall be dated and signed by the judge delivering it. The judgment shall contain a summary of the evidence, shall give reasons for accepting or rejecting evidence and shall contain the provisions of the law on which it is based and, in the case of a conviction, the article of the law under which the conviction is made.
- (2) Where the accused is found not guilty, the judgment shall contain an order of acquittal and, where appropriate, an order that the accused be released from custody.
- (3) Where the accused is found guilty, the court shall ask the prosecutor whether he has anything to say as regards sentence by way of aggravation or mitigation. The prosecutor may call witnesses as to the character of the accused.
- (4) Where the prosecutor has made his submissions on sentence the accused or his advocate shall be entitled to reply and may call witnesses as to character. Where the accused does not admit any fact regarding his antecedents, the prosecutor shall be required to prove the same.
- (5) The court shall then pass sentence and shall record the articles of the law under which the sentence has been passed.

- (6) Nothing herein contained shall affect the provisions of Art. 195 and 196 Penal Code.
- (7) After delivery of judgment the prosecutor and the accused shall be informed of their right of appeal.

Chapter 5. — Private Prosecution

Art. 150. — Filing complaint and charge.

- (1) Where a private complainant has been authorised under Art. 44 (1) to conduct a private prosecution, he shall within fifteen days file his complaint and the charge in the court having jurisdiction.
- (2) Where a charge is not in accordance with the authorisation the court shall require the private complainant to amend the charge to conform to such authorisation.

Art. 151. — Attempt to reconcile the parties.

- (1) When the complaint and the charge have been filed the court shall summon the complainant and the accused to appear.
- (2) Before reading out the charge to the accused the court shall attempt to reconcile the parties. Where a reconciliation is effected, it shall be recorded by the court and shall have the effect of a judgment.

Art. 152. — Security for costs.

Where a reconciliation has not been effected, the court shall decide whether the private prosecutor should give security for costs. Where an order for security is made, the sum to be secured and the nature of the security shall be stated in the order.

Art. 153. — Hearing and judgment.

- (1) Where the private prosecutor has complied with the order, if any, under Art. 152, the case shall proceed in accordance with Art. 123-149, the parties having the same rights and duties as in public proceedings.
- (2) The court shall give judgment as in ordinary cases.

Chapter 6. — Injured Party in Criminal Proceedings

Art. 154. — Principle.

- (1) Where a person has been injured by a criminal offence, he or his representative may at the opening of the hearing apply to the court trying the case for an order that compensation be awarded for the injury caused. The application shall be in writing and shall specify the nature and amount of the compensation sought. He shall not on filing his application pay the

- prescribed court fees as though it were a civil case.
- (2) The person making the application shall be shown the list of the witnesses to be called by the prosecution and defence and shall be asked whether he wishes additional witnesses to be called. Where he wishes additional witnesses to be called, he shall be required to pay the prescribed fees for the issue of witness summonses as though it were a civil case.
 - (3) The provisions of this chapter shall apply to public and private prosecutions.
 - (4) Where the person making the application acts in the capacity of private prosecutor, he shall specify which witnesses he calls in support of the prosecution and which he calls in support of his civil claim. The provisions of sub-art. (1) and (2) shall apply.

Art. 155. — Application dismissed.

- (1) The court shall consider the application and shall of its own motion or on the request of the prosecution or the defence refuse the application where:
 - (a) a young person is the accused; or
 - (b) the accused is being tried in his absence; or
 - (c) the injured party has instituted proceedings in a civil court having jurisdiction; or
 - (d) the person making the application is not qualified for suing; or
 - (e) the claim for compensation cannot be determined without calling numerous witnesses in addition to those to be called by the prosecution and defence; or
 - (f) the court is of opinion that the hearing of the injured party's claim for compensation is likely to confuse, complicate or delay the hearing of the criminal case.
- (2) The application shall be dismissed where the amount of compensation claimed exceeds the pecuniary jurisdiction of the court.
- (3) Where the court dismisses the application its decision shall be final and no appeal shall lie against it. The injured party shall be informed by the court that he may file a claim against the accused in a civil court.

Art. 156. — Application allowed.

- (1) Where the application is allowed the injured party shall be entitled to take part in the proceedings and shall have with regard to evidence all the rights of an ordinary party.
- (2) The court shall at the close of the case for the defence permit the injured party or his representative to address the court in person or by advocate on the question of the amount of compensation to be awarded. The accused or his advocate shall have the right to reply.

Art. 157. — Injured party may withdraw.

An injured party may at any time before the close of the case for the defence

withdraw his application and thereupon he may file a claim against the accused in the civil court having jurisdiction.

Art. 158. — Acquittal or discharge.

Where the accused is acquitted or discharged, the court shall not adjudicate on the question of compensation and shall inform the injured party that he may file a claim against the accused in the civil court having jurisdiction.

Art. 159. — Order on award of compensation.

- (1) The court when awarding compensation to an injured party shall order that:
 - (a) the amount of compensation so awarded be paid to the injured party or his representative; and...
 - (b) costs as provided for civil cases be paid to the injured party or his representative; and
 - (c) the accused pay the court fees as if it were a civil case.
- (2) Judgment shall be given as in an ordinary case.

TITLE II

Special Procedures

Chapter 1. — Procedure in Cases of Default

Art. 160. — Principle.

- (1) The provisions of this Chapter shall apply where the accused fails to appear whether the prosecution is public or private but shall not apply to young offenders.
- (2) Where the accused does not appear on the date fixed for the trial and no representative appears satisfactorily to explain his absence, the court shall issue a warrant for his arrest.
- (3) Where the warrant cannot be executed, the court shall consider trying the accused in his absence. Where an order to this effect is made the provisions of the following articles shall apply.

Section 1. — Failure to appear in public proceedings

Art. 161. — Conditions for trying accused person in his absence.

- (1) Where the accused fails without good cause to appear on the day fixed for the hearing, the court shall record his absence and may direct that he be tried in his absence in accordance with the provisions of this Section.

- (2) No accused person may be tried in his absence under the provisions of this Section unless he is charged with:
- (a) an offence punishable with rigorous imprisonment for not less than twelve years; or
 - (b) an offence under Art. 354-365 Penal Code punishable with rigorous imprisonment or fine exceeding five thousand dollars.

Art. 162. — Publication of summons.

Where the court decides to hear the case in the absence of the accused it shall order the publication of the summons which shall show the date fixed for the hearing. It shall contain a notification to the accused that he will be tried in his absence if he fails to appear.

Art. 163. — Hearing and judgment.

- (1) Where the accused fails to appear after publication of the summons in accordance with Art. 162 the case shall continue as in ordinary cases.
- (2) The prosecution witnesses shall then be heard and the public prosecutor shall make his final submission.
- (3) The court shall give judgment as in ordinary cases.

Art. 164. — Setting aside of judgment.

An application to set aside the judgment may be made on the conditions laid down in Art. 197-202.

Section 2. — Failure to appear in private proceedings

Art. 165. — Absence of private prosecutor.

- (1) Where the private prosecutor fails without good cause to appear on the date fixed for the hearing, the court shall strike out the case and order the discharge of the accused.
- (2) Where a case has been struck out under sub-art. (1), the private prosecutor may, within fifteen days of such striking out, apply to the court to have a fresh hearing date fixed. No application shall be granted unless the private prosecutor satisfies the court that his failure to attend on the day of the hearing was due to causes beyond his control.
- (3) Where no application is made within fifteen days or it is dismissed, the striking out shall be final with regard to the private prosecutor.

Art. 166. — Absence of accused.

Where the accused is absent, the provisions of Art. 162 and 163 shall not apply and a bench warrant shall be issued.

Chapter 2. — Procedure in Cases of Petty Offences

Art. 167. — Summoning of accused.

- (1) Where a petty offence has been committed, the public or private prosecutor shall apply to the court having jurisdiction to summon the accused to appear.
- (2) The application and the summons shall contain the name of the accused, the circumstances of the petty offence committed and the law and articles of the law to be applied.

Art. 168. — Accused may plead guilty in writing to petty offence.

The accused may return the summons to the court endorsing thereon that he pleads guilty to such offence. Such endorsement shall be dated and signed by the accused. In such a case and without prejudice to the provisions of Art. 169 (3), he shall be dispensed with the necessity of appearing in court in answer to the summons.

Art. 169. — Proceedings and judgment.

- (1) On receipt of the summons so endorsed, the court shall record the plea of guilty and, having ascertained the facts of the case from the prosecutor, shall sentence the accused and send him a copy of the judgment.
- (2) Where the court proposes to impose a fine only, it shall do so forth with.
- (3) Where the court intends to impose a sentence of arrest, compulsory labour, a warning or reproof, it shall summon the accused to appear and shall give the accused an opportunity to defend himself before sentence is passed.

Art. 170. — Procedure where accused appears before the court charged with petty offence

- (1) Where the accused does not endorse on the summons that he pleads guilty, he shall appear on the day and at the time fixed for the hearing.
- (2) The prosecutor and the accused shall take such steps as are necessary to secure the attendance of their witnesses, if any.
- (3) The procedure shall be oral. The court shall only record the salient part of the evidence of each witness. It shall give judgment orally recording briefly the reasons for its judgment and mentioning the provisions of the law under which judgment is given.
- (4) Where the accused fails without good cause to appear in private proceedings the court shall give judgment forthwith.

Chapter 3. — Procedure in Cases Concerning Young Persons**Art. 171. — Principle.**

Criminal cases concerning young persons shall be tried in accordance with the provisions of this Chapter.

Art. 172. — Institution of proceedings.

- (1) In any case where a young person is involved, he shall be taken immediately before the nearest Woreda Court by the police, the public prosecutor, the parent or guardian or the complainant.
- (2) The court shall ask the person bringing the young person to state the particulars and the witnesses, if any, of the alleged offence or to make a formal complaint, where appropriate, and such statement or complaint shall be recorded. The court may give the police instructions as to the manner in which investigations should be made.
- (3) Where the accusation relates to an offence punishable with rigorous imprisonment exceeding ten years or with death (Art. 173 Penal Code) the court shall direct the public prosecutor to frame a charge.
- (4) Where the case requires to be adjourned or to be transferred to a superior court for trial, the young person shall be handed over to the care of his parents, guardian or relative and in default of any such person to a reliable person who shall be responsible for ensuring his attendance at the trial. The witnesses shall be bound over to appear at the trial.

Art. 173. — Summoning of young person's guardian.

Where the young person is brought before the court and his parent, guardian or other person in loco parentis is not present, the court shall immediately inquire whether such person exists and shall summon such person to appear without delay.

Art. 174. — Young person may be assisted by counsel.

The court shall appoint an advocate to assist the young person where:

- (a) no parent, guardian or other person in loco parentis appears to represent the young person, or
- (b) the young person is charged with an offence punishable with rigorous imprisonment exceeding ten years or with death.

Art. 175. — Removal of young person from chambers.

Where any evidence or comments are to be given or made which it is undesirable that the young person should hear, he shall be removed from the chambers while such evidence or comments are being given or made.

Art. 176. — Hearing.

- (1) Where the young person is brought before the court all the proceedings shall be held in chambers. Nobody shall be present at any hearing except witnesses, experts, the parent or guardian or representatives of welfare organisations. The public prosecutor shall be present at any hearing in the High Court.
- (2) All proceedings shall be conducted in an informal manner.
- (3) The accusation or complaint under Art. 172 (2) or the charge under Art. 172 (3) shall be read out to the young person and he shall be asked what he has to say in answer to such accusation or charge.
- (4) If it is clear to the court from what the accused says that he fully understands and admits the accusation or charge, the court shall record what the young person has said and may convict him immediately.
- (5) If it is clear to the court from what the accused says that he fully understands and does not admit the accusation or charge, the court shall inquire as to what witnesses should be called to support such accusation or charge. The young person, his representative or advocate may cause any witnesses to be summoned.
- (6) All witnesses shall be examined by the court and may thereupon be cross-examined by the defence. All depositions shall be recorded.
- (7) When the evidence is concluded, the defence may sum up and there-after the court shall give judgment.

Art. 177. — Judgment.

- (1) The judgment shall specify the provisions of the law on which it is based. Where the young person is found not guilty, he shall be acquitted and set free forthwith. Where he is found guilty, the court shall impose the appropriate measure or penalty under Art. 162 et seq. Penal Code.
- (2) The court may call before it any person or representative of any institution with a view to obtaining information concerning the character and antecedents of the young person so as to arrive at a decision which is in the best interest of the young person.
- (3) After these persons have been heard, the defence may reply and call his witnesses as to character, who shall be interrogated by the court and thereupon the defence shall address the court as to sentence.
- (4) Judgment shall be given as in ordinary cases. The court shall explain its decision to the young person and warn him against further misconduct.

Art. 178. — Orders which may be made against parents and guardians.

Where it thinks fit the court may warn, admonish or blame the parents or other person legally responsible for the young person where it appears that they have failed to carry out their duties.

Art. 179. — Cost of upkeep of young person in certain circumstances.

- (1) The parents or other person legally responsible for the care of a young person may be ordered to bear all or part of the cost of his upkeep and training where owing to their failure to exercise proper care and guardianship the court has ordered the young person to be sent to the care of another person or to a corrective or curative institution.
- (2) The scope and duration of such obligation shall be specified in the judgment.

Art. 180. — Variation or modification of order made in respect of young person.

Any court which has sentenced a young person to a measure may at any time of its own motion or on the application of the young person, his legal representative or the person or institution to which he was entrusted, vary or modify such order if the interest of the young person so requires.

BOOK V

Appeals and Applications to Set Aside Judgments given in Default

TITLE I

Appeal

Art. 181. — Principle.

- (1) An appeal shall lie in accordance with the provisions of this Book from a judgment of a criminal court whether it be a judgment convicting, discharging or acquitting an accused person.
- (2) A second appeal shall lie in accordance with the provisions of Art. 182.

Art. 182. — Courts having appellate jurisdiction.

- (1) An appeal shall lie from the decision of:
 - (a) a Woreda Court to the Awradja Court in whose area of jurisdiction such Woreda Court lies;
 - (b) an Awradja Court to the High Court;
 - (c) the High Court to the Supreme Imperial Court.
- (2) A second appeal shall lie from a decision of:
 - (a) the Awradja Court in its appellate jurisdiction to the High Court;
 - (b) the High Court in its appellate jurisdiction to the Supreme Imperial Court.

Art. 183. — Application to His Imperial Majesty's Chilot.

- (1) Nothing in Art. 182 shall prevent an appellant who has exhausted his rights of appeal under Art. 182 from applying to His Imperial Majesty's Chilot for a review of the case.
- (2) The application to His Imperial Majesty's Chilot shall be accompanied by:
 - (a) a copy of the judgment or judgments with which the applicant is dissatisfied; and
 - (b) a reasoned memorandum setting forth clearly and concisely the reasons on which the applicant bases his request for a review.

Art. 184. — No interlocutory appeals.

- No interlocutory appeal shall lie from a decision of the court:
- (a) granting or refusing an adjournment under Art. 94; or
 - (b) regarding an objection under Art. 131; or

(c) regarding the admissibility or non-admissibility of evidence under Art. 146, but any such decision may form the subject of a ground of appeal where an appeal is lodged against conviction, discharge or acquittal.

Art. 185. — Appeal against conviction and sentence.

- (1) A convicted person may appeal against his conviction and sentence; Provided that no appeal may be lodged by a convicted person who has pleaded guilty and has been convicted on such plea except as to the extent or the legality of the sentence.
- (2) The public prosecutor may appeal against a judgment of acquittal, discharge or on the ground of inadequacy of sentence.
- (3) Where a prosecution is conducted by a private prosecutor the private prosecutor may appeal in the same manner as is provided in sub-article (2).
- (4) An appeal by a young person or by an incapable person shall be through his legal representative.

Art. 186. — Appeal where injured party claims compensation.

- (1) Where the court refuses to grant compensation under Art. 100 Penal Code the injured party may appeal against such decision.
- (2) Where the court grants compensation the accused may appeal against such decision.
- (3) An appeal shall lie against the amount of compensation awarded in accordance with the provisions of Art. 2153 Civil Code.
- (4) An appeal under this Article shall be heard by the criminal court of appeal where there is an appeal against conviction or sentence, but shall be heard by the civil court of appeal where there is no appeal against conviction or sentence or such appeal is withdrawn.

Art. 187. — Notice of appeal and memorandum of appeal.

- (1) Notice of appeal against a judgment shall be given by the appellant or his advocate within fifteen days of the delivery of the judgment appealed against. On receipt of such notice of appeal, the registrar shall cause the judgment appealed against to be copied and handed to the appellant or his advocate and where the appellant is in custody the copy shall be sent to the superintendent of the prison in which he is confined for service on the appellant. Such copy shall be dated when completed and the date on which it is handed to the appellant or his advocate or is sent to the superintendent of the prison shall be certified by the registrar.
- (2) The memorandum of appeal under Art. 189 shall be filed within thirty days of the receipt of the copy of the decision appealed against. The notice and memorandum of appeal shall be filed in the registry of the court which gave the judgment appealed against.

- (3) Where the appellant is in custody the superintendent of the prison in which he is confined shall forward the memorandum of appeal without delay to the court against whose decision an appeal is made.
- (4) A copy of the memorandum of appeal shall be served on the respondent to the appeal.

Art. 188. — Stay of execution.

- (1) Where a convicted person has given notice of appeal no sentence of flogging shall be carried out until the appeal has been heard or abandoned by the appellant.
- (2) Where an accused person is released on bail pending the hearing of his appeal the sentence of imprisonment shall not commence until the court of appeal delivers its judgment.
- (3) Any measures which have been ordered by the court against whose judgment an appeal has been filed shall be carried out notwithstanding an appeal.
- (4) There shall be no stay of execution in respect of the payment of compensation or costs.
- (5) An application for stay of execution may be made to the court of appeal at any time before the appeal is heard or at the hearing of the appeal.

Art. 189. — Contents of memorandum of appeal.

- (1) The memorandum of appeal shall set forth concisely and under distinct heads the grounds of objection to the judgment appealed against without any arguments and such grounds shall be numbered consecutively. The memorandum shall be accompanied by a copy of the judgment appealed against. The memorandum of appeal shall state the nature of the relief that is sought.
- (2) The memorandum of appeal shall be signed by the appellant and his advocate, if any.

Art. 190. — Record and exhibits to be forwarded to court of appeal.

- (1) On receipt of the memorandum of appeal the court against whose judgment an appeal has been filed shall prepare without delay within fifteen days a copy of the record and forward it together with the appeal record (if any), the notice and the memorandum of appeal and all exhibits to the court of appeal.
- (2) The court of appeal may dispense with the making of a copy of the record where the making of such copy may delay unduly the hearing of the appeal and the Court may order the original file to be produced.

Art. 191. — Application for leave to appeal out of time.

- (1) Where notice of appeal or a memorandum of appeal is filed out of time, the court against whose judgment the appeal is filed shall refuse to accept such notice or memorandum and shall require the person submitting such notice or memorandum to apply in writing to the court of appeal for leave to appeal out of time.
- (2) The application shall state clearly the reasons why the appeal should be heard out of time and the reasons which occasioned the delay.
- (3) The court of appeal shall not give leave to appeal out of time unless it is satisfied that the delay was not occasioned by the default of the applicant.
- (4) Where leave to appeal out of time is given the court of appeal shall fix the date by which the memorandum of appeal is to be filed.

Art. 192. — Hearing.

The president of the court of appeal shall fix a day on which the appeal will be heard and the parties to the appeal shall be notified. The appellant shall open the appeal, the respondent shall reply and the appellant shall be entitled to reply.

Art. 193. — Absence of a party to the appeal.

- (1) Where the appellant or his advocate is not present on the day fixed for the appeal and he has been notified of the hearing date, the appeal shall be struck out:
Provided that the appeal may be restored to the list where the appellant or his advocate can show that he was not present owing to circumstances beyond his control.
- (2) Where the respondent or his advocate is not present the appeal shall proceed in his absence.

Art. 194. — Additional evidence.

- (1) In dealing with an appeal the court of appeal, if it thinks additional evidence is necessary, shall record its reasons and may take such evidence itself.
- (2) Evidence taken in pursuance of sub-art. (1) shall be taken as if it were evidence taken at the trial in the court of first instance.

Art. 195. — Powers of court of appeal.

- (1) At the hearing of an appeal the court of appeal shall dismiss the appeal where there is no sufficient ground for interference.
- (2) Where it considers that there is sufficient ground for interference, the court of appeal may :
 - (a) on an appeal from an order of acquittal or discharge reverse such order and direct that the accused be retried by a court of competent jurisdiction.

- tion or find him guilty and sentence him according to law; or
- (b) on an appeal from conviction and sentence:
 - (i) reverse the finding and sentence and acquit the accused; or
 - (ii) with or without altering the finding, maintain, increase or reduce the sentence;
 - (c) on an appeal from conviction only reverse the finding and sentence and acquit the accused;
 - (d) on an appeal from sentence only maintain, increase or reduce the sentence.
- (3) Where the court of appeal confirms the conviction but alters the sentence or vice versa a second appeal shall lie only in respect of the conviction or sentence which has been altered.

Art. 196. — Where one appeal in case concerning several convicted persons.

- (1) Where a court of appeal hears an appeal which concerns several convicted persons but only one of them appeals, it may direct that its judgment be applied to those other accused as though they had appealed where:
 - (a) the judgment is to the benefit of the appellant, and
 - (b) had the accused appealed they would have benefitted similarly.
- (2) No order made to the prejudice of an appellant may be applied to a person who has not appealed.

TITLE II

Application to Set Aside Judgment given in Default

Art. 197. — Court having jurisdiction.

An application to set aside a judgment given in default may be made by the person sentenced in his absence to the court which passed the judgment.

Art. 198. — Time and form of application.

An application under this Title shall be made within thirty days from the date on which the applicant became aware of the judgment given in his absence and shall contain the reasons on which he bases his application.

Art. 199. — Grounds for granting application.

No application under this Title shall be granted unless the applicant can show:

- (a) that he has not received a summons to appear; or
- (b) that he was prevented by force majeure from appearing in person or by advocate.

Art. 200. — Action upon filing of application.

- (1) On the filing of the application, a copy thereof shall be sent to the public prosecutor and the applicant and the public prosecutor shall be informed of the hearing date.
- (2) Where the applicant, having been duly summoned, fails to appear on the hearing date, the application shall be dismissed.

Art. 201. — Hearing.

- (1) The applicant or his advocate shall speak in support of the application and the public prosecutor shall reply. The applicant shall have the right to reply.
- (2) The court shall then give its decision on the application.

Art. 202. — Judgment.

- (1) Where the application is allowed under Art. 199, the court shall order a retrial and the public prosecutor shall file the charge in a court having jurisdiction.
- (2) Where the application is dismissed, the court shall make such consequential orders as the circumstances of the case require.
- (3) No appeal shall lie against a decision dismissing the application but nothing shall prevent the applicant from appealing against sentence only within fifteen days of the dismissal of the application.

BOOK VI

Execution of Sentences

Chapter 1. — General Provisions

Art. 203. — Principle.

- (1) Any court having passed a sentence in a criminal case shall issue the necessary warrants or orders requiring the appropriate authorities to carry out or supervise the carrying out of the sentence in accordance with the provisions of this Book.
- (2) Nothing in this Article shall affect the provisions of Art. 188.

Art. 204. — Warrant in respect of person sentenced to death.

- (1) Where any person is sentenced to death, the presiding judge shall by warrant under his hand in the form prescribed in the Third Schedule to this Code order such person to be detained until the pleasure of His Imperial Majesty shall be made known.
- (2) Where the sentence is confirmed, it shall be carried out in accordance with the conditions laid down in the order of confirmation.
- (3) Where the sentence is commuted, the order of commutation shall be sufficient authority for carrying into effect the terms of such order.

Art. 205. — Warrant in respect of person sentenced to loss of liberty.

- (1) Where any person is sentenced to arrest, imprisonment or internment, the presiding judge shall by warrant under his hand in the form prescribed in the Third Schedule to this Code order the sentence to be carried out.
- (2) Such warrant shall be sufficient authority for the officer in charge of the prison and all other persons to carry out the sentence described in the warrant.

Art. 206. — Execution may be postponed in certain cases.

Where a person who has been sentenced to arrest or simple imprisonment not exceeding one year is:

- (a) a pregnant woman; or
- (b) the sole support of his family,

and such person is not likely to be a danger to public security, the court may postpone the execution of the sentence for a period not exceeding six months on production of guarantors for his good behaviour.

Art. 207. — Warrant in respect of person sentenced to flogging.

Where any person is sentenced to be flogged for an offence under Art. 635 (3) or 637 (1) Penal Code, the presiding judge shall by warrant under his hand in the sixteenth form prescribed by the Third Schedule to this Code order that the sentence be carried out in accordance with Art. 120A Penal Code by such person and at such place as shall be specified in the warrant.

Art. 208. — Warrant in respect of irresponsible persons.

Where any person is found to be not fully responsible for his acts and the court decides that he be confined or treated in accordance with the provisions of Art. 134 or 135 Penal Code, the presiding judge shall by warrant under his hand in the fifteenth form prescribed in the Third Schedule to this code order that the accused be remanded to a suitable institution for confinement or treatment.

Art. 209. — Recovery of fines.

- (1) Fines shall be recovered on the order of the court by the execution officer in accordance with the provisions of Art. 91, 171, (1), 703 and 710 Penal Code.
- (2) Where a fine or any part thereof has not been recovered, the execution officer shall refer the matter to the court and thereupon the court shall make the appropriate orders for execution or for the fine to be converted into labour, arrest or simple imprisonment in accordance with the provisions of Art. 92, 94, 96, 171 (2) and 709 Penal Code.
- (3) Where a person has been sentenced in his absence to pay a fine, the provisions of sub-art. (1) shall not apply and the court shall forthwith order that execution be levied on the convicted person's property.

Art. 210. — Payment of costs and compensation.

Where a judgment given by a criminal court contains provisions for the payment of legal costs or compensation, such part of the judgment as contains such provisions shall be executed in the same manner as a civil judgment.

Art. 211. — Confiscation of property.

- (1) Where an order for confiscation of property has been made under Art. 272 Penal Code, the court shall make an order requiring the execution officer to seize such property as is seizable under the provisions of Art. 97 Penal Code and shall specify in such order the property to be seized.
- (2) On seizing such property, the execution officer shall hold it until he receives an order from the competent authority requiring him to hand over such property to a person or persons named in such order and on so handing

such property, the execution officer shall be given a detailed receipt by such person or persons.

- (3) The family of the convicted person may apply to the court for the release of any property wrongly confiscated.

Art. 212. — Sequestration of property.

- (1) Where a person is sentenced in his absence to have his property sequestered for an offence as defined in Art. 272 Penal Code, the court shall make an order:
 - (a) requiring the execution officer to attach such property as may be attached under Art. 98 Penal Code and shall specify in such order the property to be attached; and
 - (b) appointing a trustee to manage the property and on such appointment the execution officer shall hand over the property to such trustee against a detailed receipt.
- (2) The execution officer shall be responsible for ensuring that none of the property mentioned in Art. 97 (3) Penal Code be attached. The family of the convicted person may apply to the trustee for the release of any property wrongly attached.
- (3) An order of attachment made under sub-art. (1) shall remain in force until an application for its removal is made to the court by the competent authority and thereupon the court shall order the attachment to be removed and the trustee discharged on submitting proper accounts.

Art. 213. — Orders in respect of young persons.

- (1) Where an order is made in respect of a young person under Art. 162, 165, 166, 173 or 703 Penal Code, the presiding judge shall sign and send an order to the responsible official, headmaster, director or officer in charge, as the case may be, and such order shall be sufficient authority to deal with young person on the conditions laid down in the order.
- (2) Where an order is made in respect of a young person under Art. 163 Penal Code, the presiding judge shall sign and send an order to one of the persons mentioned in Art. 163 Penal Code and such order shall be sufficient authority to deal with the young person on the conditions laid down in the order.
- (3) Where a young person is sentenced to caning under Art. 172 Penal Code, the presiding judge shall cause the young person to be medically examined as to his fitness to undergo corporal punishment and, where he has been found fit, he shall cause the caning to be carried out in a private place by a family elder or such other suitable person as the presiding judge shall appoint, in the presence of himself, the person who has examined the young person and the young person's parents, relatives or guardian, if any.

Art. 214. — Compulsory labour, secondary penalties and measures.

Where an order is made under Art. 102, 103, 122, 144, 146, 147, 149-154, 158-160, 178, 179, 715, 716, or 718-720 Penal Code, the court shall cause a copy of the operative part of the judgment to be served on the appropriate authorities and require them to carry the order into effect.

Art. 215. — Recording of orders for execution.

The court shall record any order it may have made with a view to the sentence being executed. A note shall be made of the day on which such order was executed and, where appropriate, of the reasons why such order could not be executed.

Chapter 2. — Variation of Orders Contained in Sentences

Art. 216. Principle.

- (1) Where any order as defined in sub-art. (2) requires to be made, such order shall be made by the court having passed the sentence in relation to which such order is to be made.
- (2) The provisions of sub-art. (1) shall apply in cases of:
 - (a) enforcement of internment (Art. 132 Penal Code); and
 - (b) revision of orders made in respect of offenders not fully responsible (Art. 136 and 137 Penal Code); and
 - (c) extension of detention (Art. 140 (2) Penal Code); and
 - (d) revocation of probation or variation of rules of conduct (Art. 198, 202 (3) and 204 Penal Code); and
 - (e) conditional release (Art. 131, 207, 209 - 212 Penal Code); and
 - (f) orders under Art. 124 (2) and 156 Penal Code.
- (3) Orders made in respect of young persons may be varied in accordance with the provisions of Art. 180 of this Code.

Art. 217. — Procedure and decision.

- (1) The court shall not make an order under this Chapter unless an application to this effect is made by the convicted person or his legal representative, the public prosecutor or any person or authority charged with executing or supervising the execution of the sentence.
- (2) Prior to making its decision, the court shall summon the person in respect of whom the order is to be made and such other person as is likely to give information to assist the court. The court may, where appropriate, order such inquiries to be made as appear necessary.
- (3) The court shall make its decision after having heard all the persons summoned and obtained the required information. Where the person in respect

- of whom the decision is to be made fails to appear, the court shall make its decision in his absence.
- (4) Any statement made and the decision of the court shall be recorded.
 - (5) No appeal shall lie from a decision under this Article and such decision shall be carried out in accordance with the provisions of Chapter I of this Book.

Chapter 3. — Reinstatement

Art. 218. — Application for reinstatement.

- (1) Where a convicted person or his legal representative is of opinion that the requirements of Art. 243 and 244 Penal Code are satisfied, he may apply for reinstatement to the court having passed the sentence the cancellation of which is sought.
- (2) The application shall be in writing and shall give reasons. It shall be accompanied by such documents as are necessary to enable the court to ascertain whether the conditions laid down in Art. 243 and 244 Penal Code are fulfilled.

Art. 219. — Procedure and decision.

- (1) The application shall be decided on by the court sitting in chambers. Prior to making its decision, the court may order such inquiries to be made or further documents to be produced as it thinks fit.
- (2) Where the application is allowed, the provisions of Art. 245 Penal Code shall apply and the court shall order the entry of the sentence which it has cancelled to be deleted from the reinstated person's police record.
- (3) Where the application is dismissed, the provisions of Art. 246 Penal Code shall apply.
- (4) Any decision under this Article shall be in writing and shall give reasons. The decision shall be read out in open court, and shall be published in a newspaper.
- (5) No appeal shall lie from any decision of any court under this Article.

BOOK VII

Costs in Criminal Cases

Art. 220. — Costs of public prosecution.

- (1) All the costs of public prosecutions, including appeals, shall be borne by the government.
- (2) Where exceptional costs have been incurred by the prosecution for a reason attributable to the convicted person and he is a person of property, the court may, in addition to any other lawful punishment, order him to pay the whole or any of the costs incurred by the prosecution as taxed by the registrar of the court.
- (3) Where a public prosecution has been instituted in respect of an offence, punishable on complaint and the injured party withdraws his complaint (Art. 221 Penal Code), he shall be liable for all the costs of the prosecution.

Art. 221. — Costs of private prosecution.

- (1) The costs of a private prosecution shall be borne by the private prosecutor in accordance with Art. 46.
- (2) Where in a private prosecution the accused is acquitted and the court is of opinion that the charge was not made in good faith, it may order the private prosecutor to pay the whole or any part of the costs incurred by the accused.
- (3) Where a private prosecution is stayed as provided in Art. 48, all the costs of the private prosecution shall be borne by the government.

Art. 222. — Injured party.

- (1) Where the injured party claims compensation in a criminal case, he shall pay:
 - (a) the court fees on the sum claimed as though it were a civil case; and
 - (b) the costs of summoning witnesses and calling experts.
- (2) Where the injured party succeeds in his claim, the court shall order the accused to pay the court fees and costs mentioned in sub-art. (1).

Book VIII

Atbia Dagnias with Summary Jurisdiction

Art. 223. — Jurisdiction.

- (1) The atbia dagnia shall whenever possible settle by compromise all cases arising out of the commission, within the local limits of his jurisdiction, of minor offences of insult, assault, petty damage to property or petty theft where the value of the property stolen does not exceed E. \$5.
- (2) Where the atbia dagnia is unable to effect a compromise he may sitting with two assessors adjudicate on such offences and on conviction impose a fine not exceeding E. \$ 15.
- (3) The atbia dagnia shall cause a record to be kept which shall show:
 - (a) the name of the accused ;
 - (b) the offence charged ;
 - (c) a summary of the evidence ;
 - (d) the opinion of the assessors ;
 - (e) where the accused is convicted, the fine imposed.

Art. 224. — Appeal.

An appeal shall lie from the decision of an atbia dagnia given in accordance with Art. 223 to the Woreda court exercising jurisdiction in such locality.

First Schedule

<i>Article</i>	<i>Penal Code</i>	<i>OFFENCE</i>	<i>Court</i>
248		Outrages against the Emperor or the Imperial Family	High Court
249		Outrages against the Dynasty	High Court
250		Outrages against constitution or constitutional authorities	High Court
251		Obstruction of exercise of constitutional powers	High Court
252		Armed rising and civil war	High Court
253		Attacks on integrity of the State	High Court
254		Material preparation of subversive acts	High Court
255		Violation of territorial or political sovereignty	High Court
256		Injury to the Emperor or the constitutional authorities	High Court
257		Insults to national emblems	High Court
258		Unlawful use of official emblems	High Court
259		Attacks on the independence of the State	High Court
260		Impairment of the defensive power of the State	High Court
261		High treason	High Court
262		Diplomatic treason	High Court
263		Economic treason	High Court
264		Collaboration	High Court
265		Espionage	High Court
266		—	
267		Indirect aid and encouragement	High Court
268		Attempted participation	High Court
269		Provocation and preparation	High Court
270		Aggravations to the offence	High Court
271		—	
272		—	
273		Hostile acts against a foreign State	High Court
274		Outrages against foreign heads of State	High Court
275		Violation of foreign sovereignty	High Court
276		Insults to foreign States	High Court
277		Insults to official emblems of foreign States	High Court
278		Insults to inter-state institutions	High Court
279		—	
280		—	
281		Genocide. Crimes against humanity	High Court

282	War crimes against civilian population	High Court
283	War crimes against wounded, sick or shipwrecked persons	High Court
284	War crimes against prisoners and interned persons	High Court
285	Pillage, piracy and looting	High Court
286	Provocation and preparation	High Court
287	Dereliction of duty towards the enemy	High Court
288	Use of illegal means of combat	High Court
289	Breach of armistice or peace treaty	High Court
290	Franc tireurs	High Court
291	Maltreatment of wounded, sick or prisoners	High Court
292	Denial of justice	High Court
293	Hostile acts against international humanitarian organisations	High Court
294	Abuse of international emblems and insignia	High Court
295	Hostile acts against bearer of flag of truce	High Court
296	331 Military offences committed by members of Armed Forces	Military Courts

*Offences of a military nature committed
by members of Police Forces:*

300	Desertion:	
	ordinary case (Sub-art. (1))	Awradja Court
	aggravated case (Sub-art. (2))	High Court
301	Absence without leave	Woreda Court
304	Abuse of authority	Woreda Court
305	Threats	Woreda Court
306	Infringement of regulations	Woreda Court
307	Inaccurate statements	Woreda Court
308	Drunk on duty	Woreda Court
309	Want of discipline	Woreda Court
310	Threats against superior:	
	ordinary case (Sub-art. (1))	Woreda Court
	aggravated case (Sub-art. (2))	Awradja Court
311	Insubordination:	
	ordinary case (Sub-art. (1))	Woreda Court
	aggravated case (Sub-art. (2))	High Court
312	Mutiny	High Court
313	Conspiracy to raise mutiny	High Court
314	Attempted participation	High Court
316	Breaches of guard duty:	
	ordinary case (Sub-art. (1))	Woreda Court

	aggravated case (Sub-art. (2), first paragraph)	Awradja Court
318	Disclosure or alteration of instructions:	
	ordinary case (Sub-art. (1))	Woreda Court
	aggravated case (Sub-art. (3))	High Court
319	Misuse of material:	
	ordinary case (Sub-art. (1))	Woreda Court
	aggravated case (Sub-art. (2))	High Court
320	Malversation:	
	ordinary case (Sub-art. (1))	Awradja Court
	aggravated case (Sub-art. (2))	High Court
	321 Failure to report danger	Woreda Court
	322 Failure to take security measures	Woreda Court
332	Compelling breach of duty ...	Woreda Court
333	Attack on member of Armed Forces on active duty ...	Woreda Court
334	Aggravated offences under Art. 332 and 333	Woreda Court
335	Breach of legal or contractual obligations ...	High Court
336	Sabotage	High Court
337	Traffic in military material	Woreda Court
338	Manufacture and traffic in military uniforms and decorations	Woreda Court
339	Unauthorised wearing of military uniforms and decorations	Woreda Court
340	Disregard of military measures	Woreda Court
341	Incitement to disregard military measures ...	Woreda Court
342	Disregard of prohibitions protecting military zones ...	Woreda Court
343	Falsification or suppression of orders or instructions	Awradja Court
344	Failure to report crimes against Armed Forces ..	Awradja Court
345	Disclosure of military secrets	High Court
346	False or tendentious information	Awradja Court
347	State of emergency: Aggravated punishment	High Court
348 -	353	—
354	Charges brought under special legislation ..	Awradja Court
355	Penalties; kind and extent	Awradja Court
356	—	—
357	Illicit traffic in gold, coins, currencies, etc. ..	Awradja Court
358	Illicit traffic in precious metals and minerals	Awradja Court
359	Dealings endangering the credit of the State	Awradja Court
360	Unlawful refusal to pay public taxes or dues	Awradja Court
361	Incitement to refusal to pay taxes ..	Awradja Court
362	Endangering sources of revenue ..	Awradja Court
363	Contraband	Awradja Court
364	Offences against national economy and State monopolies	Awradja Court
365	Aggravation to the offence ...	Awradja Court

366	Making of counterfeit currency	High Court
367	Forging currency	High Court
368	Debasing currency	High Court
369	Uttering counterfeit currency	High Court
370	Importation, acquisition, etc. of counterfeit currency..	High Court
371	Falsification of seals of the Emperor or of the State ...	High Court
372	Falsification of other public seals	High Court
373	Falsification of official marks	Awradja Court
374	Falsification of official stamps of value	Awradja Court
375	Falsification of weights and measures	Awradja Court
376	Importation, acquisition, etc. of false seals, stamps, etc.	Awradja Court
377	Counterfeiting without intent to defraud	Woreda Court
378	Endangering currency, securities, bonds, seals, etc.	Woreda Court
379	Machinery and means of falsification	Woreda Court
380	—	—
381	—	—
382	--	—
383	Material forgery of instruments	Awradja Court
384	Intangible forgery of instruments	Awradja Court
385	Specified cases	Awradja Court
386	Use of forged instruments	Awradja Court
387	Forgery of public or military documents	High Court
388	Suppression of instruments	Awradja Court
389	(1) Suppression of public or military documents ...	Awradja Court
	(2) Suppression by public servant	Awradja Court
390	Falsification or suppression of commercial instruments or negotiable securities	Awradja Court
391	—	—
392	Falsification of and use of false public transport tickets	Woreda Court
393	Forged certificates	Woreda Court
394	Fraudulent procurement of false official certification .	Woreda Court
395	False medical certificates	Woreda Court
396	—	—
397	False declaration or entries by landlords or employers	Woreda Court
398	Instruments and means of falsification	Woreda Court
399	Falsification and adulteration of goods	Woreda Court
400	Uttering	Woreda Court
401	Importation, acquisition and storing	Woreda Court
402	Aggravation and collateral penalties	Woreda Court
403	—	—
404	Breaches of military secrecy	High Court
405	Breaches of official secrecy	Awradja Court

406	—	—
407	Breaches of professional secrecy	Awradja Court
408	—	—
409	Disclosure of scientific, industrial or trade secrets	Awradja Court
410	—	—
411	—	—
412	Breach of official duties	Woreda Court
413	Disorganisation of service by striking	Woreda Court
414	Abuse of power	Awradja Court
415	Abuse of the right of search or seizure	Awradja Court
416	Unlawful arrest or detention	Awradja Court
417	Use of improper methods	Awradja Court
418	Unlawful release and aiding to escape	Awradja Court
419	Release of prisoners of war, of military detainees and aiding to escape	High Court
420	Maladministration	Awradja Court
421	Unlawful disposal of objects in charge	Awradja Court
422	Appropriation and misappropriation in the discharge of duties	Awradja Court
423	Acceptance of undue advantages	Awradja Court
424	Traffic in official influence	Awradja Court
425	Corrupt practices	Awradja Court
426	Extortion	High Court
427	Contempt of official notices and proclamations	Woreda Court
428	Infraction of the rules concerning compulsory registra- tion	Woreda Court
429	Breach of prohibition to publish official debates or documents	Woreda Court
430	Arbitrary action	Woreda Court
431	Usurpation of powers	Woreda Court
432	Breaking of seals and misappropriation of objects	Woreda Court
433	Resisting authority	Woreda Court
434	Violence and coercion	Woreda Court
435	—	—
436	Traffic in private influence	Awradja Court
437	Soliciting of corrupt practices	Awradja Court
438	Failure to inform the law	Awradja Court
439	Harbouring and aiding	Awradja Court
440	Misleading justice	Awradja Court
441	False denunciation or accusation	Awradja Court
442	Refusal to aid justice	Awradja Court
443	Contempt of court	Any Court

444	Breach of secrecy of proceedings	Awradja Court
445	Publication of inaccurate or forbidden reports of proceedings	Awradja Court
446	False statements by a party	Awradja Court
447	False testimony, opinion or translation	High Court
448	—	—
449	Provocation and suborning	High Court
450	Misrepresentation in proceedings	Awradja Court
451	Tendentious publications intended to pervert the course of justice	High Court
452	Betrayal of interests	High Court
453	Non-observance of secondary penalties and preventive measures	Woreda Court
454	Obstruction of execution of sentence	Woreda Court
455	Escape of prisoner	Woreda Court
456	Procuring of and aiding to escape	Awradja Court
457	—	—
458	Mutiny of prisoners	Awradja Court
459	Breaking of bounds	Woreda Court
460	Disturbance and prevention of electoral meetings and proceedings	Awradja Court
461	Interference with the exercise of the right of election	Awradja Court
462	Corrupt electoral practices	Awradja Court
463	Unfair practices	Awradja Court
464	Fraudulent registration	Awradja Court
465	Fraudulent elections	Awradja Court
466	—	—
467	Breach of secrecy of the ballot	Awradja Court
468	Removal or destruction of ballot papers or boxes	Awradja Court
469	—	—
470	—	—
471	Dangerous vagrancy	Woreda Court
472	Conspiracy	Any Court
473	Harbouring and comforting evil-doers	Woreda Court
474	Public provocation to or defence of a crime	Woreda Court
475	Prohibited traffic in arms	Woreda Court
476	Forbidden societies and meetings	Awradja Court
477	Secret societies and armed bands	Awradja Court
478	Forbidden assemblies	Awradja Court
479	Alarming the public	Woreda Court
480	False rumours and incitement to breaches of the peace	Woreda Court
481	Seditious demonstrations	Awradja Court
482	Rioting	Awradja Court

483	—	—
484	Disturbances of meetings or assemblies	Awradja Court
485	Disturbances resulting from acts committed in a state of culpable irresponsibility	Woreda Court
486	Outrage on religious peace and feeling	Woreda Court
487	Outrage on the repose and dignity of the dead	Woreda Court
488	Arson	High Court
489	Provocation of natural disaster	High Court
490	Damage to installations or protective works	High Court
491	Explosions	High Court
492	Offences resulting from negligence	High Court
493	Danger caused by the use of explosive, inflammable or poisonous substances	High Court
494	Illicit making, acquisition, concealment or transport .	High Court
495	Culpable infringement of building rules	High Court
496	Removal or culpable omission of protective apparatus or devices	Awradja Court
497	Culpable failure to give warning of grave public danger	Woreda Court
498	—	—
499	Damage to services and installations of public interest	Awradja Court
500	Grave endangering or sabotage of communications or transport	Awradja Court
501	Misuse of signals and alarms	Woreda Court
502	Irregular consignment of dangerous goods by public transport	Woreda Court
503	Spreading of human diseases	Awradja Court
504	Spreading of epizootic diseases	Awradja Court
505	Propagation of an agricultural or forest parasite	Awradja Court
506	Contamination of water	High Court
507	Contamination of pastureland	Awradja Court
508	Culpable infringement of preventive and protective public health measures	Woreda Court
509	Creation of distress or famine	High Court
510	Production, making or distribution of poisonous or nar- cotic substances	Awradja Court
511	Manufacture, adulteration and sale of injurious or dam- aged products or foodstuffs	Awradja Court
512	Manufacture, adulteration and sale of fodder and pro- ducts injurious to livestock	Awradja Court
513	—	—
514	Endangering the health of another by alcoholic bever- ages or spirituous liquors	Awradja Court

515	Endangering by mental means or practices	....	....	Awradja Court
516	Endangering by philtres, spells or similar means	....	....	Awradja Court
517	Aggravated cases	....	....	Awradja Court
518	Unlawful exercise of the medical or public health professions	....	....	Awradja Court
519	Unlawful delivery of poisonous or dangerous substances	....	....	Awradja Court
520	Refusal to provide professional services	....	....	Awradja Court
521	—			—
522	Aggravated homicide — homicide in the first degree			High Court
523	Homicide in the second degree	....	....	High Court
524	Extenuated homicide	..	....	High Court
525	Instigating or aiding another to commit suicide	. ....		High Court
526	Homicide by negligence	....	....	High Court
527	Infanticide	....	....	—Awradja Court
528	—			—
529	Abortion procured by the pregnant woman	....	....	Awradja Court
530	Abortion procured by another	....	....	Awradja Court
531	- 537	—		—
538	Grave wilful injury	....	....	Awradja Court
539	Common wilful injury	....	....	Woreda Court
540	Consequences not intended by the offender	....	....	Woreda Court
541	- 543	—		—
544	Assaults	....	....	Woreda Court
545	Exposure of the life of another	....	....	Awradja Court
546	Exposure or abandonment of another	....	....	Awradja Court
547	Failure to lend aid to another	....	....	Woreda Court
548	Maltreatment of minors	....	....	Woreda Court
549	Brawls	....	....	Woreda Court
550	Duels	....	....	Woreda Court
551	Duelling: Challenge, incitement and aiding	....	....	Woreda Court
552	Intimidation	....	....	Woreda Court
553	Threat of accusation or disgrace	....	....	Woreda Court
554	Coercion	....	....	Woreda Court
555	Deprivation of powers of decision	....	....	Woreda Court
556	—			—
557	Illegal restraint	....	....	Awradja Court
558	Abduction	....	....	Awradja Court
559	Abduction of an unconscious or defenceless woman	. ....		Awradja Court
560	Abduction of a minor	.. ....		Awradja Court
561	Aggravation to an offence under Art. 552-554	... ....		Woreda Court
	Aggravation to an offence under Art. 555 and 557	....		Awradja Court
	Aggravation to an offence Art. 558-560	....	....	High Court
562	Failure to produce a child	....	....	Woreda Court

563	Ascendants; special case	Woreda Court
564	Political abduction	High Court
565	Enslavement	High Court
566	Default of supervision or control	Woreda Court
567	Slave trading: bands or associations	High Court
568	Restraint of the free exercise of civil rights	Woreda Court
569	Violation of the right of freedom of movement	Woreda Court
570	Violation of the right of freedom to work	Woreda Court
571	Violation of privacy of domicile	Awradja Court
572	Aggravation to the offence	Awradja Court
573	Violation of the privacy, interception or appropriation of correspondence or consignments	Woreda Court
574 - 579	—	—
580	Defamation and calumny	Woreda Court
581 - 582	—	—
583	Insulting behaviour and outrage	Woreda Court
584 - 585	—	—
586	Aggravation to the offence	Woreda Court
587 - 588	—	—
589	Rape	High Court
590	Sexual outrages accompanied by violence	High Court
591	Sexual outrages on unconscious or deluded persons or on persons incapable of resisting	High Court
592	Sexual outrages on persons in hospital, interned or under detention	High Court
593	Taking advantage of the distress or dependence of a woman	Awradja Court
594	Sexual outrages on infants or young persons	High Court
595	Sexual outrages on minors between fifteen and eighteen years or age	Awradja Court
596	Seduction	Woreda Court
597	—	—
598	Aggravations to the offence	High Court
599	—	—
600	Unnatural carnal offences	Woreda Court
601	Aggravation to the offence	High Court
602	Other unnatural acts	Woreda Court
603	—	—
604	Habitual exploitation for pecuniary gain	Woreda Court
605	Traffic in women, infants and young persons	High Court
606	Aggravations to the offence	High Court
607	Organization of traffic in persons	Awradja Court

608	Public indecency and outrages against morals	Woreda Court
609	Obscene or indecent publications	High Court
610	Obscene or indecent performances	High Court
611	—	—
612	Indecent publicity and advertisements	Woreda Court
613	Protection of infants or young persons	Woreda Court
614	Fraud and deceit in marriage	Woreda Court
615	Solemnization of an unlawful marriage	Woreda Court
616	Bigamy	Awradja Court
617	—	—
618	Adultery	Woreda Court
619 - 620	—	—
621	Incest	High Court
622	Indecent behaviour between relatives	High Court
623	Omission to register the birth of an infant	Woreda Court
624	False registration, supposition and substitution of infants	Awradja Court
625	Failure to maintain	Awradja Court
626	Failure to bring up	Awradja Court
627 - 629	—	—
630	Theft	Awradja Court
631	Abstracting power	Awradja Court
632	Abstraction of things jointly owned	Awradja Court
633	Abstraction to the detriment of deceased person	Awradja Court
634	Petty abstraction	Woreda Court
635	Aggravated theft	High Court
636	Robbery	High Court
637	Aggravated robbery	High Court
638	Looting	High Court
639	Piracy	High Court
640	Special cases	High Court
641	Breach of trust	High Court
642	Aggravated breach of trust	High Court
643	Misappropriation	Woreda Court
644	Unlawful use of the property of another	Woreda Court
645	Misappropriation of lost property	Woreda Court
646	Misappropriation of things without owner or of natural resources	Awradja Court
647	Receiving	Awradja Court
648	Aggravated receiving	Awradja Court
649	Damage to property of another caused by herds or flocks	Woreda Court
650	Disturbance of possession	Woreda Court

651	Disturbance of another's holdings	Woreda Court
652	Displacing and removal of boundary marks	Woreda Court
653	Intentional destruction, damage, depreciation or rendering useless the property of another	Woreda Court
654	Aggravated cases (damage to property)	Awradja Court
655	—	—
656	Fraudulent misrepresentation	High Court
657	Drawing of cheque without cover	High Court
658	Aggravated fraudulent misrepresentation	High Court
659	Misrepresentation in insurance	High Court
660	—	—
661	Fraudulent exploitation of public credulity	Woreda Court
662	Petty fraud	Woreda Court
663	Mismanagement of private interests	High Court
664	Aggravated mismanagement	High Court
665	Incitement to speculation	Woreda Court
666	Incitement of minors or persons legally incapable to carry out prejudicial assignments	Woreda Court
667	Usury	High Court
668	Extortion	High Court
669	Blackmail	High Court
670	Aggravated cases (of usury, extortion or blackmail)	High Court
671	Attack on another's credit	High Court
672	Harmful false information	High Court
673	Unfair competition	High Court
674	Infringement of marks, declarations of origin, designs or models	High Court
675	Infringement of literary or artistic copyright	High Court
676	Forbidden performance or execution	High Court
677 - 679	—	—
680	Fraudulent insolvency	High Court
681	Irregular bankruptcy	High Court
682	Fraudulent bankruptcy	High Court
683	Fraud in execution	High Court
684	Misappropriation or destruction of property subject to pledge or lien	High Court
685	Misappropriation or destruction of property subject to a Court order	High Court
686	Unjustifiable preference	High Court
687	Purchase of votes	High Court
688	Fraudulent composition	High Court

689	—	—
690 - 732	—	—
733 - 820, except Art. 748, of Book VIII Special Part, Petty offences	.....	Woreda Court

Offences under other laws:

Where the penalty does not exceed 3 years simple imprisonment with or without fine	Woreda Court
Where the penalty does not exceed 5 years imprisonment with or without fine	Awraja Court
Where the penalties are in excess of the above	High Court

Second Schedule

(under Art. III)

FORMS OF CHARGES

Homicide in the first degree

Statement of offence.

Homicide in the first degree contrary to Art. 522 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at intentionally caused the death of C. D.
(insert name of deceased)

- + (a) in aggravating circumstances under Art. 81 or 83 Penal Code;
 - + (b) as a member of a band or gang organised to carry out homicide or armed robbery;
 - + (c) to further or conceal another crime.
- + delete whichever is inapplicable and give details.
-

Attempted homicide in the first degree

Statement of offence.

Attempted homicide contrary to Art. 27 and 522 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at attempted to cause the death of C. D.
(insert name of victim)

- + (a) in aggravating circumstances under Art. 81 or 83 Penal Code;
 - + (b) as a member of a band or gang organised to carry out homicide or armed robbery;
 - + (c) to further or conceal another crime.
- + delete whichever is inapplicable and give details.
-

Homicide by negligence

Statement of offence.

Homicide by negligence contrary to Art. 526 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at caused the death of C.D. (insert name of

deceased) by criminal negligence +
+ insert details of negligence as defined in Art. 59 Penal Code.

Forgery

Statement of offence.

Forgery contrary to Art. 383 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at forged a Will purporting to be the Will of
C. D. of

Making use of a forged instrument

Statement of offence.

Making use of a forged instrument contrary to Art. 390 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at made use of a cheque forged by C.D. (insert
name of forger) knowing the same to be forged.

Perjury

Statement of offence.

Perjury contrary to Art. 447 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at being a witness upon the trial of an action
in Court in which C. D. was plaintiff and E. F. defen-
dant, knowingly and falsely swore (insert assignment
of perjury) and such evidence was a material evidence in the said proceedings.

Escape

Statement of offence.

Escape contrary to Art. 455 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at escaped from (insert
description of place where A.B. was in lawful custody) by using threats or
violence to persons or property (specify details).

Arson

Statement of offence.

Arson contrary to Art. 488 Penal Code.

Particulars of offence.

A. B. (insert name of accused) on the day of
at maliciously +/- with the intention of causing
danger +/- set fire to his own +/- C. D's property + (specify property set fire to)

+ delete whichever is inapplicable.

Grave wilful injury

Statement of offence.

Grave wilful injury contrary to Art. 538 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at

- + (a) intentionally wounded C. D. (insert name of victim) so as to endanger his life +/- so as permanently to jeopardize his physical or mental health;
- + (b) intentionally maimed C. D's body +/- maimed one of C. D's essential limbs or organs +/- gravely and conspicuously disfigured C. D.;
- + (c) intentionally inflicted on C. D. an injury or disease of a serious nature.

+ delete whichever is inapplicable and give details.

Rape.

Statement of offence.

Rape contrary to Art. 589 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at compelled C. D. (insert name of victim)

- + (a) by violence,
- + (b) by grave intimidation,
- + (c) by rendering her unconscious;
- + (d) by rendering her incapable of resistance,
to submit to sexual intercourse.

+ delete whichever is inapplicable and give details.

*Theft**Statement of offence.*

Theft contrary to Art. 630 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at abstracted (describe article stolen) the property of C. D. (insert name of owner) with the intention of obtaining an unlawful enrichment.

*Robbery**Statement of offence.*

Robbery contrary to Art. 636 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at with intent to commit theft +/ taken in the act of committing theft +,
+ (a) used violence to C. D. (insert name of victim).
+ (b) used direct and grave intimidation towards C. D.,
+ (c) rendered C. D. incapable of resisting.
+ delete whichever is inapplicable and give details.

*Receiving**Statement of offence.*

Receiving contrary to Art. 647 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
at received (insert thing received and give details) knowing or having reason to believe that the thing was the proceeds of an offence committed against property.

*Drawing of cheque without cover.**Statement of offence.*

Drawing of cheque without cover contrary to Art. 657 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of
drew a cheque for E.\$ knowing that the cheque would not be covered or fully covered at the time of presentment.

ALTERNATIVE CHARGES

Breach of trust.

Statement of offence.

Breach of trust contrary to Art. 641 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of at with the intention of obtaining an unlawful enrichment used for his own benefit a sum of E. \$ entrusted to him by C. D. (insert name of owner) for the purpose of

ALTERNATIVELY

Theft

Statement of offence.

Theft contrary to Art. 630 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of at abstracted a sum of E. \$ the property of C. D. (insert name of owner) with the intention of obtaining an unlawful enrichment.

CONCURRENT CHARGES

FIRST COUNT

Theft.

Statement of offence.

Theft contrary to Art. 630 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of at abstracted a car No. AA. llll the property of C. D. (insert name of owner) with the intention of obtaining an unlawful enrichment.

SECOND COUNT

Homicide by negligence.

Statement of offence.

Homicide by negligence contrary to Art. 526 Penal Code.

Particulars of offence.

A.B. (insert name of accused) on the day of at caused the death of C. D. (insert name of deceased) by criminal negligence while driving car AA. llll in that seeing C. D. on the road, he failed to reduce the speed and ran over him.

Third Schedule

FORMS

Form 1. — *Bond* (Under Art. 28)

I of being brought before the Police Station at under arrest to answer the charge of do hereby bind myself to attend at the Police Station at / in the Court of at on the day of next, and to continue so to attend until otherwise directed by the police/court; and, in case of my making default herein, I bind myself to forfeit to the Imperial Ethiopian Government the sum of Eth. dollars

Dated this day of 19
Signature

+ Delete whichever is inapplicable.

To be filled in only where Police consider sureties necessary.

I + (or we) do hereby declare myself (or ourselves) surety (or sureties) for the abovenamed of that he shall attend before the Police Station at in the Court of at on the day of next, to answer the charge on which he has been arrested, and that he shall continue so to attend until otherwise directed by the police / court; and, in case of his making default therein I + (or we) hereby bind myself (or ourselves, jointly and severally) to forfeit to the Imperial Ethiopian Government the sum of Eth. dollars

Dated this day of 19

+ Delete whichever is inapplicable.

Signature/s

Form II. — *Search Warrant* (Under Art. 32)

To the Chief Police Officer of the Taklay Guezat of and other police officers (to be designated by name).

Whereas complaint has been made before me of the commission (or suspected commission) of the offence of and it has been made to appear to me that the production of the articles specified in the Schedule below is essential to the inquiry now being made (or about to be made) into the said offence (or suspected offence):

This is to authorise and require you within the space of days from the date hereof to search for the said articles specified in the Schedule below in the (describe the house or place, or part thereof, to which the search is to be confined), and, if found, to produce the same forthwith before the court; returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of, 19

Signature

SCHEDULE

(exact description of the articles to be seized)

Form III. — *Report of police Investigation*
(Under Art. 37)

To the Public Prosecutor.

1. Ato'clock on the day of 19
I received information by from
that a had taken place atand
that persons were concerned or suspected of being concerned
therein, + and that the total amount of property concerned in the report
was E\$
2. I proceeded thereupon to take action as detailed in the enclosed investigation diaries.
3. I ascertained the following facts:
4. I examined the following witnesses whose statements accompany this report:
5. The following documents accompany this report in addition to the statements of the witnesses:

Investigation Diary No.

6. I am of opinion that the offence of
is disclosed and that the following persons were concerned therein:
 7. I have reason to believe that the following persons apart from those accused persons not yet arrested can throw light upon the case but I have been unable to examine them for the reasons here stated:
 8. The undermentioned articles have been secured or recovered and are to serve as exhibits:
- + Delete where inapplicable.

Signature

**Form IV. — Closure of
Police Investigation File
(Under Art. 39)**

To the Investigating Police Officer
..... Police Station

Name of accused

Police investigation diary No.

This is to direct you to close this police investigation for the following reasons:—

- + (a) The accused has died.
- + (b) The accused is under 9 years of age.
- + (c) The accused cannot be prosecuted by reason of public international law + or other special laws (give details).

Signature

Public Prosecutor

+ Delete whichever is inapplicable.

Copy to:

- 1) The Advocate General.
- 2) The private complainant.

**Form V. — Form of refusal to
institute proceedings.
(Under Art. 42)**

I, A, (insert name of public prosecutor) of B (insert place where public prosecutor exercises jurisdiction) am unable to institute proceedings in the case of C (insert name of accused) for the following reasons:—

- + (a) I am of opinion that there is not sufficient evidence to justify a conviction (State reasons showing clearly that there is insufficient evidence).
- + (b) There is no possibility of finding the accused and the case is one which may not be tried in his absence. (State reasons why accused cannot be found and Article of Criminal Procedure Code which prohibits of his being tried in his absence).
- + (c) The prosecution is barred by limitation or the offence has been made the subject of a pardon or amnesty. (State date of offence and Article of Penal Code which shows that offence is barred by limitation or quote pardon or amnesty which covers accused).
- + (d) I am instructed not to institute proceedings in the public interest by the Minister by order under his hand. (Quote number and date of order signed by Minister of Justice).

Signature

Public Prosecutor

Copy to:

- 1) The Advocate General.
- 2) The investigating police officer.
- 3) The person entitled under Art. 47 Criminal Procedure Code to conduct a private prosecution.

Form VI. — Warrant of arrest
(Under Art. 65)

To the Chief police officer of the Taklay Guezat of
and all other police officers.

Whereas of
stands charged with the offence of
you are hereby directed to arrest the same and to produce him before this court
at

Dated this day of 19
Judge

This warrant may in the discretion of the court be endorsed as follows:

" If the said shall give bail in the sum of
Eth. dollars with one surety
in the sum of Eth. dollars. to attend before
the court on the day of next and
to continue so to attend until otherwise directed by the court he may
be released.

Dated this day of 19
Judge

Form VII. — Bail Bond.
(Under Art. 71)

I of being
brought before the Court of
under arrest to answer to a charge of
do hereby bind myself to attend in the Court of
at on the day of next, to
answer the said charge and to continue so to attend until otherwise directed
by the court; and, in case of my making default herein, I bind myself to forfeit
to the Imperial Ethiopian Government the sum of Eth. dollars

Dated this day of 19
Signature

To be filled in only where Court consider sureties necessary.

I + (or we) do hereby declare myself (or ourselves) surety (or sureties) for the abovenamed of that he shall attend before the Court of at on the day of next to answer the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the court; and, in case of his making default therein I (or we) hereby bind myself (or ourselves, jointly and severally) to forfeit to the Imperial Ethiopian Government the sum of Eth. dollars

Dated this day of 19

Signatures.

+ Delete whichever is inapplicable.

Form VIII. — Witness Bond

(Under Art. 90)

I of do hereby bind myself to attend at the Court of at on such date as I shall be summoned and there to give evidence in the matter of a charge of against one A. B.; and in case of my making default herein, I bind myself to forfeit to the Imperial Ethiopian Government the sum of Eth. dollars

Dated this day of 19

Signature

Form IX. — Summons to appear for trial

(Under Art. 123)

To the Public Prosecutor at

To the accused of
(insert name) (insert address)

Whereas the day of
has been fixed for the trial of
(insert name of accused)

on a charge of at the
Court of, this is to require you to be present at o'clock on the day abovementioned.

(Where the accused is in custody complete the following)

+ And this further requires you, the Superintendent of Prisons at
..... (insert name of prison) to produce the abovementioned accused at the beforementioned date place and time.

Registrar of court.

+ If the accused is not in custody delete.

Form X. — *Witness Summons*
(Under Art. 124)

Criminal case No.....
P. P. versus
(insert name of accused)

To

This is to command you to appear before this Court on the
day of at o'clock
to give evidence on behalf of the prosecution/ accused, herein.

In the event of your failing to appear you will be liable to arrest.

Dated this day of 19

Registrar of court.

+ Delete whichever is inapplicable.

Form XI. — *Bench Warrant*
(Under Art. 125)

+ Whereas an accused
person having been duly summoned and served has failed to appear in answer
to the summons;

+ Whereas a witness
having been duly summoned and served has failed to appear in answer to the
summons,

you are directed to arrest
(insert name of police officer)

and to produce him before this court without delay.

Judge

+ Delete whichever is inapplicable.

Form XII. — *Appeal hearing Notice*
(Under Art. 192)

Criminal Appeal No.....

..... Appellant

(insert name)

..... Respondent

(insert name)

This is to require you Appellant/ Respondent

(insert name)

to attend the hearing of the abovementioned appeal at Court of on the day of at o'clock.

+ Should the appellatant or his advocate fail to appear the appeal may be dismissed.

+ Should the respondent or his advocate fail to appear the hearing of the appeal may be proceeded with.

Registrar Court of Appeal.

+ Delete whichever is inapplicable.

Form XIII. — *Warrant of commitment after sentence of death*
(Under Art. 204)

To the Superintendent of Prisons at

Whereas has been

(insert name of accused)

convicted of

(insert offence of which he has been convicted)

has been sentenced to death, this is to authorise and require you to receive the said in your custody and to detain him

(insert name of convicted person)

until the pleasure of His Imperial Majesty be made known to you.

Dated this day of 19

Presiding judge.

Form XIV. — *Warrant of Commitment after sentence of police arrest +/simple imprisonment+/rigorous imprisonment +/internment+/*
(Under Art. 205).

Criminal Case No.

Name of prisoner

To the Superintendent of Prisons/Superintendent of Police

The abovenamed prisoner was convicted by this Court of and sentenced to

This is to order you to carry out the said sentence of police arrest/ simple imprisonment/rigorous imprisonment/internment according to law.

Dated this day of 19

Presiding judge.

+ Delete whichever is inapplicable.

**Form XV. — Warrant of commitment
in respect of irresponsible person
(Under Art. 208).**

Whereas was found not fully
(insert name of accused person)
**responsible for his acts, this is to authorise and require you the Superintendent
of** to receive the said person into
(insert name of institution)
custody and to give him treatment
(specify the rates of the treatment)
Presiding judge.

**Form XVI. — Warrant in respect of flogging
(Under Art. 207) Criminal case No.**

To the Superintendent of Prisons
Whereas was convicted by this
(insert name of convicted person)
Court of and sentenced to flogging,
This is to order you to carry out the said sentence according to law.
The convicted person shall receive
(insert number of lashes to be inflicted)
to be inflicted with
(specify instrument to be used)
The sentence shall be carried out by
(specify person who will inflict the flogging)
at
(specify place where flogging will be inflicted)
on
(specify date when flogging will be inflicted)
Dated this day of 19
Presiding judge.
