

## **Towns and Rural Areas Courts Regulations, 2004**

Pursuant to Article 10(e) of the Judiciary Act, 1406H, I hereby issue the following regulation:

### **Chapter I Preliminary Provisions**

1. These regulations may be cited as “Town and Rural Courts Regulations, 2004”, and shall enter into force the date it is signed, provided that all procedures and orders, duly made by virtue of Establishment Orders shall remain in force until repealed or amended in accordance with the provisions herein.

### **Interpretation**

2. In these Regulations, unless the context otherwise requires, the following words and phrases shall have the meanings set opposed to each of them:
  - (a) Town Court: means a court established in any town in accordance with these Regulations or by virtue of an Establishment Order.
  - (b) Central Rural Court: means any court established in any rural area our countryside with primary and appeal competences in accordance with the provisions herein or the Establishment Order.
  - (c) Rural Court: means the court established in any rural or nomadic area in accordance with these Regulations or the Establishment Order.
  - (d) Establishment Order: means the order issued by the Chief Justice on the establishment of town, central rural or rural court.
  - (e) Judge of the General Court: means the judge of the general court assuming supervision over a geographical area of jurisdiction.
  - (f) District Judge: means the first instance district judge assuming supervision over a geographical area of jurisdiction.
  - (g) Wali: means the state’s governor.

### **Chapter II Establishment and Dissolution of Courts**

3. The Chief Justice may establish, pursuant to an establishment order, any town, central rural or rural court to operate in any region of the Sudan wherein they deem appropriate to establish such court. Chief Justice may, at their discretion, amend or repeal establishment order of any court.

## **Establishment Order Contents:**

4. The Establishment Order may contain the following details:
  - (a) Name and type of the court.
  - (b) The geographical area of jurisdiction and in case of courts established in nomadic area, persons whom the court has a jurisdiction to decide on their disputes shall be specified.
  - (c) Name of the President, deputy and members of the courts.
  - (d) Number of the courts' sessions.
  - (e) The court's competences.

### **Chapter III Selection of Presidents, Presidents' Deputies and Members of the Courts Eligibility of Candidate**

5. Any member, to be eligible for the membership of towns, central rural or rural court, shall be:
  - (a) be in good health.
  - (b) be over thirty years of age.
  - (c) have a record of good conduct and behaviour.
  - (d) be respectable, of dignity and influence in the area.
  - (e) be resident in the geographical area of the court's jurisdiction and is leading the same life style as the residents of the area.
  - (f) In case of candidates for town courts, candidate shall be able to read and write.
6. In addition to the conditions set forth in Article 5, the candidate to occupy the position of President or Deputy President of the central rural or rural court shall be acquainted with the customs and traditions of the residents of the area.

### **Selection Method**

7. (1) Following consultation with the dignitaries of the area and personnel of government agencies in the area and other persons, the District Judge shall nominate persons qualified to fill the position of the President, Deputy President and members of the town, central rural and rural courts.
  - (2) The District Judge shall submit names of candidates to the judge of the general court together with a personal note on each candidate containing the details specified in the model attached therewith.

- (3) The judge of the general court shall submit to the concerned Head of Judiciary his own recommendation concerning each candidate in order to be approved, provided that he shall justify such recommendation.
- (4) Following consultation with the Wali, the concerned Head of Judiciary shall submit to the Chief Justice through the Directorate of the Town and Rural Courts his recommendation concerning the candidate/candidates provided that he gives justifications as to why he made such recommendation.
- (5) There shall be attached with the recommendation of the concerned Head of Judiciary, the personal note made by the District Judge, the recommendation of the general court judge and all documents and details pertaining to the candidate.

#### **Appointment and Cancellation thereof:**

8. The Chief Justice shall appoint Presidents, Deputy Presidents and members of the town, central rural and rural courts upon recommendation submitted thereto pursuant to Article 7 herein.
9. In the event that the Chief Justice deems no candidate is appropriate to fill the position to which the candidate is nominated, they may give directives on nomination of another person provided that the procedures specified herein are followed.
10. The Chief Justice may, at their discretion, cancel appointment of the President, Deputy President or member of any court.

#### **Chapter IV Powers and Jurisdictions Area and Nature of Jurisdictions**

11. The town, central rural and rural court shall exercise their jurisdictions within their geographical area as specified in their respective Establishment Orders and they shall not hear any suit or dispute if it is barred by these Regulations, the Establishment Order, any Act or a decree issued by the Chief Justice.
12. No town, central rural or rural court may hear criminal case with regard to killing, *qasas* below killing or *hidoud* (save drinking alcohol), suits involving children, suits pertaining to land ownership or any suit against the State, public authority or corporation.
13. (1) Town court, central rural and rural courts shall have jurisdictions to hear crime offenses provided for in the Criminal Act, save the crimes excluded by this Regulation or by virtue of the court's Establishment Order, a decree issued by the Chief Justice or an Act.

- (2) Town court shall have jurisdiction to decide on breaches under any other Act and which referred thereto by the District Judge. While the central rural and rural courts shall have jurisdiction to decide on breaches under the acts specified in the Establishment Order.

**Competences of the town court regarding civil suits:**

14. The town court is competent to hear simple cases of such values as may be specified by their establishment order.

**Competences of the town court regarding criminal cases**

15. The town court may order the following penalties and measures:

- a. Imprisonment for a period not exceeding three years.
- b. Fine not exceeding one hundred thousand dinnars.
- c. Whippings not exceeding twenty-five lashes, forty lashes in case of drinking alcohol.
- d. Releasing a convict whose remaining term does not exceed two years, for good conduct and behavior under such terms and conditions as the court may deem convenient.
- e. Measures that may be taken by the Kheikhs.

**Competence of the Central Rural Court regarding civil suits**

16. 1. The Central Rural Court is preliminarily competent of hearing the following suits:

- a. If the suit is related to damage of farms or pastures or damages to cattle without evaluating the damage.
- b. If the subject of the suit is other than what is mentioned in Para (a) above, the value of the suit shall not exceed five hundred thousand dinnars.
- c. Suits related to conflict on land boundaries.

2. The central rural court is competent to hear appeals against judgments and orders issued by the rural court regarding civil suits.

**Competence of the Central Rural Court regarding criminal cases**

17. (2) When preliminarily considering a criminal suit, the Central Rural Court may inflict the following penalties and measures:

- a. Imprisonment for a period not exceeding seven years.
- b. Fine not exceeding Four hundred thousand dinnars.

- c. Whippings not exceeding twenty-five lashes, forty lashes in case of drinking alcohol.
- d. Releasing a convict whose remaining term does not exceed two years, for good conduct and behavior under such terms and conditions as the court may deem convenient.
- e. The measures that may be taken by Khiekhs.

(2) The central rural court is competent to hear appeals against judgments and orders issued by the rural court regarding criminal suits.

### **Competences of the Rural Court regarding civil suits**

18. The Rural Court is competent to hear the following suits:
- a. If the suit is related to damage on farms or pastures or damages to cattle without determining the amount of damage.
  - b. If the subject of the suit is other than what is mentioned in Para (a) above, the value of the suit shall not exceed two hundred thousand dinnars.
  - c. Suits related to conflict on land boundaries.

### **Competence of the Rural Court regarding criminal cases**

19. The Rural Court may inflict the following penalties and measures:
- a. Imprisonment for a period not exceeding five years.
  - b. Fine not exceeding Two hundred thousand dinnars.
  - c. Flogging not exceeding twenty-five lashes, forty lashes in case of drinking alcohol.
  - d. Releasing a convict whose remaining term does not exceed two years, for good conduct and behavior under such terms and conditions as the court may deem convenient.
  - e. The measures that may be taken by Sheikhs.
  - f. Confiscation.
  - g. Condemnation.

### **Execution of Judgments**

20. (1) The town court may execute its judgments within its area competences in accordance with the Civil Procedures Act, 1983.  
(2) The Central Rural Court and The Rural Court are responsible of executing their judgments within their area competences without any prejudice to the Law or Sharia'a Laws.

### **Fees and Remunerations**

21. (1) Fees prescribed by Civil Procedures Act shall be collected regarding civil suits filed in town and rural courts.

(2) The Chief Justice shall determine by virtue of a decision, the remunerations of heads, deputy heads and members of town and rural courts.

### **The Applicable Law**

22. (1) The Town Court shall apply the law and the principles of justice without prejudice to Islamic Sharia'a.

(2) The Central Rural Courts and the Rural Courts shall apply the common tradition within its area competence and the other laws stated in these regulations or the establishment order provided that this tradition shall not contradict with the law, principles of justice and Islamic Sharia'a.

## **Chapter V**

### **Appeal and Examination**

1. The judgments and measures taken by the Town Court regarding criminal cases shall be appealed against before the General Criminal court. The decision taken thereby shall be final.

2. The judgments and measures taken by the rural court regarding criminal cases shall be appealed against before the central rural court and then before the court of Appeal. The decision taken thereby shall be final.

3. The judgments and measures issued with regard to suits and appeal by the Central Rural Court regarding criminal cases may be appealed against before the Court of Appeal. The decision taken thereby shall be final.

4. The judgments and orders taken by the Town and Rural Courts and the judgments or orders previously issued or after appeal preliminarily by the Central Rural Court regarding civil suits may be appealed against before the competent district judge then before the judge of the General Court. His decision shall be final.

5. The Appeal shall be submitted within a month from the date of acknowledging the judgment.

6. The authority appealed to may – when considering any appeal – practice any of the authorities mentioned in Article 185 of the Criminal Procedures Act, 1991 or Article 205 of civil procedures Act, 1983.

### **Authority of Examination**

24. 1. The judge of the General Court, the Court of Appeal or the Higher Court may examine any criminal procedures heard or to be heard before a Town Court or a Central Rural Court or a Rural Court within its competences for checking the validity and soundness of procedures and realizing justice, provided that the documents shall be requested within three months from the date of issue of any order or judgment. The Appeal authority shall not observe the time factor if the procedure is in prejudice with the rules of the Islamic Sharia'a.

2. The examination authority shall have the authorities granted when considering any appeal in accordance with Article 185 of the Criminal Procedures Act.

## **Chapter VI**

### **Forming the Court quorum, number of sessions, remunerations of the chairs, deputy chairs and members of the Court**

#### **Formation of the court and quorum**

25. 1. The Town Court consists of not more than 12 persons. Chair shall be established by rotation of members.

2. Chair of the town court shall be by rotation of members and quorum thereof is reached when the chair and two other members are present.
3. The central rural court shall consist of a chair, a deputy, and adequate number of members.
4. The quorum of central rural court is reached when the chair and two members are present for hearing of ordinary cases, presence of its chair and four members for hearing of cases in re damage of farms, pastures or livestock, and presence of its chair and six members for hearing of appeals and that decisions thereof shall be taken by majority.
5. The Rural Court shall consist of a chair, a deputy, and an adequate number of members.
6. The quorum of the Rural Court is reached by presence of its chair and two members for hearing ordinary cases, and by presence of its chair and four members for hearing cases in re damage of farms, pastures or livestock.
7. In case that the chair of Court is absent for any reason(s), the deputy chair shall preside over the Court.
8. The competent judge of district court may, when necessary and upon consultation with the chair of Court, assign the deputy

chair to preside over a court in another area within its geographical area of jurisdiction.

9. Decisions of the town court, central rural court, and rural court shall be issued by majority of opinions.

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### **Chapter VII Power to Summons and Arrest**

1. The town court shall, as far as summons of accused persons, defendants, and witnesses provided for, have the competencies and powers in relation to notice and arrest stipulated in the Criminal Procedures Act, 1991 and the Civil Procedures Act, 1983.
2. The chair of the central rural court, his deputy, chair of the Rural Court, or his deputy shall exercise the same powers contained in (1) here above.

### **Powers of Security**

**27** The chair of the central rural court or the Rural Court, or his deputy, may exercise the following stipulated by the Criminal Procedures Act, 1991:

- a. Issuance of notices and warrants of arrest.
- b. Renewal of detention for more than three days.
- c. Inscription of the statements given by a dying victim into the investigation logbook.
- d. Taking admissions.
- e. He may exercise the following powers in case of absence of the Prosecution:
  - (i) Approval of a three-day detention;
  - (ii) Issuance of an order on initiation of investigation or undertaking initial procedures;
  - (iii) Issuance of orders on search; and
  - (iv) Issuance of orders on release on bail.

### **Complementary Provisions**

**28** (a) The criminal procedures may be initiated before the Central Rural Court and the Rural Court based on a petition submitted to the Head of Court in absence of the Prosecution.



(b) Save in cases of flagrante delicto, no criminal procedures shall be taken against the chair of the Town Court, Central Rural Court, Rural Court, their deputies, or members unless upon a notice brought to the judge of the general court or the competent judge of district court.

**29** The Town Court, Central Rural Court, Rural Court may not hear any criminal or civil lawsuit that had already been settled, or being heard by any other court.

### **Keeping of Records**

**30** A Town Court, Central Rural Court, or Rural Court shall keep records of each case or lawsuit that includes the following:

- a. Name of Court, and place and date of session;
- b. Names of the chair of Court, Deputy- chair, and members;
- c. Names of parties and their respective addresses;
- d. Names of witnesses and any other material evidence exhibited in the court;
- e. A precise and brief statement on the subject-matter of the complaint or dispute and description of any property and their values or any other things in relation thereto;
- f. Decision or judgment issued in relation to the case or lawsuit including its reasoning and date of issue; and
- g. Signatures of the Chair of Court and members.

### **Supervision**

**31** (a) The judge of district court may exercise supervisory power within the jurisdiction area of their court. The judge of the general court shall be held accountable before the concerned Head of Judiciary with regard to the performance of the court and other courts in the province. To this effect, they shall exercise the overall powers given in connection with interrogation, arrest, and investigation, as well as the right to pass recommendation for consideration by the concerned Head of Judiciary and also may refer the matter to the Chief Justice in order to remove or take disciplinary measures against any member of the Court.

(b) The respective Head of the concerned Judiciary may take whatever action or recommendation they deem appropriate or necessary, for consideration by the Chief Justice via the chair of the Town and Rural Courts' Administration.

### **Cancellation of Establishment Order or Amendment of the Court's Composition**

**32** (a) The respective Head of concerned Judiciary may recommend to the Chief Justice the cancellation of Establishment Order or amendment of the Court's composition.

(b) The Town and Rural Courts' Administration may submit a memorandum on any issues it deems appropriate supplemented by all necessary documents to enable the Chief Justice to appoint, remove, amend, or cancel the Establishment Order.

### **33 Statistics**

The Court shall provide a three month statistical report to the Town and Rural Courts' Administration established within the concerned Judiciary. This shall indicate number of the civil and criminal cases that have been lodged to the Court during each period, number of cases settled, number of cases pending, reasons of pending cases, and total revenues generated from fees, fines, and forfeiture as well as total salaries and remuneration paid.

Issued under my hand this 17<sup>th</sup> day of May 2004.

**Jalal el-Din Mohamed Osman  
Chief Justice**