

In the Name of God, the Most Gracious, the Most Merciful

Civil Procedure Act of 1983

(Code of Judicial Judgments of 1983)

Arrangement of Sections

- **Section 1:** Title of the Law.
- **Section 2:** Interpretation of Legislative Texts.
- **Section 3:** Adjudication in the Absence of a Statutory Text.

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Civil Procedure Act of 1983

(August 19, 1983)

Section 1: Title of the Law

This Act may be cited as the "**Civil Procedure Act of 1983.**"

Section 2: Interpretation of Legislative Texts

In interpreting legislative texts, unless the text is explicit or definitive in meaning, the judge shall observe the following:

- **(a)** The judge shall presume that the legislator does not intend to violate Islamic Sharia by suspending an obligatory duty or permitting a prohibited act, and that the legislator observes the guidance of Sharia regarding recommended (*mandub*) and discouraged (*makruh*) actions.
- **(b)** The judge shall interpret general provisions and discretionary terms in a manner consistent with the rulings, general principles, and spirit of Islamic Sharia.
- **(c)** The judge shall interpret jurisprudence terms and expressions in light of linguistic and jurisprudence principles (*Usul al-Fiqh*) in Islamic jurisprudence.

Section 3: Adjudication in the Absence of a Statutory Text

Except in criminal cases, notwithstanding any provision that may appear in any other law, if no statutory provision exists to govern the matter at hand, [1] the judge shall proceed as follows:

- **(a)** The judge shall apply any Sharia ruling established by the texts of the Quran and the Sunnah.

- **(b)** If the judge finds no explicit text, the judge shall exercise independent reasoning (*ijtihad*), guided by the following principles, applying them holistically while observing their prioritized order:
 - **First:** Observance of consensus (*ijma'*), the overarching maxims of Islamic Sharia, its general principles, and the detailed guidance provided on the matter.
 - **Second:** Analogy (*qiyas*) based on Sharia rulings by identifying the underlying legal cause (*'illat*), comparing similar cases, or matching them in alignment with Sharia methodology.
 - **Third:** Consideration of public interest (*maslahah*) by securing benefits and averting harms, evaluated in a manner that achieves Sharia objectives and the goals of a comprehensive Sharia-compliant life within contemporary realities, provided it does not invalidate subsidiary Sharia texts.
 - **Fourth:** Presumption of original non-liability (*bara'ah asliyyah*) in all matters, permissibility (*ibahah*) in actions, and ease (*yusr*) in legal obligations.
 - **Fifth:** Guidance from established judicial precedents in Sudan, provided they do not conflict with Sharia, as well as the majority consensus of Sharia jurists, their legal opinions (*fatawa*), and established jurisprudential maxims.
 - **Sixth:** Respect for prevailing custom (*'urf*) in transactions, provided it does not violate the provisions of Islamic Sharia or principles of natural justice.
 - **Seventh:** Pursuit of the principles of justice affirmed by honorable human laws and equitable rulings as perceived by sound conscience.

Footnotes:

- **[1]** Amended by Act No. 55 of 1986.