



**FEDERAL CAPITAL TERRITORY COURTS  
(CUSTODIAL AND NON-CUSTODIAL SENTENCING)  
PRACTICE DIRECTIONS, 2020**



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## FEDERAL CAPITAL TERRITORY COURTS (CUSTODIAL AND NON-CUSTODIAL SENTENCING) PRACTICE DIRECTIONS, 2020

In exercise of the powers conferred on me by section 259 of the Constitution of the Federal Republic of Nigeria, 1999, section 490 (f) and (g) of the Administration of Criminal Justice Act, 2015 and all other powers enabling me in that behalf, I, **Ishaq Usman Bello**, the Honourable Chief Judge, Federal Capital Territory High Court, Abuja hereby make the following Practice Directions for all Federal Capital Territory Courts that exercise criminal jurisdiction.

### ORDER 1 GENERAL PROVISIONS

#### 1. Objectives

The objectives of these Practice Directions are to -

- (a) establish appropriate standards and guidelines for sentencing in offences against the State, person, public order, morality, homicide, property, corruption, financial crimes and related offences, for the purpose of ensuring reasonable uniformity, proportionality and fairness in sentencing in the Federal Capital Territory;
- (b) establish the requirements and procedure for imposing custodial and non-custodial sentences for the purpose of preventing abuse and ensuring reasonable uniformity and fairness in sentencing; and
- (c) ensure that congestion in correctional centres is reduced to the barest minimum through the use of non-custodial sentences in line with section 470(2)(c) of the Administration of Criminal Justice Act, 2015 (hereinafter referred to as 'ACJA'), section 2(1)(b) of the Nigerian Correctional Service Act, 2019 and any other applicable provisions of the Law.

#### 2. Application and Scope

- (1) These Practice Directions shall, save to the extent as may otherwise be ordered by the Honourable Chief Judge, apply to -
  - (a) Federal Capital Territory Courts exercising criminal jurisdiction; and
  - (b) sentencing in offences against the State, the person, public order, morality, homicide, property, corruption, financial crimes and related offences as defined in Order 9 Rule 2 of these Practice Directions.

- (2) The statutory and inherent discretion conferred on a court to determine and impose sentences is not derogated from but shall be exercised in accordance with this Practice Directions.
- (3) These Practice Directions shall not be applied to any person below the age of eighteen (18) years.
- (4) Where there is doubt as to whether the defendant or convict has attained the age of eighteen (18) years, the court shall resolve the doubt in favour of the defendant or convict.

### **3. General Guiding Principles and Factors in Sentencing**

- (1) In determining the appropriate sentence to be imposed on a convict, the court shall take into consideration, the -
  - (a) objectives of sentencing which are -
    - (i) prevention, that is, the objective of persuading the convict to give up committing any offence in the future, because the consequences of crime are unpleasant,
    - (ii) restraint, that is, the objective of keeping the convict from committing more offences by isolating him from society,
    - (iii) rehabilitation, that is, the objective of providing the convict with treatment or training that will make him a reformed citizen;
    - (iv) deterrence, that is, the objective of warning others not to commit offence by making an example of the convict,
    - (v) education of the public, that is, the objective of making a clear distinction between good and bad conduct by punishing bad conduct,
    - (vi) retribution, that is, the objective of giving the convict the punishment he deserves, and giving the society or the victim justice, and
    - (vii) restitution, that is, the objective of compensating the victim or family of the victim of the offence;
  - (b) interest of the victim, the convict and the community;
  - (c) appropriateness of non - custodial sentence or treatment in lieu of imprisonment;
  - (d) necessary aggravating and mitigating evidence, information or circumstances; and
  - (e) need to treat each case on its own merit.
- (2) A trial court shall not pass the maximum sentence on a first convict except in a mandatory sentence.

- (3) In accordance with the provisions of these Practice Directions, sentencing to a term of imprisonment shall apply only to those convicts who should be isolated from society and with whom other forms of punishment have failed in the past or are likely to fail.

#### **4. Guiding Principles in Non-Custodial Sentencing**

- (1) The court shall not impose a non-custodial sentence where the statute that creates the offence provides for a mandatory sentence or a minimum custodial sentence.
- (2) The court may in all other cases but in accordance with these Practice Directions, sentence a convict to a non-custodial option including fine as provided under the ACJA.
- (3) The provisions of Sub-Rule (2) of this Rule shall apply notwithstanding that the statute that creates the offence is silent on or does not specifically provide for non-custodial punishment.
- (4) The provisions of Sub-Rule (2) of this Rule shall not apply if the statute that creates the offence expressly disallows non-custodial sentence and in such a case, the court shall not consider the non-custodial sentence that is expressly disallowed but may still consider other non-custodial options that are not expressly disallowed by the statute.
- (5) The court shall only impose a non-custodial sentence on a convict in accordance with these Practice Directions where the offence has been categorized as “Low Culpability Offence” and “Limited Harm Offence” and there are other mitigating factors.
- (6) Prior to imposing a non-custodial sentence on a convict, the court shall, among other relevant considerations provided under the ACJA and these Practice Directions, ensure that -
  - (a) the interest of the victim, the convict and the community are considered;
  - (b) it is appropriate to impose non-custodial sentence as an alternative to imprisonment in the particular case;
  - (c) there are necessary mitigating factors, evidence, information or circumstances that necessitate the imposition of the non-custodial sentence; and
  - (d) the convict is not a habitual convict and will not pose danger to the community by the imposition of non-custodial sentence.
- (7) Where a convict has met the criteria for imposition of a non-custodial sentence as stated by the relevant Order of these Practice Directions, such non-custodial sentence shall be imposed only as an alternative to imprisonment or other custodial punishments and not in addition to custodial sentence.
- (8) In a case where a convict has not met the criteria for imposition of non-custodial sentence, the court in imposing custodial sentence on such convict and depending on the gravity and circumstances of the offence, may in addition to the custodial sentence also impose fine in line with the provisions of section 327 (1) of the ACJA provided that the statute that creates the offence specifically allows the imposition of both imprisonment and fine for that offence.

- (9) In all cases where the court convicts a defendant, whether the sentence is custodial or non-custodial, the court may in addition order compensation, restitution or other ancillary reliefs in line with section 321 and other relevant provisions of the ACJA.

## **5. Non - Custodial Sentences that may be imposed by the courts**

- (1) The court where appropriate and in accordance with these Practice Directions may impose any of the following non-custodial sentences -
- (a) fine;
  - (b) compensation (section 321(a) ACJA and section 78 Penal Code );
  - (c) restitution (section 321(a) ACJA );
  - (d) probation (section 454 ACJA);
  - (e) suspended sentence (section 460 (1) ACJA );
  - (f) Community Service (section 460 (2) ACJA );
  - (g) deportation (section 439 ACJA ); and
  - (h) any other non-custodial sentence as may be prescribed by an Act of the National Assembly.
- (2) When imposing any of the non-custodial sentences listed in Sub-Rule (1) of this Rule, the court shall be guided by the -
- (a) provisions of the ACJA and other relevant laws relating to such sentence; and
  - (b) the availability of facilities for implementation of the particular non-custodial sentence.
- (3) The court may before imposing a particular non-custodial sentence request for advice or a report from –
- (a) the National Committee on Non-Custodial Measures or the Nigerian Correctional Service if it considers it necessary or expedient for the purpose of determining the available facilities; or
  - (b) a social worker or any other expert if it considers it necessary or expedient for the purpose of determining the appropriate non-custodial sentence for the convict or for other related purposes.

## **6. Conduct of a Sentencing Hearing by the Court and Procedure for Sentencing**

- (1) In order to guide the court in deciding the appropriate sentence to be imposed on a convict after conviction, the court shall conduct a sentencing hearing immediately after conviction or at any subsequent date as may be determined by the court but not exceeding fourteen (14) days from the date of conviction.
- (2) Pending the sentencing hearing, the convict shall be detained in a correction centre except where imprisonment is not a punishment for the offence or where the convict prior to or while awaiting trial, had been detained on account of the offence for a period longer than the maximum term of imprisonment provided for the offence.



- (3) During the sentencing hearing, the convict shall be asked by the court if he wishes to call any witness as to his character or any other fact in mitigation of punishment if such fact had not previously been adduced in evidence at the trial, and any witness called by the convict shall be subjected to the general rules of evidence relating to the examination of witnesses including examination-in-chief, cross examination and re-examination.
- (4) After such witness, if any, has been called, the convict shall be asked if he desires to make any statement or produce any evidence or information for mitigation of punishment.
- (5) The prosecutor shall, where desirable, call witnesses or produce evidence including evidence of previous convictions in rebuttal of any fact or evidence adduced by or on behalf of the convict in mitigation of punishment unless such evidence had already been given, and any witness called by the prosecution shall be subject to the general rules of evidence relating to the examination of witnesses including examination-in-chief, cross examination and re-examination;
- (6) The Court may then pass sentence on the convict or adjourn to consider and determine such sentence which shall be pronounced in open court and a reason given for the sentence.
- (7) Where a convict has been provided the opportunity to adduce further mitigating evidence as provided under Sub-Rule (2) and (3) of this Rule and he declines or fails to take advantage of such opportunity, the court may proceed to sentence the convict in accordance with these Practice Directions based on the evidence already adduced during trial.
- (8) Any sentence pronounced shall be determined after consideration of and in accordance with the procedural steps specified in the relevant Order of these Practice Directions applicable to that offence namely: Order 2 Rules 1 to 9 for offences against the State, Order 3 Rules 1 to 9 for offences against the person, Order 4 Rules 1 to 9 for offences against public order, Order 5 Rules 1 to 9 for offences against morality, Order 6 Rules 1 to 9 for homicide related offences, Order 7 Rules 1 to 9 for offences against property, and Order 8 Rules 1 to 9 for corruption, financial crimes and related offences.
- (9) In considering sentence in offences that fall under two or more Orders or classes of offences, for example, robbery which contain elements of offences against property and offences against the person, the court in classifying the offence should take into account the prevalent elements and other circumstances surrounding the commission of the offence as well as ensure that the Order applied in sentencing is one that contains adequate provisions for imposing appropriate sentence for the offence.

## **ORDER 2 OFFENCES AGAINST THE STATE**

### **1. Determining whether discretionary or non-discretionary punishment**

- (1) The court shall determine whether the statute allows exercise of discretion in sentencing for the offence under consideration.

- (2) Where the statute does not permit the exercise of discretion, the court shall apply the punishment prescribed by the statute and proceed to Rules 7 and 9 of this Order.
- (3) Where the statute permits the exercise of discretion in sentencing, the court shall proceed to Rule 2 to Rule 9 of this Order.

**2. Determining the offence category for offences against the state (Culpability and harm categories)**

(1) The court shall categorise the offence committed in accordance with the level of culpability of the convict and severity of harm caused by the offence, after considering their respective qualifying factors set out in Sub-Rule 2(2) and (3) of this Order.

(2) In the case of offences against the State, culpability shall be determined as follows -

(a) Category 1 – High culpability, is demonstrated by one or more of the following -

- (i) prolonged activity,
- (ii) the use of weapon,
- (iii) type of weapon used,
- (iv) injury to person(s),
- (v) damage to property,
- (vi) grave risk of death to person(s),
- (vii) grave risk to national security,
- (viii) a significant degree of premeditation,
- (ix) leading role in the commission of the offence,
- (x) death resulting from act,
- (xi) significant impact on the people,
- (xii) rampant nature of the offence,
- (xiii) target of vulnerable persons,
- (xiv) intimidation of potential witnesses; and
- (xv) caused an explosion or used, developed or was in possession of explosive device

(b) Category 2 – Low culpability, is demonstrated by one or more of the following -

- (i) subordinate role in the commission of the offence,
- (ii) lack of premeditation,
- (iii) severe mental or emotional disturbance,
- (iv) impaired capacity where convict was under duress, regardless of whether the capacity was so impaired as to constitute a defence to the charge,
- (v) voluntary disclosure of the offence,
- (vi) willingness to assist in arresting and prosecuting other convicts, and
- (vii) the offence was occasioned by the grossly offensive behaviour of some other person.

(3) In the case of offences against the State, harm is determined as follows -

(a) Category 1 – Serious harm, is demonstrated by any one or more of the following -

- (i) the convict caused serious injury to another person during the commission of the offence,
  - (ii) where the convict in commission of the offence created a grave risk of death to another,
  - (iii) in the commission of the offence, the convict knowingly created grave risk of substantial danger to the national security or public infrastructure.
- (b) Category 2 – Substantial harm, is demonstrated by any one or more of the following-
- (i) serious but not permanent injury,
  - (ii) impact of crime on national security or infrastructure not substantial.
- (c) Category 3 – Limited harm, is demonstrated by any one or more of the following -
- (i) injury caused in the commission of the act is less serious in the content of the offence,
  - (ii) the act has no impact on the peace and security of the State.

### **3. Starting point and category range**

- (1) After determining the categories of culpability of the convict and severity of harm caused, the court shall apply the corresponding starting points of sentencing within the table of starting point and category range specified in the First Schedule to these Practice Directions.
- (2) The existence of only one factor demonstrating low culpability and one factor demonstrating limited harm, with or without a mitigating factor, shall be sufficient to impose the starting point of 25% of the prescribed sentence which may be increased up to a maximum of 30% of the prescribed sentence if there is presence of other aggravating factors or reduced down to 1% if there is presence of mitigating factors.
- (3) The court shall not impose a non-custodial sentence on a convict except where the offence has been categorized as low culpability offence and limited harm offence in accordance with the provisions of Rule 2 of this Order.
- (4) The court may, where the circumstances are compelling, impose non-custodial sentence where there is at least one factor demonstrating low culpability and one factor demonstrating limited harm and at least one mitigating factor.
- (5) The court shall impose a non-custodial sentence in any case where there are two or more factors demonstrating low culpability and limited harm and in addition, there are two or more mitigating factors or presence of a plea of guilt by the convict.
- (6) Where the offence prescribes a minimum sentence, the court shall not impose less than that minimum sentence irrespective of the starting point set out in the First Schedule to these Practice Directions.
- (7) The starting point shall apply to all convicts notwithstanding the plea of guilt or records of previous convictions.

- (8) Where the level of culpability of a convict is qualified by multiple features of culpability set out in Rule 2 (2) of this Order, an upward adjustment from the starting point may be made, before further adjustments for aggravating or mitigating features set out in Rule 4 of this Order.
- (9) Where a particular circumstance is listed for determining both culpability/harm categories and aggravating/mitigating factors and that circumstance is taken into account in categorizing the offence under culpability/harm categories, the same circumstance/factor should not be subsequently considered in determining the aggravating and mitigating factors.

#### **4. Adjustment based on aggravating and mitigating factors for offences against the State**

- (1) Based on evidence before it, the court may consider the aggravating and mitigating factors including those respectively listed under Sub-Rules (2) and (3) of this Rule and decide whether any combination of these or other relevant factors, shall result in an upward or downward adjustment from the starting point set out in the First Schedule to these Practice Directions.
- (2) The court shall consider the following circumstances as aggravating factors in sentencing in cases of offences against the State -
  - (i) previous conviction, having regard to the nature of the offence to which the conviction relates, its relevance to the current offence and the time that has elapsed since the conviction,
  - (ii) causing death,
  - (iii) prior treason offence – the convict has previously been convicted of an offence involving treason for which a sentence of either life imprisonment or death was authorized by law,
  - (iv) higher position in the society,
  - (v) where the convict exploited some other person's vulnerable position or other person's special difficulties in protecting himself,
  - (vi) where the convict induced another person to take part in the crime by coercion, deceit or misuse of the person's youthfulness, lack of understanding or convict status,
  - (vii) where a motive for the crime was to aggrieve a person, ethnic group or some other similar group of people by reason of race, colour, national or ethnic origin, religious belief or other similar circumstances,
  - (viii) where the convict was motivated by remuneration or any pecuniary gain,
  - (ix) in the commission of the offence, the convict knowingly created grave risk of substantial danger to the national peace and security,
  - (x) in the commission of the offence, the convict knowingly created a grave risk of death to another person,
  - (xi) disruption of governmental functions,
  - (xii) extreme conduct,
  - (xiii) extreme psychological injury inflicted on the victim(s),
  - (xiv) property damage or loss,
  - (xv) commission of the offence while wearing or displaying unauthorized or counterfeit insignia or uniform,
  - (xvi) no remorse shown,

- (xvii) post offence bad conduct,
- (xiii) nature of the articles,
- (xix) vile remarks by the convict,
- (xx) that the offence involved actual or threatened violence or the actual or threatened use of a weapon,
- (xxi) that the offence involved unlawful entry into, or unlawful presence in a dwelling place,
- (xxii) that the offence was committed while the convict was on bail or still subject to a sentence,
- (xxiii) the extent of any loss, damage, or harm resulting from the offence,
- (xxiv) particular cruelty in the commission of the offence,
- (xxv) that the convict was abusing a position of trust or authority in relation to the victim,
- (xxvi) that the victim was a military, police, immigration, or Correction officer, or other law enforcement officers acting in the course of his duty,
- (xxvii) that the victim was an emergency health or fire services provider acting in the course of his duty at the scene of an emergency,
- (xxviii) that the victim was particularly vulnerable because of his age or health or because of any other factor known to the convict,
- (xxix) that the convict committed the offence partly or wholly because of hostility towards a group of persons who have an enduring common characteristic such as race, colour, nationality, religion, gender identity, sexual orientation, age or disability,
- (xxx) premeditation on the part of the convict and, if so, the level of premeditation involved,
- (xxxi) the number, seriousness, date, relevance, and nature of any previous convictions of the convict and of any convictions for which the convict is being sentenced or otherwise dealt with at the same time,
- (xxxii) any failure by the convict personally or failure by the convict's lawyer arising out of the convict's instructions to, or failure or refusal to co-operate with his lawyer to comply with a procedural requirement that, in the court's opinion, has done either or both of the following -
  - (a) caused a delay in the disposition of the proceedings; or
  - (b) had an adverse effect on a victim or witness; or
- (xxxiii) fund acquired through illegal means.

- (3) The court shall consider the following circumstances as mitigating factors in sentencing in cases of offences against the State -
- (i) absence of previous conviction, the convict being a first convict,
  - (ii) where offence was committed under significant coercion or provocation,
  - (iii) convict's conduct resulted from a significant lack of capacity for judgment,
  - (iv) guilty pleas,
  - (v) assisting the police to apprehend other convicts,
  - (vi) an offer to make amends or apology to the State,
  - (vii) any remorse shown by the convict,
  - (viii) severe illness or aged which will likely result to death of the convict before release,
  - (ix) where convict suffers from any form of disability which may mean that imprisonment is an extraordinary hardship,
  - (x) impaired capacity – the convict was under unusual and substantial duress, regardless of whether the capacity was so impaired as to constitute a defence to the charge,

- (xi) minor participation or limited involvement in the offence on the convict's part;
- (xii) where convict committed the offence under severe mental or emotional disturbance,
- (xiii) sole or breadwinner for dependant relatives,
- (xiv) assistance in apprehending other convict or convicts,
- (xv) the age of the convict,
- (xvi) the conduct of the victim,
- (xvii) that the convict has, or had at the time the offence was committed, diminished intellectual capacity or understanding,
- (xviii) that the convict has taken steps during the proceedings (other than steps to comply with procedural requirements) to shorten the proceedings or reduce their cost,
- (xix) any adverse effects on the convict of a delay in the disposition of the proceedings caused by a failure by the prosecutor to come up with a procedural requirement, or
- (xx) any evidence of the convict's previous good character.

## **5. Consideration of guilty plea and potential reduction of sentence**

- (1) The court shall take account of any potential reduction for a guilty plea made at the trial.
- (2) A consideration for the reduction of a sentence upon a guilty plea shall not exceed a reduction by one - third of the applicable punishment prescribed by law.

## **6. Sentencing in multiple offences (Totality Principle)**

- (1) When sentencing a convict for more than one offence, or where the convict is already serving a sentence, the court shall consider whether the total sentence is just and proportionate to the offending behaviour or prohibited conduct.
- (2) In the case of conviction for multiple offences arising from the same transaction, the sentence shall run concurrently.
- (3) In the case of conviction for multiple offences not arising from the same transaction, the court shall consider and make pronouncement on whether the sentence shall run concurrently or consecutively.

## **7. Compensation, restitution, restoration and ancillary orders**

- (1) In all cases, the court shall consider whether to make compensation, restitution, restoration, rehabilitation and treatment of victim and other ancillary orders in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable law.
- (2) Where the offence has resulted in loss or damage, the court shall make an order for restoration or restitution in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable law.

## **8. Consideration of period spent in custody or remand**

The period spent in custody while awaiting or undergoing trial shall be considered and computed in sentencing the convict.

## **9. Reasons for sentence**

The Court shall give reasons for the sentence imposed.

### **ORDER 3 OFFENCES AGAINST THE PERSON**

#### **1. Determining whether discretionary or non-discretionary punishment**

- (1) The court shall determine whether the statute allows exercise of discretion in sentencing for the offence under consideration.
- (2) Where the statute does not permit the exercise of discretion, the court shall apply the punishment prescribed by the statute and proceed to Rule 7 and Rule 9 of this Order.
- (3) Where the statute permits the exercise of discretion in sentencing, the Court shall proceed to Rule 2 to Rule 9 of this Order.

#### **2. Determining the offence category for offences against the person (culpability and harm categories)**

- (1) The court shall determine the categories of the offence in accordance with the level of culpability of the convict and severity of harm caused by the offence, after considering their respective qualifying factors set out in Rule 2(2) and (3) of this Order.
- (2) In the case of offences against the person, culpability shall be determined as follows -
  - (a) Category 1 – High culpability, is demonstrated by one or more of the following -
    - (i) sustained or repeated assault on the same victim by the same accused or a group or gang of convicts,
    - (ii) significant degree of premeditation,
    - (iii) use of weapon or weapon equivalent, for instance, iron rod, head butting, use of acid, use of animal or any harmful substance,
    - (iv) deliberately causing more harm than is necessary for commission of the offence,
    - (v) deliberate targeting of vulnerable victim,
    - (vi) leading role in group or gang,
    - (vii) abduction or detention,
    - (viii) threats to prevent victim from reporting the incident, or
    - (ix) where evidence shows that the offence was committed in the presence of a child,
    - (x) there was intentional penetration in a sexual offence,
    - (xi) the victim is a minor in a sexual offence,
    - (xii) in trafficking cases, directing or organising trafficking on significant commercial basis,
    - (xiii) expectation of significant financial or other gain,
    - (xiv) significant influence over others in trafficking organisation/ hierarchy,

- (xv) additional degradation of the victim,
  - (xvi) position or status to facilitate commission of the offence, such as a position of trust, confidence or fiduciary relationship,
  - (xvii) sustained and systematic psychological abuse,
  - (xviii) involves others in operation whether by coercion/ intimidation/ exploitation or reward (and offender's involvement is not as a result of coercion),
  - (xix) forced/uninvited entry into victim's home,
  - (xx) offence motivated by, or demonstrating, hostility to the victim based on his or her sexual orientation, religious beliefs, political affiliation, ethnicity or identity, or
  - (xxi) offence motivated by or demonstrating hostility to the victim based on his or her disability.
- (b) Category 2 – Low culpability, is demonstrated by one or more of the following -
- (i) lack of premeditation,
  - (ii) subordinate role in group or gang,
  - (iii) greater degree of provocation than normally expected, or
  - (iv) mental disorder or learning disability, where linked to the commission of offence, or
  - (v) close involvement but engaged by coercion/ intimidation/ exploitation
- (3) In the case of offences against the person, harm is determined as follows -
- (a) Category 1 – Serious harm, culpability is demonstrated by any one or more of the following -
- (i) on-going effect on victim,
  - (ii) offence committed against those working in the public sector or providing a service to the public,
  - (iii) established evidence of impact on society,
  - (iv) where it results in death,
  - (v) where it results in pregnancy (in sexual offences),
  - (vi) where it results in break-up of marriage in case of a married couple,
  - (vii) sustained or repeated assault on the same victim by the same convict or a group or gang of convicts,
  - (viii) deliberate targeting of vulnerable victim; or
  - (ix) convict is aware that he or she is suffering from a sexually transmitted or contagious disease.
- (b) Category 2 – Substantial harm, culpability is demonstrated by any one or more of the following -
- (i) serious medical condition requiring urgent, intensive or long term treatment of the victim,
  - (ii) significant psychological trauma,
  - (iii) social stigma on the victim, or
  - (iv) significant impact on persons giving service to the public.
- (c) Category 3 – Limited harm, culpability is demonstrated by limited impact on the victim.



### **3. Starting point and category range**

- (1) After determining the categories of culpability of the convict and severity of harm caused, the court shall apply the corresponding starting points of sentencing within the table of starting point and category range specified in the Second Schedule to these Practice Directions.
- (2) The existence of only one factor demonstrating low culpability and one factor demonstrating limited harm, with or without a mitigating factor, shall be sufficient to impose the starting point of 25% of the prescribed sentence which may be increased up to a maximum of 30% of the prescribed sentence if there is presence of other aggravating factors or reduced down to 1% if there is presence of mitigating factors.
- (3) The court shall not impose a non-custodial sentence on a convict except where the offence has been categorized as low culpability offence and limited harm offence in accordance with the provisions of Rule 2 of this Order.
- (4) The court may, where the circumstances are compelling, impose non-custodial sentence where there is at least one factor demonstrating low culpability and one factor demonstrating limited harm and at least one mitigating factor.
- (5) The court shall impose a non-custodial sentence in any case where there are two or more factors demonstrating low culpability and limited harm and in addition, there are two or more mitigating factors or presence of a plea of guilt by the convict.
- (6) Where the offence prescribes a minimum sentence, the Court shall not impose less than that minimum sentence irrespective of the starting point set out in the Second Schedule to these Practice Directions.
- (7) The starting point shall apply to all convicts notwithstanding the plea of guilt or previous convictions.
- (8) Where the level of culpability of a convict is qualified by multiple features of culpability set out in Rule 2 (2) of this Order, an upward adjustment from the starting point may be made, before further adjustments for aggravating or mitigating features set out in Rule 4 of this Order.
- (9) Where a particular circumstance is listed for determining both culpability/harm categories and aggravating/mitigating factors and that circumstance is taken into account in categorizing the offence under culpability/harm categories, the same circumstance/factor should not be subsequently considered in determining the aggravating and mitigating factors.

### **4. Adjustment based on aggravating and mitigating factors for offence against person**

- (1) Based on evidence before it, the court may consider the aggravating and mitigating factors including those respectively listed under Sub-Rules (2) and (3) of this Rule and decide whether any combination of these or other relevant factors, shall result in an upward or downward adjustment from the starting point set out in the Second Schedule to these Practice Directions.

- (2) The court shall consider the following circumstances as aggravating factors in sentencing in cases of offences against the person -
- (i) location of the offence,
  - (ii) timing of the offence,
  - (iii) on-going effect upon the victim,
  - (iv) offence committed against those working in the public sector or providing a service to the public,
  - (v) presence of others including relatives, especially children or partner of the victim,
  - (vi) offence based on factors of discrimination such as religion, tribe, sex, language, etc
  - (vii) offence motivated by or demonstrating hostility to the victim based on the victim's disability or presumed disability,
  - (viii) degradation of victim,
  - (ix) in domestic violence cases, victim forced to leave his or her home,
  - (x) failure to comply with current court orders,
  - (xi) an attempt to conceal or dispose of evidence,
  - (xii) failure to respond to warnings, police cautions and binding over proceedings or concerns expressed by others about the accused person's behaviour,
  - (xiii) commission of offence whilst under the influence of alcohol or drugs,
  - (xiv) exploiting contact arrangements with a child to commit an offence,
  - (xv) previous violence or threats to the same victim,
  - (xvi) established evidence of community impact,
  - (xvii) any steps taken to prevent the victim from reporting an incident, or obtaining assistance or assisting or supporting the prosecution,
  - (xviii) previous convictions taken into consideration,
  - (xix) abuse of power, position of authority or trust,
  - (xx) significant degree of planning
  - (xxi) adult commits offence together with a child
  - (xxii) use of alcohol/drugs on victim to facilitate the offence
  - (xxiii) deliberate humiliation of victim, including but not limited to filming of the offence, deliberately
  - (xxiv) committing the offence before a group of peers with the intention of causing additional distress,
  - (xxv) grooming,
  - (xxvi) significant disparity of age between the child or young person and the victim (measured chronologically or with reference to level of maturity),
  - (xxvii) victim is particularly vulnerable due to factors including but not limited to age, mental or physical disability,
  - (xxviii) any steps taken to prevent reporting the incident/seeking assistance,
  - (xxix) blackmail,
  - (xxx) use of weapon,
  - (xxxi) deliberate isolation of victim(s),
  - (xxxii) children of victim(s) left in home country due to trafficking,
  - (xxxiii) threats made to expose victim(s) to the authorities (for example, police), family/friends or others,
  - (xxxiv) harm threatened against the family/friends of victim,
  - (xxxv) exploitation of victim(s) from particularly vulnerable backgrounds,
  - (xxxvi) victim(s) previously trafficked/sold/passed around,
  - (xxxvii) passport/identity documents removed,

- (xxxviii) victim(s) prevented from seeking medical treatment,
  - (xxxix) earnings of victim(s) withheld/kept by offender or evidence of excessive wage reduction, debt bondage, inflated travel or living expenses, unreasonable interest rates,
  - (xl) circulating details/photos/videos etc of the offence on social media or within peer groups.
- (3) The court shall consider the following circumstances as mitigating factors in sentencing in cases of offence against person -
- (i) there is no previous convictions or no relevant recent conviction,
  - (ii) convict has shown remorse,
  - (iii) good character or exemplary conduct,
  - (iv) determination or demonstration of steps taken to address addiction or offending behaviour,
  - (v) isolated incident,
  - (vi) lack of maturity where it affects the responsibility of the convict,
  - (vii) lapse of time since the offence was committed where this is not the fault of the convict,
  - (viii) mental disorder or learning disability,
  - (ix) where the convict is found to be the sole or breadwinner for dependent relatives,
  - (x) assistance to the police in the prosecution or investigation,
  - (xi) involved through coercion, intimidation and or exploitation, or
  - (xii) provocation

## **5. Consideration of guilty plea and potential reduction of sentence**

- (1) The court shall take account of any potential reduction for a guilty plea made at the trial.
- (2) A consideration for the reduction of a sentence upon a guilty plea shall not exceed a reduction by one - third of the applicable punishment prescribed by law.

## **6. Sentencing in multiple offences (Totality Principle)**

- (1) When sentencing a convict for more than one offence, or where the convict is already serving a sentence, the court shall consider whether the total sentence is just and proportionate to the offending behaviour or prohibited conduct.
- (2) In the case of conviction for multiple offences arising from the same transaction, the sentence shall run concurrently.
- (3) In the case of conviction for multiple offences not arising from the same transaction, the court shall consider and make pronouncement on whether the sentence shall run concurrently or consecutively.

## **7. Compensation, restitution, restoration and ancillary orders**

- (1) In all cases, the court shall consider whether to make compensation, restitution, restoration, rehabilitation and treatment of victim and other ancillary orders in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable laws.

- (2) Where the offence has resulted in loss or damage the court shall make an order for restoration or restitution in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable laws.

**8. Consideration of period spent in custody or remand**

The period spent in custody while awaiting or undergoing trial shall be considered and computed in sentencing the convict.

**9. Reasons for sentence**

The Court shall give reasons for the sentence imposed.

**ORDER 4  
OFFENCES AGAINST PUBLIC ORDER**

**1. Determining whether discretionary or non-discretionary punishment**

- (1) The court shall determine whether the statute allows exercise of discretion in sentencing for the offence under consideration.
- (2) Where the statute does not permit the exercise of discretion, the court shall apply the punishment prescribed by the statute and proceed to Rules 7 and 9 of this Order.
- (3) Where the statute permits the exercise of discretion in sentencing, the court shall proceed to Rules 2 to 9 of this Order.

**2. Determining the offence category for offences against public order (Culpability and harm categories)**

- (1) The court shall determine the categories of the offence in accordance with the level of culpability of the convict and severity of harm caused by the offence, after considering their respective qualifying factors set out in Rule 2(2) and (3) of this Order.
- (2) In the case of offences against public order, culpability shall be determined as follows -
  - (a) Category 1 – High culpability, is demonstrated by one or more of the following -
    - (i) group action,
    - (ii) use of threat or violence for common purpose,
    - (iii) prolonged activity,
    - (iv) caused fear for personal safety or injury to persons,
    - (v) damage to property,
    - (vi) risk to national peace and security,
    - (vii) death resulting from the act,
    - (viii) use of weapon,
    - (ix) target being vulnerable person, or
    - (x) intimidation of potential witness.

- (b) Category 2 – Low culpability, is demonstrated by one or more of the following -
  - (i) no injury was caused,
  - (ii) offence stopped as soon as law enforcement officers arrived,
  - (iii) convict has shown remorse,
  - (iv) lack of maturity where it affects the responsibility of the convict,
  - (v) convict played subordinate role in the commission of the offence,
  - (vi) there was limited damage or disturbance to property,
  - (vii) lack of premeditation,
  - (viii) severe mental or emotional disturbance, or
  - (ix) voluntary disclosure of the offence.
  
- (3). In the case of offences against public order, harm is determined as follows -
  - (a) Category 1 – Serious harm, is demonstrated by any one or more of the following -
    - (i) inflict grievous bodily harm on a person,
    - (ii) damage to property,
    - (iii) grave risk of death, or
    - (iv) grave risk to national security.
  
  - (b) Category 2 – Substantial harm, is demonstrated by any one or more of the following-
    - (i) chaos,
    - (ii) significant psychological trauma,
    - (iii) theft of or damage to property causing a significant degree of loss to economic, commercial, sentimental, or personal value, or
    - (iv) coercion and duress.
  
  - (c) Category 3 – Limited harm, is demonstrated by one or more of the following –
    - (i) nothing was stolen or destroyed,
    - (ii) limited damage or disturbance to the property, or
    - (iii) act has no impact on the peace and security of the State.

### **3. Starting point and category range**

- (1) After determining the categories of culpability of the convict and severity of harm caused, the Court shall apply the corresponding starting points of sentencing within the table of starting point and category range specified in the Third Schedule to these Practice Directions.
  
- (2) The existence of only one factor demonstrating low culpability and one factor demonstrating limited harm, with or without a mitigating factor, shall be sufficient to impose the starting point of 25% of the prescribed sentence which may be increased up to a maximum of 30% of the prescribed sentence if there is presence of other aggravating factors or reduced down to 1% if there is presence of mitigating factors.
  
- (3) The court shall not impose a non-custodial sentence on a convict except where the offence has been categorized as low culpability offence and limited harm offence in accordance with the provisions of Rule 2 of this Order.

- (4) The court may, where the circumstances are compelling, impose a non-custodial sentence where there is at least one factor demonstrating low culpability and one factor demonstrating limited harm and at least one mitigating factor.
- (5) The court shall impose a non-custodial sentence in any case where there are two or more factors demonstrating low culpability and limited harm and in addition, there are two or more mitigating factors or presence of a plea of guilt by the convict.
- (6) Where the offence prescribes a minimum sentence, the court shall not impose less than that minimum sentence irrespective of the starting point set out in the Third Schedule to these Practice Directions.
- (7) The starting point shall apply to all convicts notwithstanding the plea of guilt or previous convictions.
- (8) Where the level of culpability of a convict is qualified by multiple features of culpability set out in Rule 2 (2) of this Order, an upward adjustment from the starting point may be made, before further adjustments for aggravating or mitigating features set out in Rule 4 of this Order.
- (9) Where a particular circumstance is listed for determining both culpability or harm categories and aggravating or mitigating factors and that circumstance is taken into account in categorizing the offence under culpability or harm categories, the same circumstance or factor should not be subsequently considered in determining the aggravating and mitigating factors.

#### **4. Adjustment based on aggravating and mitigating factors for offence against public order**

- (1) Based on evidence before it, the court may consider the aggravating and mitigating factors including those respectively listed under Sub-Rules (2) and (3) of this Rule and decide whether any combination of these or other relevant factors, shall result in an upward or downward adjustment from the starting point set out in the Third Schedule to these Practice Directions.
- (2) The Court shall consider the following circumstances as aggravating factors in sentencing in cases of offences against public order -
  - (i) use of weapon,
  - (ii) injuries and high level damage caused,
  - (iii) large group actions,
  - (iv) people put in fear of personal safety or grievous harm,
  - (v) actual or potential escalation into violence,
  - (vi) threats,
  - (vii) damage to property,
  - (viii) targeted vulnerable persons,
  - (ix) throwing of objects,
  - (x) previous conviction,
  - (xi) fighting between rival groups,
  - (xii) busy public place, or
  - (xiii) prolonged activity.

- (3) The court shall consider the following circumstances as mitigating factors in sentencing in cases of offences against public order -
- (i) spontaneous violence,
  - (ii) provocation,
  - (iii) remorse particularly evidence by restitution or reparation to victims,
  - (iv) impulsive action,
  - (v) no previous conviction/ being a first convict,
  - (vi) stopped as soon as the law enforcement officers arrived,
  - (vii) did not start the trouble,
  - (viii) crime occasioned by offensive behaviour of some other person,
  - (ix) peaceful assembly with no violence,
  - (x) small group,
  - (xi) people not put in fear, or
  - (xii) was coerced into membership of unlawful society by means of threat to life.

#### **5. Consideration of guilty plea and potential reduction of sentence**

- (1) The court shall take into account of any potential reduction for a guilty plea made at the trial.
- (2) A consideration for the reduction of a sentence upon a guilty plea shall not exceed a reduction by one - third of the applicable punishment prescribed by law.

#### **6. Sentencing in multiple offences (Totality Principle)**

- (1) When sentencing a convict for more than one offence, or where the convict is already serving a sentence, the court shall consider whether the total sentence is just and proportionate to the offending behaviour or prohibited conduct.
- (2) In the case of conviction for multiple offences arising from the same transaction, the sentence shall run concurrently.
- (3) In the case of conviction for multiple offences not arising from the same transaction, the Court shall consider and make pronouncement on whether the sentence shall run concurrently or consecutively.

#### **7. Compensation, restitution, restoration and ancillary orders**

- (1) In all cases, the court shall consider whether to make compensation, restitution, restoration, rehabilitation and treatment of victim and other ancillary orders in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable laws.
- (2) Where the offence has resulted in loss or damage the court shall make an order for restoration or restitution in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable laws.

#### **8. Consideration of period spent in custody or remand**

The period spent in custody while awaiting or undergoing trial shall be considered and computed in sentencing the convict.

## **9. Reasons for sentence**

The court shall give reasons for the sentence imposed.

### **ORDER 5 OFFENCES AGAINST MORALITY**

#### **1. Determining whether discretionary or non-discretionary punishment**

- (1) The court shall determine whether the statute allows exercise of discretion in sentencing for the offence under consideration.
- (2) Where the statute does not permit the exercise of discretion, the court shall apply the punishment prescribed by the statute and proceed to Rules 7 and 9 of this Order.
- (3) Where the statute permits the exercise of discretion in sentencing, the court shall proceed to Rules 2 to 9 of this Order.

#### **2. Determining the offence category for offences against morality (Culpability and harm categories)**

- (1) The court shall determine the categories of the offence in accordance with the level of culpability of the convict and severity of harm caused by the offence, after considering their respective qualifying factors set out in Rule 2(2) and (3) of this Order.
- (2) In the case of offences against morality, culpability is determined as follows -
  - (a) Category 1 – High culpability, is demonstrated by one or more of the following -
    - (i) played a leading role where offences is committed by a group,
    - (ii) sophisticated nature of the offence, involving a significant planning,
    - (iii) offence committed continuously over a period of time,
    - (iv) abused position of trust or responsibility,
    - (v) use of force,
    - (vi) type of weapon used,
    - (vii) injury to person which may be physical injury or psychological injury,
    - (viii) significant degree of premeditation,
    - (ix) death resulting from the act,
    - (x) concealment and methods of concealing the act,
    - (xi) threat to the victim against disclosure,
    - (xii) knowledge of the convict that he has communicable diseases, and
    - (xiii) vulnerability of victim.
  - (b) Category 2 – Low culpability, is demonstrated by one or more of the following -
    - (i) convict played a peripheral role in planning and executing the act,
    - (ii) lack of premeditation,
    - (iii) greater degree of provocation than normally expected,
    - (iv) severe mental or emotional disturbance,



- (v) impaired capacity occasioned by duress but which does not constitute a defence known to law,
- (vi) voluntary disclosure of the offence,
- (vii) willingness to assist in arresting and prosecuting other convicts,
- (viii) deceit of the convict by the victim, or
- (ix) cultural practice which is not repugnant to natural justice, equity and good conscience.

(3). In the case of offences against morality, harm shall be determined as follows -

- (a) Category 1 – Serious harm, is demonstrated by any one or more of the following -
  - (i) serious environmental, social and economic impacts on the victim or the society,
  - (ii) lack of awareness and understanding of moral activities,
  - (iii) involving coercion, intimidation or exploitation,
  - (iv) the convict caused serious injury to another person during the commission of the offence,
  - (v) infected the victim with diseases such as sexually transmitted diseases, or
  - (vi) bodily or internal injury to the victim.
- (b) Category 2 – Substantial harm, is demonstrated by any one or more of the following-
  - (i) significant detrimental effects on the person or persons,
  - (ii) coercion and duress, or
  - (iii) voluntary disclosure of the offence.
- (c) Category 3 – Limited harm, is demonstrated by one or more of the following –
  - (i) injury caused in the commission of the act is less serious in the content of the offence; or
  - (ii) the offence was occasioned by the grossly offensive behaviour of some other person or the victim.

### **3. Starting point and category range**

- (1) After determining the categories of culpability of the convict and severity of harm caused, the court shall apply the corresponding starting points of sentencing within the table of starting point and category range specified in the Fourth Schedule to these Practice Directions.
- (2) The existence of only one factor demonstrating low culpability and one factor demonstrating limited harm, with or without a mitigating factor, shall be sufficient to impose the starting point of 25% of the prescribed sentence which may be increased up to a maximum of 30% of the prescribed sentence if there is presence of other aggravating factors or reduced down to 1% if there is presence of mitigating factors.
- (3) The court shall not impose a non-custodial sentence on a convict except where the offence has been categorized as low culpability offence and limited harm offence in accordance with the provisions of Rule 2 of this Order.

- (4) The court may, where the circumstances are compelling, impose non-custodial sentence where there is at least one factor demonstrating low culpability and one factor demonstrating limited harm and at least one mitigating factor.
- (5) The court shall impose a non-custodial sentence in any case where there are two or more factors demonstrating low culpability and limited harm and in addition, there are two or more mitigating factors or presence of a plea of guilt by the convict.
- (6) Where the offence prescribes a minimum sentence, the court shall not impose less than that minimum sentence irrespective of the starting point set out in the Fourth Schedule to these Practice Directions.
- (7) The starting point shall apply to all convicts notwithstanding the plea of guilt or previous convictions.
- (8) Where the level of culpability of a convict is qualified by multiple features of culpability set out in Rule 2 (2) of this Order, an upward adjustment from the starting point may be made, before further adjustments for aggravating or mitigating features set out in Rule 4 of this Order.
- (9) Where a particular circumstance is listed for determining both culpability or harm categories and aggravating or mitigating factors and that circumstance is taken into account in categorizing the offence under culpability or harm categories, the same circumstance or factor should not be subsequently considered in determining the aggravating and mitigating factors.

#### **4. Adjustment based on aggravating and mitigating factors for offences against morality**

- (1) Based on evidence before it, the court may consider the aggravating and mitigating factors including those respectively listed under Sub-Rules (2) and (3) of this Rule and decide whether any combination of these or other relevant factors, shall result in an upward or downward adjustment from the starting point set out in the Fourth Schedule to these Practice Directions.
- (2) The court shall consider the following circumstances as aggravating factors in sentencing in cases of offences against morality -
  - (i) previous conviction, having regard to the nature of the offence to which the conviction relates, its relevance to the current offence and the time that has elapsed since the conviction,
  - (ii) offence committed while on bail,
  - (iii) offence motivated by, or demonstrating hostility to the victims based on the victim's sex orientation,
  - (iv) offence motivated based on victim's disability,
  - (v) planning of an offence,
  - (vi) use of a weapon to frighten or injure victim,
  - (vii) abuse of a position of trust,
  - (viii) attempt to conceal or dispose of evidence,
  - (ix) commission of the offence for financial gain,

- (x) failure to respond to warnings or concerns expressed by others about the convict's behaviour,
  - (xi) offence committed whilst on license,
  - (xii) where offence affected multiple victims,
  - (xiii) a sustained assault or repeated assaults on the same victim,
  - (xiv) victim is particularly vulnerable,
  - (xv) additional degradation of the victim for instance taking photographs of a victim as part of a sexual offence or video recording of sexual activity,
  - (xvi) convict is aware that he is suffering from sexually transmitted infection,
  - (xvii) where the offence involved abduction or detention,
  - (xviii) playing leading role in the planning or organizing of the activity,
  - (xix) causing death,
  - (xx) where the convict induced another person to take part in the crime by coercion, deceit or misuse of the person's youthfulness, lack of understanding or dependant status,
  - (xxi) extreme psychological injury,
  - (xxii) habitual convict,
  - (xxiii) status of the victim,
  - (xxiv) no remorse shown, or
  - (xxv) possession of nude pictures or other pictures of children.
- (3) The court shall consider the following circumstances as mitigating factors in sentencing in cases of offences against morality –
- (i) no previous conviction,
  - (ii) evidence of good character,
  - (iii) where offence was committed under significant coercion or provocation of the convict,
  - (iv) convict's conduct resulted from a significant lack of capacity for judgement,
  - (v) guilty pleas,
  - (vi) severe illness or old age likely result to death of the convict before release from Correctional Centre,
  - (vii) where convict suffers from any form of disability which may mean that imprisonment is an extra ordinary hardship,
  - (viii) impaired capacity where the convict was under unusual and substantial duress,
  - (ix) convict is the sole or breadwinner for dependant relatives,
  - (x) assistance in apprehending other convict or convicts,
  - (xi) the fact that the convict played a minor role in the commission of the offence,
  - (xii) youth or age, where it affects the responsibility of the individual convict,
  - (xiii) remorse shown, or
  - (xiv) voluntary disclosure of the offence by the convict.

## **5. Consideration of guilty plea and potential reduction of sentence**

- (1) The court shall take account of any potential reduction of sentence for a guilty plea made at the trial.
- (2) A consideration for the reduction of a sentence upon a guilty plea shall not exceed a reduction by one - third of the applicable punishment prescribed by law.

## **6. Sentencing in multiple offences (Totality Principle)**

- (1) When sentencing a convict for more than one offence, or where the convict is already serving a sentence, the court shall consider whether the total sentence is just and proportionate to the offending behaviour or prohibited conduct.
- (2) In the case of conviction for multiple offences arising from the same transaction, the sentence shall run concurrently.
- (3) In the case of conviction for multiple offences not arising from the same transaction, the court shall consider and make pronouncement on whether the sentence shall run concurrently or consecutively.

## **7. Compensation, restitution, restoration and ancillary orders**

- (1) In all cases, the court shall consider whether to make compensation, restitution, restoration, rehabilitation and treatment of victim and other ancillary orders in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable law.
- (2) Where the offence has resulted in loss or damage, the court shall make an order for restoration or restitution in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable law.

## **8. Consideration of period spent in custody**

The period spent in custody while awaiting or undergoing trial shall be considered and computed in sentencing the convict in accordance with section 416(2)(e) of the ACJA or any other applicable Law.

## **9. Reasons for sentence**

The court shall give reasons for the sentence imposed.

## **ORDER 6 HOMICIDE RELATED OFFENCES**

### **1. Determining whether discretionary or non-discretionary punishment**

- (1) The court shall determine whether the statute allows exercise of discretion in sentencing for the offence under consideration.
- (2) Where the statute does not permit the exercise of discretion, the court shall apply the punishment prescribed by the statute and proceed to Rules 7 and 9 of this Order.
- (3) Where the statute permits the exercise of discretion in sentencing, the court shall proceed to Rules 2 to 9 of this Order.

### **2. Determining the offence category for homicide related offences (Culpability and harm categories)**

- (1) The court shall determine the categories of the offence in accordance with the level of culpability of the convict and severity of harm caused by the offence, after considering their respective qualifying factors set out in Rule 2 (2) and (3) of this Order.
- (2) In the case of homicide related offences, culpability shall be determined as follows -
  - (a) Category 1 – High culpability, is demonstrated by one or more of the following -
    - (i) group action,
    - (ii) participation in organized crime or membership of a syndicate,
    - (iii) played a leading role,
    - (iv) premeditation or significant planning,
    - (v) damage to property,
    - (vi) risk to national security,
    - (vii) motivated by bias, sex, religion, language, ethnicity,
    - (viii) use of weapon,
    - (ix) vulnerable persons like children, elderly, women or physically challenged,
    - (x) intentionally causing death.
  - (b) Category 2 – Low culpability, is demonstrated by one or more of the following -
    - (i) lack of premeditation,
    - (ii) coercion, intimidation and or exploitation,
    - (iii) has shown remorse,
    - (iv) lack of maturity where it affects the responsibility of the convict,
    - (v) played a minor role,
    - (vi) mental or emotional disturbance, or
    - (vii) voluntary disclosure of the offence.
- (3) In the case of homicide related offences, harm shall be determined as follows -
  - (a) Category 1 – Severe harm, is demonstrated by any one or more of the following -
    - (i) victim is particularly vulnerable,
    - (ii) sustained or repeated assault on the victim,
    - (iii) grave risk of death,
    - (iv) grave risk to national security,
    - (v) multiple victims,
    - (vi) physical or psychological trauma on victim or society, or
    - (vii) location of the offence, for instance, in an isolated place.
  - (b) Category 2 – Substantial harm, is demonstrated by any one or more of the following-
    - (ii) damage to property causing a significant degree of loss, or
    - (iii) coercion and duress.
  - (c) Category 3 – Limited harm, is demonstrated by one or more of the following -
    - (i) consent of the victim,
    - (ii) limited damage or harm,
    - (iii) act has no impact on the peace and security of the State, or
    - (iv) victim contributed to the act.

### **3. Starting point and category range**

- (1) After determining the categories of culpability of the convict and severity of harm caused, the court shall apply the corresponding starting points of sentencing within the table of starting point and category range specified in the Fifth Schedule to these Practice Directions.
- (2) The existence of only one factor demonstrating low culpability and one factor demonstrating limited harm, with or without a mitigating factor, shall be sufficient to impose the starting point of 25% of the prescribed sentence which may be increased up to a maximum of 30% of the prescribed sentence if there is presence of other aggravating factors or reduced down to 1% if there is presence of mitigating factors.
- (3) The court shall not impose a non-custodial sentence on a convict except where the offence has been categorized as low culpability offence and limited harm offence in accordance with the provisions of Rule 2 of this Order.
- (4) The court may, where the circumstances are compelling, impose non-custodial sentence where there is at least one factor demonstrating low culpability and one factor demonstrating limited harm and at least one mitigating factor.
- (5) The court shall impose a non-custodial sentence in any case where there are two or more factors demonstrating low culpability and limited harm and in addition, there are two or more mitigating factors or presence of a plea of guilt by the convict.
- (6) Where the offence prescribes a minimum sentence, the court shall not impose less than that minimum sentence irrespective of the starting point set out in the Fifth Schedule to these Practice Directions.
- (7) The starting point shall apply to all convicts notwithstanding the plea of guilt or previous convictions.
- (8) Where the level of culpability of a convict is qualified by multiple features of culpability set out in Rule 2 (2) of this Order, an upward adjustment from the starting point may be made, before further adjustments for aggravating or mitigating features set out in Rule 4 of this Order.
- (9) Where a particular circumstance is listed for determining both culpability or harm categories and aggravating or mitigating factors and that circumstance is taken into account in categorizing the offence under culpability or harm categories, the same circumstance or factor should not be subsequently considered in determining the aggravating and mitigating factors.

### **4. Adjustment based on aggravating and mitigating factors for homicide related offences**

- (1) Based on evidence before it, the court may consider the aggravating and mitigating factors including those respectively listed under Sub-Rules (2) and (3) of this Order and decide whether any combination of these or other relevant factors, shall result in an upward or downward adjustment from the starting point set out in the Fifth Schedule to these Practice Directions.

- (2) The court shall consider the following circumstances as aggravating factors in sentencing in cases of offences of homicide -
- (i) use of weapon,
  - (ii) abuse of power, position of trust or authority,
  - (iii) present offence committed while on bail,
  - (iv) offence motivated or demonstrated by hostility,
  - (v) attempt to conceal, dispose or destroy evidence,
  - (vi) death during commission of another crime,
  - (vii) offence was racially or religiously motivated,
  - (viii) vulnerable persons as victims,
  - (ix) taking steps to prevent victims or witnesses from supporting investigation and prosecution,
  - (x) record of previous conviction,
  - (xi) pecuniary gain,
  - (xii) grave risk of death to additional persons,
  - (xiii) heinous, cruel, or depraved manner of committing the offence,
  - (xiv) deliberate damage to property, or
  - (xv) played a leading role in a group or gang of convicts.
- (3) The court shall consider the following circumstances as mitigating factors in sentencing in cases of offences of homicide –
- (i) spontaneous or lack of premeditation or planning;
  - (ii) duress;
  - (iii) convict has shown remorse;
  - (iv) good character;
  - (v) no previous conviction/ being a first convict;
  - (vi) assisted the authority in investigation or prosecution;
  - (vii) greater degree of provocation than normally expected;
  - (viii) impaired capacity;
  - (ix) victim's consent;
  - (x) equally culpable convict;
  - (xi) minor participation; or
  - (xii) certified debilitating medical condition.

## **5. Consideration of guilty plea and potential reduction of sentence**

- (1) The court shall take account of any potential reduction for a guilty plea made at the trial.
- (2) A consideration for the reduction of a sentence upon a guilty plea shall not exceed a reduction by one third of the applicable punishment prescribed by law.

## **6. Sentencing in multiple offences (Totality Principle)**

- (1) When sentencing a convict for more than one offence, or where the convict is already serving a sentence, the court shall consider whether the total sentence is just and proportionate to the offending behaviour or prohibited conduct.
- (2) In the case of conviction for multiple offences arising from the same transaction, the sentence shall run concurrently.

- (3) In the case of conviction for multiple offences not arising from the same transaction, the court shall consider and make pronouncement on whether the sentence shall run concurrently or consecutively.

## **7. Compensation, restitution, restoration and ancillary orders**

- (1) In all cases, the court shall consider whether to make compensation, restitution, restoration, rehabilitation and treatment of victim and other ancillary orders in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable law.
- (2) Where the offence has resulted in loss or damage, the court shall make an order for restoration or restitution in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable law.

## **8. Consideration of period spent in custody**

The period spent in custody while awaiting or undergoing trial shall be considered and computed in sentencing the convict.

## **9. Reasons for sentence**

The court shall give reasons for the sentence.

# **ORDER 7 OFFENCES AGAINST PROPERTY**

## **1. Determining whether discretionary or non-discretionary punishment**

- (1) The court shall determine whether the statute allows exercise of discretion in sentencing for the offence under consideration.
- (2) Where the statute does not permit the exercise of discretion, the court shall apply the punishment prescribed by the statute and proceed to Rules 7 and 9 of this Order.
- (3) Where the statute permits the exercise of discretion in sentencing, the court shall proceed to Rules 2 to 9 of this Order.

## **2. Determining the offence category in offences against property (Culpability and harm categories)**

- (1) The court shall determine the categories of the offence in accordance with the level of culpability of the convict and severity of harm caused by the offence, after considering their respective qualifying factors set out in Rule 2 (2) and (3) of this Order.
- (2) In the case of offences against property, culpability is determined as follows -
  - (a) Category 1 – High culpability shall be demonstrated by one or more of the following-



- (i) played a major role in planning the offence,
- (ii) convict operated in a group or gang,
- (iii) high level of gain resulted from the offence,
- (iv) victim suffered substantial loss,
- (v) convict abused position of trust or responsibility,
- (vi) where excessive violence or threat of violence is used,
- (vii) offence committed continuously or repeatedly over a period of time,
- (viii) victim or premises is deliberately targeted due to vulnerability or hostility based on disability, race; political inclination, ethnicity or religion,
- (ix) impersonation was involved,
- (x) targeting vulnerable victim,
- (xi) convict concealed or attempted to conceal proceeds of crime,
- (xii) injury to victim or damage to property resulted, or
- (xiii) targeting public servants acting in course of duty;

(b) Category 2 – Low culpability, is demonstrated by one or more of the following -

- (i) no physical or psychological injury or other significant trauma to the victim,
- (ii) property stolen is of low value (economic, sentimental or personal) to the victim,
- (iii) efforts taken by convict to remedy effects on the victim,
- (iv) involved through coercion, intimidation or exploitation,
- (v) limited awareness or understanding as to the nature of the offence being committed,
- (vi) not motivated by personal gain,
- (vii) limited damage or disturbance to the property,
- (viii) voluntary restitution to victim,
- (ix) the behaviour not fraudulent from the outset,
- (x) convict acted on misleading or inaccurate advice, or

(3) In the case of offences against property, harm shall be determined as follows -

(a) Category 1 - Serious harm, is demonstrated by any one or more of the following -

- (i) assault occasioning harm,
- (ii) sustained or repeated assault on the victim,
- (iii) offence threatens the security of persons,
- (iv) significant effect, actual or intended loss caused to the victim,
- (v) there was an attempt to conceal, dispose or destroy evidence,
- (vi) failure to comply with Court orders during the trial,
- (vii) goods had high value and sentimental value to the victim,
- (viii) serious physical and psychological effect on the victim,
- (ix) intended restriction of movement of victim,
- (x) additional degradation of the victim's injury, whether physical or psychological which is grievous in the context of the offence,
- (xi) threats of violence or abuse of power over others, for instance, an adult commissioning children to steal, or a drug dealer pressurizing addicts to steal in order to pay for their habit,
- (xiii) location of the offence such as in an isolated place,
- (xiv) use of another person's identity,

- (xv) offence has lasting effect on the victim,
  - (xvi) multiple victims,
  - (xvii) the fact that the goods involved were the proceeds of a domestic burglary,
  - (xviii) high level of profit made, or expected to be made,
  - (xix) the fact that the convict provided a regular outlet for stolen goods,
  - (xx) commission of the offence while the convict was on bail, or
  - (xxi) there was evidence of demand for ransom;
- (b) Category 2 - Substantial harm, is demonstrated by any one or more of the following-
- (i) significant detrimental effect on a person or persons,
  - (ii) where goods are of significant value,
  - (iii) goods had significant sentimental value,
  - (iv) theft of or damage to property causing a significant degree of loss to economic, commercial, sentimental, or personal value to the victim,
  - (v) ransacking or vandalism of property,
  - (vi) significant physical or psychological injury or other significant trauma to the victim,
  - (vii) inflict grievous bodily harm on a person,
  - (viii) damage to the building or anything in it; or
  - (ix) in domestic cases, victim was forced to leave his home; and
- (c) Category 3 - Limited harm, is demonstrated by one or more of the following -
- (i) nothing was stolen,
  - (ii) property involved was of very low value, be it economic, sentimental or personal to the victim,
  - (iii) there was limited damage or disturbance to the property,
  - (iv) the injury is less serious in the context of the offence,
  - (v) there was limited detrimental impact on the victim,
  - (vi) goods have no sentimental value or attachment,
  - (vii) property is of little or no benefit to the convict; or
  - (viii) there was voluntary restitution to the victim.

### 3. Starting point and category range

- (1) After determining the categories of culpability of the convict and severity of harm caused, the court shall apply the corresponding starting points of sentencing within the table of starting point and category range specified in the Sixth Schedule to these Practice Directions.
- (2) The existence of only one factor demonstrating low culpability and one factor demonstrating limited harm, with or without a mitigating factor, shall be sufficient to impose the starting point of 25% of the prescribed sentence which may be increased up to a maximum of 30% of the prescribed sentence if there is presence of other aggravating factors or reduced down to 1% if there is presence of mitigating factors.
- (3) The court shall not impose a non-custodial sentence on a convict except where the offence has been categorized as low culpability offence and limited harm offence in accordance with the provisions of Rule 2 of this Order.

- (4) The court may, where the circumstances are compelling, impose a non-custodial sentence where there is at least one factor demonstrating low culpability and one factor demonstrating limited harm and at least one mitigating factor.
- (5) The court shall impose a non-custodial sentence in any case where there are two or more factors demonstrating low culpability and limited harm and in addition, there are two or more mitigating factors or presence of a plea of guilt by the convict.
- (6) Where the offence prescribes a minimum sentence, the Court shall not impose less than that minimum sentence irrespective of the starting point set out in the Sixth Schedule to these Practice Directions.
- (7) The starting point shall apply to all convicts notwithstanding the plea of guilt or previous convictions.
- (8) Where the level of culpability of a convict is qualified by multiple features of culpability set out in Rule 2 (2) of this Order, an upward adjustment from the starting point may be made, before further adjustments for aggravating or mitigating features set out in Rule 4 of this Order.
- (9) Where a particular circumstance is listed for determining both culpability or harm categories and aggravating or mitigating factors and that circumstance is taken into account in categorizing the offence under culpability or harm categories, the same circumstance or factor should not be subsequently considered in determining the aggravating and mitigating factors.

#### **4. Adjustment based on aggravating and mitigating factors for property offences**

- (1) Based on evidence before it, the court may consider the aggravating and mitigating factors including those respectively listed under Sub-Rules (2) and (3) of this Rule and decide whether any combination of these or other relevant factors, shall result in an upward or downward adjustment from the starting point set out in the Sixth Schedule to these Practice Directions.
- (2) The court shall consider the following circumstances as aggravating factors in sentencing in cases of offences against property -
  - (i) the physical or psychological effect on the victim, even if unintended,
  - (ii) threat and intimidation to prevent the victim from reporting the offence,
  - (iii) amount of money involved,
  - (iv) length of time over which the offence was committed,
  - (v) the use to which money was put,
  - (vi) breach of position of trust, such as by employee, director or trustee,
  - (vii) degree of planning,
  - (viii) motive,
  - (ix) victim is vulnerable,
  - (x) extent of loss whether intended and actual,
  - (xi) extent of gain whether intended and actual,
  - (xii) effect on the public and public confidence,
  - (xiii) effect on fellow employees and partners,

- (xiv) where an offensive weapon is used,
- (xv) the demand for ransom,
- (xvi) where violence or threat of violence is applied,
- (xvii) dehumanizing treatment,
- (xviii) where the convict played a leading role in the commission of the offence by a group,
- (xix) pressured and influenced others into involvement,
- (xx) sophisticated nature of the offence involving significant planning,
- (xxi) previous conviction,
- (xxii) multiplicity of the offences committed.
- (xxiii) taking steps to prevent victims or witnesses from cooperating in investigation or prosecution,
- (xxiv) attempt to conceal, dispose or destroy evidence,
- (xxv) failure to comply with Court orders during the trial,
- (xxvi) offence committed at night,
- (xxvii) in domestic cases, victim forced to leave their home,
- (xxiii) established evidence of community impact,
- (xxix) commission of the offence while under the influence of alcohol or drugs,
- (xxx) vandalism of the premises, in excess of the damage generally associated with a standard burglary,
- (xxxi) possessing articles for use in an extensive and skilfully planned fraud,
- (xxxii) deliberate concealment of the victim from authorities,
- (xxxiii) targeting a particular victim because of his office or position,
- (xxxiv) deception of the victim by the convict,
- (xxxv) intended restriction of (the – remove) movement of the victim,
- (xxxvi) use of another person's identity,
- (xxxvii) threats of violence or abuse of power over others for instance, an adult commissioning children to steal, or a drug dealer pressuring addicts to steal in order to pay for their habit), or
- (xxxiii) previous conviction.

- (3) The court shall consider the following circumstances as mitigating factors in sentencing in cases of property offences –
- (i) guilty plea,
  - (ii) remorse demonstrated by making reparation or restitution of loss to the victim,
  - (iii) voluntary cessation of offence,
  - (iv) reporting an undiscovered offence,
  - (v) assistance to the Police in the prosecution or investigation,
  - (vi) involvement through coercion, intimidation and or exploitation,
  - (vii) not motivated by personal gain,
  - (viii) no previous conviction,
  - (ix) plea bargain,
  - (x) acted under duress,
  - (xi) no premeditation,
  - (xii) nothing or only property of very low value is stolen,
  - (xiii) no damage caused to dwelling or commercial premises,
  - (xiv) limited impact on the victim,
  - (xv) evidence of good character; or
  - (xvi) motive.

**5. Consideration of guilty plea and potential reduction of sentence**

- (1) The court shall take account of any potential reduction for a guilty plea made at the trial.
- (2) A consideration for the reduction of a sentence upon a guilty plea shall not exceed a reduction by one - third of the applicable punishment prescribed by law.

**6. Sentencing in multiple offences (Totality Principle)**

- (1) When sentencing a convict for more than one offence, or where the convict is already serving a sentence, the court shall consider whether the total sentence is just and proportionate to the offending behaviour or prohibited conduct.
- (2) In the case of conviction for multiple offences arising from the same transaction, the sentence shall run concurrently.
- (3) In the case of conviction for multiple offences not arising from the same transaction, the court shall consider and make pronouncement on whether the sentence shall run concurrently or consecutively.

**7. Compensation, restitution, restoration and ancillary orders**

- (1) In all cases, the court shall consider whether to make compensation, restitution, restoration, rehabilitation and treatment of victim and other ancillary orders in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable law.
- (2) Where the offence has resulted in loss or damage the court shall make an order for restoration or restitution in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable law.

**8. Consideration of period spent in custody or remand**

The period spent in custody while awaiting or undergoing trial shall be considered and computed in sentencing the convict.

**9. Reasons for sentence**

The court shall give reasons for the sentence.

**ORDER 8  
CORRUPTION, FINANCIAL CRIMES AND RELATED OFFENCES**

**1. Determining whether discretionary or non-discretionary punishment**

- (1) The court shall determine whether the statute allows exercise of discretion in sentencing for the offence under consideration.

- (2) Where the statute does not permit the exercise of discretion, the court shall apply the punishment prescribed by the statute and proceed to Rules 7 and 9 of this Order.
- (3) Where the statute permits the exercise of discretion in sentencing, the court shall proceed to Rules 2 to 9 of this Order.

**2. Determining the offence category in corruption, financial crimes and related offences (Culpability and harm categories)**

- (1) The court shall determine the categories of the offence in accordance with the level of culpability of the convict and severity of harm caused by the offence, after considering their respective qualifying factors set out in Rules 2 (2) and (3) of this Order.
- (2) In the case of corruption and related offences, culpability shall be determined as follows -
  - (a) Category 1 – High culpability, is demonstrated by one or more of the following -
    - (i) played a leading role where the offence is committed by a group,
    - (ii) pressured or influenced others into involvement,
    - (iii) abused position of significant power, trust or responsibility,
    - (iv) abused position occupied upon taking constitutional or statutory oath of office,
    - (v) by corrupt action, directly or indirectly targeted at a public officer or a law enforcement officer,
    - (vi) committed an offence involving significant planning, due to the sophisticated nature of the offence,
    - (vii) committed the offence continuously or repeatedly over a period of time, or
    - (viii) is motivated by an expectation of substantial financial, commercial or political gain, or
    - (ix) the amount involved in the crime is high.
  - (b) Category 2 – Low culpability, is demonstrated by one or more of the following -
    - (i) involvement through coercion, intimidation and or exploitation,
    - (ii) is not motivated by personal gain,
    - (iii) played peripheral role in planning and executing the corrupt act,
    - (iv) a first time convict who commits an offence with very little or no planning and the offence is opportunistic or spontaneous, or
    - (v) has a limited awareness or understanding of corrupt activity.
- (3) In the case of corruption and related offences, harm shall be determined as follows-
  - (a) Category 1 - Serious harm, is demonstrated by any one or more of the following -
    - (i) affects the fundamental human rights of any person,
    - (ii) threatens security of the State,
    - (iii) undermines revenue or economy of the State,
    - (iv) has a serious detrimental effect on person or persons,
    - (v) has a serious environmental impact,
    - (vi) seriously undermines the government, including in the provision of public services or business, or

- (vii) substantially results in actual or intended loss to the State or other person;
- (b) Category 2 - Substantial harm, is demonstrated by one or more of the following -
  - (i) there is a detrimental effect on a person,
  - (ii) there is an environmental impact,
  - (iii) the government is undermined, including in the provision of public services or business, or
  - (iv) actual or intended loss is caused to the State or other person; and
- (c) Category 3 - Limited harm, is demonstrated by one or more of the following-
  - (i) there is insignificant harm or a risk of harm to a person, business or government or the general public ,
  - (ii) the victim has been fully restored by the convict for example, through refund and apology,

### **3. Starting point and category range**

- (1) After determining the categories of culpability of the convict and severity of harm caused, the Court shall apply the corresponding starting points of sentencing within the table of starting point and category range specified in the Seventh Schedule to these Practice Directions.
- (2) The existence of only one factor demonstrating low culpability and one factor demonstrating limited harm, with or without a mitigating factor, shall be sufficient to impose the starting point of 50% of the prescribed sentence which may be increased up to a maximum of 60% of the prescribed sentence if there is presence of other aggravating factors or reduced down to 40% if there is presence of mitigating factors.
- (3) Non-custodial sentence shall not be imposed on corruption and related offences except where the statute that creates the offence expressly provides for non-custodial sentence.
- (4) Where the statute that creates the offence specifically or expressly provides for fine or other non-custodial sentence, the court shall not impose such non-custodial sentence on a convict except where the offence has been categorized as low culpability offence and limited harm offence in accordance with the provisions of Rule 2 of this Order.
- (5) The Court may, where the circumstances are compelling, impose non-custodial sentence where there is at least one factor demonstrating low culpability and one factor demonstrating limited harm and at least one mitigating factor.
- (6) The Court shall impose a non-custodial sentence in any case where there are two or more factors demonstrating low culpability and limited harm and in addition, there are two or more mitigating factors or presence of a plea of guilt by the convict.
- (7) Where the offence prescribes a minimum sentence, the court shall not impose less than that minimum sentence irrespective of the starting point set out in the Seventh Schedule to these Practice Directions.

- (8) The starting point shall apply to all convicts notwithstanding the plea of guilt or previous convictions.
- (9) Where the level of culpability of a convict is qualified by multiple features of culpability set out in Rule 2 (2) of this Order, an upward adjustment from the starting point may be made, before further adjustments for aggravating or mitigating features set out in Rule 4 of this Order.
- (10) Where a particular circumstance is listed for determining both culpability or harm categories and aggravating/mitigating factors and that circumstance is taken into account in categorizing the offence under culpability or harm categories, the same circumstance or factor should not be subsequently considered in determining the aggravating and mitigating factors.

#### **4. Adjustment based on aggravating and mitigating factors for corruption and related offences**

- (1) Based on evidence before it, the court may consider the aggravating and mitigating factors including those respectively listed under Sub-Rules (2) and (3) of this Rule and decide whether any combination of these or other relevant factors, shall result in an upward or downward adjustment from the starting point set out in the Seventh Schedule to these Practice Directions.
- (2) The court shall consider the following circumstances as aggravating factors in sentencing in cases of corruption and other related offences -
  - (a) previous convictions;
  - (b) multiplicity of offences committed;
  - (c) taking steps to prevent victims or witnesses from prosecution or supporting investigation;
  - (d) concealment, disposal or destruction of evidence;
  - (e) failure to comply with Court orders during the pendency of the trial;
  - (f) influencing, frustrating, compromising or delaying investigation or prosecution; or
  - (g) failure to respond to cautions, including administrative disciplinary actions.
- (3) The court shall consider the following circumstances as mitigating factors in sentencing in cases of corruption and related offences –
  - (a) absence of any previous conviction/ being a first convict;
  - (b) remorse, particularly evidenced by restitution or reparation to victim;
  - (c) evidence of good character;
  - (d) certified debilitating medical condition; or
  - (e) any assistance given by the convict to investigators during investigation or prosecution particularly in complex cases, including where availability of evidence is limited.

#### **5. Consideration of guilty plea and potential reduction of sentence**

- (1) The court shall take account of any potential reduction for a guilty plea made at the trial.
- (2) A consideration for the reduction of a sentence upon a guilty plea shall not exceed a reduction by one third of the applicable punishment prescribed by law.



## **6. Sentencing in multiple offences (Totality Principle)**

- (1) When sentencing a convict for more than one offence, or where the convict is already serving a sentence, the court shall consider whether the total sentence is just and proportionate to the offending behaviour or prohibited conduct.
- (2) In the case of conviction for multiple offences arising from the same transaction, the sentence shall run concurrently.
- (3) In the case of conviction for multiple offences not arising from the same transaction, the court shall consider and make pronouncement on whether the sentence shall run concurrently or consecutively.

## **7. Compensation, restitution, restoration and ancillary orders**

- (1) In all cases, the court shall consider whether to make compensation, restitution, restoration, rehabilitation and treatment of victim and other ancillary orders in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable law.
- (2) Where the offence has resulted in loss or damage the court shall make an order for restoration or restitution in accordance with the provisions of Part 32 or any other relevant provision of the ACJA or any other applicable law.
- (3) Where the convict is a public officer, the Judge shall order the Court's Registrar to forward a copy of the judgment to the appropriate administrative disciplinary agencies, including the Code of Conduct Bureau.
- (4) Where applicable, the Judge shall order the Registrar to forward a copy of the Judgment to –
  - (a) the Corporate Affairs Commission for the purpose of disqualification under the relevant provisions of the Companies and Allied Matters Act, 2020 including sections 3(4)(c), 550(1)(f) and 826(1)(d) or for the purpose of winding up under section 19(2) of the Money Laundering (Prohibition) Act; or
  - (b) relevant Professional Regulatory Bodies for the purpose of barring a convict from practicing a profession under section 16(3) and (4) of the Money Laundering (Prohibition) Act and other similar legislation.

## **8. Consideration of period spent in custody or remand**

The period spent in custody while awaiting or undergoing trial shall be considered and computed in sentencing the convict.

## **9. Reasons for sentence**

The court shall give reasons for the sentence.

**ORDER 9  
MISCELLANEOUS**

**1. Revocation and Savings Provision**

- (1) The Federal Capital Territory Courts (Sentencing Guidelines) Practice Direction, 2016 is hereby revoked.
- (2) Without prejudice to section 6 of the Interpretation Act, the revocation of the Practice Direction specified in Sub-Rule 1 of this Order shall not affect anything done or purported to be done under or pursuant to the revoked Practice Direction.
- (3) The Chief Judge, High Court of the Federal Capital Territory may, from time to time, amend or revoke the provisions of these Practice Directions.

**2. Interpretation**

- (1) In these Practice Directions –  
“ACJA” means Administration of Criminal Justice Act, 2015;

“Corruption, financial crimes and related offences” means offences that involve deception or dishonesty, are concealed, have illegal profit or benefits as their object and often result in financial loss to a person (natural and artificial) or the government. These offences include but are not limited to offences listed in the Fourteenth Schedule to these Practice Directions;

“Culpability” means the degree of blameworthiness of the convict’s act or omission for sentencing purpose which is determined according to the degree of the convict’s –

- (a) intention to cause harm;
- (b) recklessness as to whether harm is caused ;
- (c) knowledge of the specific risks entailed by his actions even though he does not intend to cause the resulting harm; or
- (d) negligence.

“Harm” includes death, any bodily hurt, disease, or disorder, whether permanent or temporary, any psychological or emotional injury, damage to property or any economic or financial loss;

“High culpability” refers to the highest level of culpability which shall be determined according to the degree of culpability of the convict;

“Homicide related offences” means offences that involve the death of a person or attempted death of a person (both born and unborn).These offences include but are not limited to offences listed in the Twelfth Schedule to these Practice Directions;

“NCSA” means the Nigerian Correctional Service Act, 2019;

“Limited harm” refers to the lowest level of harm which shall be determined according to the degree or effect of the harm on the victim;

“Low culpability” refers to the lowest level of culpability which shall be determined according to the degree of culpability of the convict;

“Offence against morality” means offences which violate or offend the moral, social and personal values or behaviour of the people in the society or their code of conduct. These offences include but are not limited to offences listed in the Eleventh Schedule to these Practice Directions;

“Offence against property” means offences where the primary purpose of the offender is to acquire or obtain money or property or something else that would be of a benefit to them or to cause damage to a property. These offences include but are not limited to offences listed in the Thirteenth Schedule to these Practice Directions;

“Offences against public order” means offences that are calculated to undermine public order or interfere with operations of society and the ability of people to function efficiently, or that affect the smooth running of orderly society. These offences generally relate to behaviour in public places like roads, mosques and churches, recreational areas, public parks, cemeteries, trains and buses and other public transport vehicles. They include but are not limited to offences listed in the Tenth Schedule to these Practice Directions;

“Offences against the person” means offences that involve direct bodily or physical harm or force, the threat of bodily or physical harm or force, or other actions committed against the will of an individual. These offences include but are not limited to offences listed in the Ninth Schedule to these Practice Directions. Offences against persons which result in death such as homicide offences, are for the purpose of these Practice Directions classified as homicide related offences and not as offences against the person;

“Offences against the State” means offences that are calculated to undermine the authority of the state, or that affect the security of the state as a whole, or that constitute illegal attack on the lawful government of a country. These offences include but are not limited to offences listed in the Eighth Schedule to these Practice Directions;

“Sentencing” means the pronouncement by a Court of the degree of punishment on a convict in accordance with the law and these Practice Directions.

“Serious harm” refers to the highest level of harm which shall be determined according to the degree or effect of the harm on the victim;

“Substantial harm” refers to the middle level of harm which neither qualifies as serious harm nor as limited harm and it shall be determined according to the degree or effect of the harm on the victim;

- (2) In these Practice Directions, reference to any legislation or enactment shall include such legislation or enactment and its successor legislation or enactment as amended or modified.

### 3. Citation

These Practice Directions may be cited as Federal Capital Territory Courts (Custodial and Non-Custodial Sentencing) Practice Directions, 2020.

#### FIRST SCHEDULE

[Order 2 Rules 3 (1) and (2) & 4(1)]

**TABLE 1 - STARTING POINT AND CATEGORY RANGE FOR OFFENCES  
AGAINST THE STATE:**

Level of harm	High culpability	Low culpability
Serious harm	Starting point - 90% Range - 80% - 100%	Starting point - 70% Range - 50% - 80%
Substantial harm	Starting point - 80% Range - 60% - 90%	Starting point - 60% Range - 40% - 70%
Limited harm	Starting point - 70% Range - 50% - 80%	Starting point - 25% Range - Option of fine or other non-custodial sentence – 30%

Note: two examples for calculating percentages of sentences:

90% of 10 years sentence is  $0.9 \times 10$  years = 9 years.

60% of a 7 year sentence is  $0.6 \times 7$  years = 4.2. The 4.2 years can be rounded up.

#### SECOND SCHEDULE

[Order 3 Rules 3 (1) and (2) & 4(1)]

**TABLE 2 - STARTING POINT AND CATEGORY RANGE FOR OFFENCES  
AGAINST PERSON**

Level of harm	High culpability	Low culpability
Serious harm	Starting point - 90% Range - 80% - 100%	Starting point - 50% Range - 40% - 60%
Substantial harm	Starting point - 80% Range - 60% - 90%	Starting point - 40% Range - 30% - 50%
Limited harm	Starting point - 50% Range - 40% - 60%	Starting point - 25% Range - Option of fine or other non-custodial sentence - 30%

Note: Examples for calculating percentages of sentences:

90% of 10 years sentence is  $0.9 \times 10$  years = 9 years.

60% of a 7 year sentence is  $0.6 \times 7$  years = 4.2. The 4.2 years can be rounded up.

### THIRD SCHEDULE

[Order 4 Rules 3 (1) and (2) & 4(1)]

**TABLE 3 - STARTING POINT AND CATEGORY RANGE FOR OFFENCES  
AGAINST PUBLIC ORDER:**

<b>Level of harm</b>	<b>High culpability</b>	<b>Low culpability</b>
Severe harm	Starting point - 90% Range - 80% - 100%	Starting point - 70% Range - 50% - 80%
Substantial harm	Starting point - 80% Range - 60% - 90%	Starting point - 60% Range - 40% - 70%
Limited harm	Starting point - 70% Range - 50% - 80%	Starting point - 25% Range - Option of fine or other non-custodial sentence – 30%

Note: Examples for calculating percentages of sentences:

90% of 10 years sentence is  $0.9 \times 10 \text{ years} = 9 \text{ years}$ .

60% of a 7 year sentence is  $0.6 \times 7 \text{ years} = 4.2$ . The 4.2 years can be rounded up.

### FOURTH SCHEDULE

[Order 5 Rules 3 (1) and (2) & 4(1)]

**TABLE 4 - STARTING POINT AND CATEGORY RANGE FOR OFFENCES  
AGAINST MORALITY**

<b>Level of harm</b>	<b>High culpability</b>	<b>Low culpability</b>
Serious harm	Starting point - 90% Range - 80% - 100%	Starting point - 50% Range - 40% - 60%
Substantial harm	Starting point - 70% Range - 60% - 80%	Starting point - 40% Range - 30% - 50%
Limited harm	Starting point - 60% Range - 50% - 70%	Starting point - 25% Range - Option of fine or other non-custodial sentence – 30%

Note: Examples for calculating percentages of sentences:

90% of 10 years sentence is  $0.9 \times 10 \text{ years} = 9 \text{ years}$ .

60% of a 7 year sentence is  $0.6 \times 7 \text{ years} = 4.2$ . The 4.2 years can be rounded up.

## FIFTH SCHEDULE

[Order 6 Rules 3 (1) and (2) & 4(1)]

**TABLE 5 - STARTING POINT AND CATEGORY RANGE FOR  
HOMICIDE RELATED OFFENCES**

<b>Level of harm</b>	<b>High culpability</b>	<b>Low culpability</b>
Serious harm	Starting point - 90% Range 80% - 100%	Starting point - 70% Range - 50% - 80%
Substantial harm	Starting point - 80% Range - 60% - 90%	Starting point - 60% Range - 40% - 70%
Limited harm	Starting point - 70% Range - 50% - 80%	Starting point - 25% Range - Option of fine or other non-custodial sentence – 30%

Note: two examples for calculating percentages of sentences:

90% of 10 years sentence is  $0.9 \times 10$  years = 9 years.

60% of a 7 year sentence is  $0.6 \times 7$  years = 4.2. The 4.2 years can be rounded up.

## SIXTH SCHEDULE

[Order 7 Rules 3 (1) and (2) & 4(1)]

**TABLE 6 - STARTING POINT AND CATEGORY RANGE FOR OFFENCES  
AGAINST PROPERTY**

<b>Level of harm</b>	<b>High culpability</b>	<b>Low culpability</b>
Serious harm	Starting point - 90% Range - 80% - 100%	Starting point - 50% Range - 40% - 60%
Substantial harm	Starting point - 70% Range - 60% - 80%	Starting point - 40% Range - 30% - 50%
Limited harm	Starting point - 50% Range - 40% - 60%	Starting point - 25% Range - Option of fine or other non-custodial sentence – 30%

Note: Examples for calculating percentages of sentences:

90% of 10 years sentence is  $0.9 \times 10$  years = 9 years.

60% of a 7 year sentence is  $0.6 \times 7$  years = 4.2. The 4.2 years can be rounded up.

**SEVENTH SCHEDULE**

**[Order 8 Rules 3 (1) and (2) & 4(1)]**

**TABLE 7 - STARTING POINT AND CATEGORY RANGE FOR CORRUPTION, FINANCIAL CRIMES AND RELATED OFFENCES:**

<b>Level of harm</b>	<b>High culpability</b>	<b>Low culpability</b>
Serious harm	Starting Point - 90% Range - 80% - 100%	Starting Point - 70% Range - 50% - 80%
Substantial harm	Starting Point - 80% Range - 60% - 80%	Starting Point - 60% Range - 40% - 70%
Limited harm	Starting Point - 70% Range - 50% - 70%	Starting Point - 50% Range - Option of fine or other non-custodial sentence - 60%

Note: Examples for calculating percentages of sentences:

90% of 10 years sentence is 0.9 x 10 years = 9 years.

60% of a 7 year sentence is 0.6 x 7 years = 4.2. The 4.2 years can be rounded up.

**THE EIGHTH SCHEDULE  
LIST OF SOME OFFENCES AGAINST THE STATE UNDER PENAL CODE (PC)  
PENAL CODE (NORTHERN STATES) (PC NS)**

**[Order 1 Rule 2(1) (B) And Order 9 Rule 2(1)]**

<b>S/N</b>	<b>OFFENCES</b>	<b>LAW</b>	<b>SENTENCES</b>
1	Mischief in relation to water supply	Section 331 PC	5 years or fine or both
2	Mischief by injury to public road, bridge, river or channel	Section 332 PC	Life imprisonment or fine or both
3.	Mischief by inundation or obstruction to public Drainage	Section 333 PC	5 years or fine or both
4.	Mischief relating to electricity, telegraphs and Telephones	Section 334 PC	5 years or fine or both
5	Mischief by by destroying or moving a public land mark	Section 335 PC	1 year or fine or both

6	Mischief by fire or explosive substance with intent to cause damage	Section 336 PC	7 years and fine
7	Forgery of public seals	Section 365 PC	Life imprisonment and fine
8	Treason	Section 411 PC (NS)	Death, Life imprisonment or fine or both for attempt or abetting
9	Treasonable crimes	Section 412 PC (NS)	Life imprisonment and fine
10	Inciting to mutiny	Section 413 PC (NS)	Life imprisonment and fine
11	Causing disaffection among soldiers, police or prison Officers	Section 414 PC (NS)	3 years imprisonment or fine or both
12	Assisting or allowing escape of prisoners of war	Section 415 PC (NS)	2 years imprisonment or fine or both
13	Sedition	Section 416 PC (NS)	7 years imprisonment or fine or both
14	Exciting hatred between classes	Section 417 PC (NS)	3 years imprisonment or fine or both
15	Publication of false news with intent to cause offence against the public peace	Section 418 PC (NS)	3 years imprisonment or fine or both
16	Possession of seditious articles	Section 419 PC (NS)	2 years imprisonment or fine or both
17	Importation of prohibited publications	Section 421 PC (NS)	3 years imprisonment or fine or both
18	Unlawful drilling	Section 422 PC (NS)	7 years imprisonment or fine or both
19	Sending dangerous or obscene things by post	Section 463 PC (NS)	1 year imprisonment or fine or both
20	Placing injurious substances in or against letter box	Section 466 PC (NS)	Fine
21	Intentionally endangering safety of persons travelling by Railway	Section 469 PC (NS)	Life imprisonment and fine
22	Obstructing and injuring railways	Section 471 PC (NS)	3 months imprisonment or fine or both
23	Obstructing aircraft	Section 472 PC (NS)	2 years imprisonment or fine or both
24	Trespass on aerodrome	Section 473 PC (NS)	3 months imprisonment or fine or both
25	Fraudulently dealing with minerals in mines	Section 474 PC (NS)	3 years imprisonment or fine or both
26	Attempt to injure mines	Section 475 PC (NS)	7 years imprisonment or fine or both
27	False statements in application for passports	Section 477 PC (NS)	1 year imprisonment



## THE NINTH SCHEDULE

### LIST OF SOME OFFENCES AGAINST THE PERSON UNDER PENAL CODE (PC) VIOLENCE AGAINST PERSONS (PROHIBITION) ACT, 2015 (VAPPA) CHILD RIGHTS ACT, 2003 (CRA) TRAFFICKING IN PERSONS (PROHIBITION) ACT, 2015 (TPPA)

[Order 1 Rule 2(1) (b) and Order 9 Rule 2(1)]

S/N	OFFENCES	LAW	SENTENCES
1	Voluntarily causing hurt on provocation	Section 244 PC	1 month imprisonment or fine or both
2	Voluntarily causing grievous hurt on Provocation	Section 245 PC	4 years imprisonment or fine or both
3	Voluntarily causing hurt without Provocation	Section 246 PC	1 year imprisonment or fine or both
4	Voluntarily causing grievous hurt without Provocation	Section 247 PC	7 years imprisonment and fine
5	Voluntarily causing hurt by dangerous weapon or means	Section 248 PC	3 years imprisonment or fine or both 14 years imprisonment and fine if hurt be grievous
6	Causing hurt by means of poison with intent to commit an offence	Section 249 PC	10 years imprisonment and fine
7	Voluntarily causing hurt to deter public officer from his duty	Section 252 PC	3 years imprisonment or fine or both 10 years imprisonment and fine if hurt be grievous
8	Causing hurt by an act which endangers human life	Section 253 PC	1 year imprisonment or fine or both 2 years imprisonment or fine or both if hurt be grievous
9	Wrongfully restraint	Section 256 PC	1 month imprisonment or fine or both
10	Wrongfully confinement	Section 257 PC	1 year imprisonment or fine or both 3 years imprisonment or fine or both if confinement continues for more than three days
11	Wrongful confinement after warrant or order has been issued	Section 258 PC	2 years imprisonment
12	Wrongful confinement in secret	Section 259 PC	2 years imprisonment
13	Assault or use of Criminal force without provocation	Section 265PC	1 year imprisonment or fine or both 3 years imprisonment or fine or both if hurt be grievous

14	Assault or use of Criminal force on Provocation	Section 266 PC	3 months imprisonment or fine or both
15	Assault or use of Criminal force to deter a public officer from discharge of his duty	Section 267 PC	3 years imprisonment or fine or both
16	Assault or use of Criminal force to a woman with intent to outrage her modesty	Section 268 PC	3 years imprisonment or fine or both
17	Assault or use Criminal force in attempt to wrongfully confine a person	Section 270 PC	2 years imprisonment or fine or both
18	Kidnapping	Section 273 PC	10 years imprisonment and fine
19	Kidnapping or abducting in order to commit culpable homicide	Section 274 PC	14 years imprisonment and fine
20	Concealing or keeping in confinement a kidnapped or abducted person	Section 277 PC	10 years imprisonment and fine
21	Unlawful compulsory labour	Section 280 PC	1 year imprisonment or fine or both
21A	Trafficking in women	Section 281 PC	7 years imprisonment and fine
22	Rape	Section 283 PC	Life imprisonment and fine
23	Defamation	Section 392 PC	2 years imprisonment or fine or both
24	Injurious falsehood	Section 393 PC	2 years imprisonment or fine or both
25	Printing or engraving matter known to be Defamatory	Section 394 PC	2 years imprisonment or fine or both
26	Sale of printed or engraved substance Containing defamatory matter, Knowing It to contain such matter	Section 395 PC	2 years imprisonment or fine or both
27	Criminal intimidation	Section 397 PC	2 years imprisonment or fine or both 7 years imprisonment or fine or both if threat be to cause hurt of grievous hurt
28	Criminal intimidation by anonymous communication	Section 398 PC	2 years Imprisonment
29	Intentional insult with intent to provoke breach of the peace	Section 399 PC	2 years imprisonment or fine or both
30	Rape	Section 1 VAPPA	Life imprisonment, minimum of 12 years imprisonment without option of fine, minimum of 20 years imprisonment without option of fine for group rape

31	Inflicting physical injury on a person	Section 2 VAPPA	5 years imprisonment or fine or both 3 years imprisonment or fine or both for attempt 3 years imprisonment or fine or both for inciting, aiding etc 3 years imprisonment or fine or both for receiving or assisting offender
32	Coercion of another to engage in an act to the detriment of that other person's physical or psychological well being	Section 3 VAPPA	3 years imprisonment
33	Willfully placing a person in fear of physical injury	Section 4 VAPPA	2 years imprisonment or fine or both 1 year imprisonment or fine or both for attempt 1 year imprisonment or fine or both for inciting 1 year imprisonment or fine or both for receiving or assisting offender
34	Offensive conduct	Section 5 VAPPA	2 years imprisonment or fine or both 1 year imprisonment or fine or both for attempt 1 year imprisonment or fine or both for inciting, aiding etc 3 years imprisonment or fine or both for receiving or assisting offender
35	Performance of female circumcision or genital mutilation or engaging another to carry out such circumcision or mutilation	Section 6 VAPPA	4 years imprisonment or fine or both 2 years imprisonment or fine or both for attempt 2 years imprisonment or fine or both for inciting, aiding etc
36	Willfully making false statement	Section 8 VAPPA	Fine or 12 months imprisonment
37	Forceful ejection of spouse from home	Section 9 VAPPA	2 years imprisonment or fine or both 1 year imprisonment or fine or both for attempt 1 year imprisonment or fine or both for inciting, aiding etc

			1 year imprisonment or fine or both for receiving or assisting offender
38	Depriving a person of his or her liberty	Section 10 VAPPA	2 years imprisonment or fine or both 1 year imprisonment or fine or both for attempt 2 years imprisonment or fine or both for inciting etc 1 year imprisonment or fine or both for receiving or assisting offender
39	Damages to property with intent to cause distress	Section 11 VAPPA	2 years imprisonment or fine or both 1 year imprisonment or fine or both for attempt 1 year imprisonment or fine or both for inciting 1 year imprisonment or fine or both for receiving offender
40	Forced financial dependence or economic abuse	Section 12 VAPPA	2 years imprisonment or fine or both 1 year imprisonment or fine or both for attempt 1 year imprisonment or fine or both for inciting 6 months imprisonment or fine or both for receiving or assisting offender
41	Forced isolation or separation from family and friends	Section 13 VAPPA	6 months imprisonment or fine or both 3 months imprisonment or fine or both for attempt 3 months imprisonment or fine or both for inciting 3 months imprisonment or fine or both for receiving offender
42	Emotional, verbal and psychological abuse	Section 14 VAPPA	1 year imprisonment or fine or both 6 months imprisonment or fine or both for attempt 6 months imprisonment or fine or both for inciting 6 months imprisonment or fine or both for receiving or assisting offender
43	Harmful widowhood practices	Section 15 VAPPA	2 years imprisonment or fine or both

			<p>1 year imprisonment or fine or both for attempt</p> <p>1 year imprisonment or fine or both for inciting</p> <p>1 year imprisonment or fine or both for assisting offender</p>
44	Abandonment of spouse, children and other dependants without sustenance	Section 16 VAPPA	<p>3 years imprisonment or fine or both</p> <p>2 years imprisonment or fine or both for attempt</p> <p>2 years imprisonment or fine or both for inciting</p> <p>1 year imprisonment or fine or both assisting offender</p>
45	Stalking	Section 17 VAPPA	<p>2 years imprisonment or fine or both</p> <p>1 year imprisonment or fine or both for attempt</p> <p>1 year imprisonment or fine or both for inciting</p> <p>1 year imprisonment or fine or both for assisting offender</p>
46	Intimidation	Section 18 VAPPA	<p>1 year imprisonment or fine or both</p> <p>6 months imprisonment or fine or both for attempt</p> <p>6 months imprisonment or fine or both for inciting</p> <p>6 months imprisonment or fine or both for assisting offender</p>
47	Spousal battery	Section 19 VAPPA	<p>3 years imprisonment or fine or both</p> <p>1 year imprisonment or fine or both for attempt</p> <p>1 year imprisonment for fine or both for attempt</p> <p>1 year imprisonment or fine or both for inciting</p> <p>1 year imprisonment or fine or both for assisting offender</p>
48	Harmful traditional practices	Section 20 VAPPA	<p>4 years imprisonment or fine or both</p> <p>2 years imprisonment or fine or both for attempt</p> <p>2 years imprisonment or fine or both for inciting</p> <p>2 years imprisonment or fine or both for assisting offender</p>

49	Attack with Harmful substance	Section 21 VAPPA	Life Imprisonment without option of fine 25 years imprisonment without option of fine for attempt 25 years imprisonment without option of fine for inciting 25 years imprisonment without option of fine for assisting offender
49A	Administering a substance with intent	Section 22 VAPPA	10 years imprisonment or fine or both
50	Political violence	Section 23 VAPPA	4 years imprisonment or fine or both 2 years imprisonment or fine or both for attempt 2 years imprisonment or fine or both for inciting 2 years imprisonment or fine or both for assisting offender
51	Violence by state actor	Section 24 VAPPA	4 years imprisonment or fine or both 3 years imprisonment or fine or both for attempt 2 years imprisonment or fine or both for inciting, aiding etc 1 year imprisonment or fine or both for assisting offender
52	Incest without consent	Section 25 (a) VAPPA	10 years imprisonment minimum with no option of fine
53	Child Marriage and betrothal	Section 23(d) CRA	N500,000 fine or 5 years imprisonment or both
54	Making Tattoos or skin mark on a Child	Section 24(2) CRA	N5,000 or 1 month imprisonment or both
55	Exposure of a Child to use, production and trafficking of narcotic drugs	Section 25(2) CRA	Life imprisonment
56	Use of Children in other Criminal activities	Section 26(2) CRA	14 years imprisonment
57	Abduction, Removal and Transfer of child from lawful custody with intention to return the child to Nigeria	Section 27(2)	15 years imprisonment where the child is taken outside Nigeria and there is intention to return the child to Nigeria, 20 years imprisonment where the child is taken outside

			Nigeria and no intention to return the child to Nigeria, 10 years imprisonment where child is taken out of state of parent residence, 7 years imprisonment in other cases
58	Subjection of Child to forced or exploitative Labour	Section 28(3) CRA	N50,000 or 5 years imprisonment or both
59	Buying, Selling, Hiring or otherwise dealing in children for the purpose of Hawking or begging for alms and prostitution	Section 30(3) CRA	10 years imprisonment
60	Unlawful Sexual intercourse with a Child	Section 31(2) CRA	Life imprisonment
61	Trafficking in person	Section 13 TPPA	2 years imprisonment minimum or fine
62	Importation and exportation of persons	Section 14 TPPA	5 years imprisonment minimum and fine
63	Procurement of person for sexual exploitation	Section 15 TPPA	5 years imprisonment and fine
64	Forced labour	Section 22 TPPA	5 years imprisonment minimum and fine
65	Trafficking in slaves	Section 24 TPPA	7 years imprisonment minimum and fine
66	Slave dealing	Section 25 TPPA	7 years imprisonment minimum and fine

## THE TENTH SCHEDULE

### LIST OF SOME OFFENCES AGAINST PUBLIC ORDER UNDER PENAL CODE

[Order 1 Rule 2(1) (b) and Order 9 Rule 2(1)]

S/N	Offences	Law	Sentence
1.	Membership of of unlawful assembly	Section 102 PC	1 year imprisonment or fine or both
2.	Joining an unlawful assembly armed with any deadly weapon	Section 103 PC	2 years imprisonment or fine or both
3.	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse	Section 104 PC	5 years imprisonment or fine or both

4.	Rioting	Section 106 PC	3 years imprisonment or fine or both
5.	Rioting armed with a deadly weapon	Section 107 PC	7 years imprisonment or fine or both
6.	Promoting or assisting the promoting of an unlawful assembly	Section 109 PC	1 year imprisonment or fine or both
7.	Joining or continuing in any unlawful assembly of five or more persons	Section 110 PC	1 year imprisonment or fine or both
8.	Wearing and carrying of emblem, flag, e.t.c	Section 111 PC	6 months imprisonment or fine or both
9.	Assaulting or obstructing public servant when suppressing riot e.t.c	Section 112 PC	5 years imprisonment or fine or both
10.	Disturbance of public peace	Section 113 PC	3 years imprisonment or fine or both
11.	Inciting disturbance	Section 114 PC	3 years imprisonment or fine or both
12.	Fouling the water of a public well or reservoir	Section 191 PC	2 years imprisonment or fine or both
13.	Making atmosphere noxious to health	Section 192 PC	6 months imprisonment or fine or both
14.	Exhibition of a false light, mark or buoy	Section 193 PC	7 years imprisonment or fine or both
15.	Causing obstruction in any public way or line of navigation	Section 194 PC	2 years imprisonment or fine or both
16.	Employees engaged on work of public work without notice	Section 195 PC	6 months imprisonment or fine or both
17.	Negligent conduct endangering human life e.t.c	Section 196 PC	6 months imprisonment or fine or both
18.	Negligent conduct with respect to animals	Section 197 PC	6 months imprisonment or fine or both
19.	Public nuisance in other cases	Section 198 PC	1 year imprisonment or fine or both
20.	Continuance of nuisance after injunction to discontinue	Section 199 PC	3 years imprisonment or fine or both
21.	Obscene or indecent acts	Section 200 PC	2 years imprisonment or fine or both
22.	Sale e.t.c of obscene books e.t.c or having such books in possession for sale or exhibition	Section 202 PC	2 years imprisonment or fine or both



23.	Obscene songs	Section 203 PC	3 months imprisonment or fine or both
24.	Insulting religious creed	Section 210 PC	2 years imprisonment or fine or both
25.	Injuring or defiling place of worship	Section 211 PC	2 years imprisonment or fine or both
26.	Disturbing religious assembly	Section 212 PC	1 year imprisonment with fine or both
27.	Committing trespass on place of worship or Burial	Section 213 PC	2 years imprisonment or fine or both
28.	Drunkenness in a public place	Section 401 PC	3 months imprisonment or fine or both 6 months imprisonment or fine or both if conduct is disorderly

## THE ELEVENTH SCHEDULE

### LIST OF SOME OFFENCES AGAINST MORALITY UNDER PENAL CODE (PC) SAME SEX MARRIAGE (PROHIBITION) ACT 2014 (SSMPA) VIOLENCE AGAINST PERSONS (PROHIBITION) ACT 2015 (VAPPA)

[Order 1 Rule 2(1) (b) and Order 9 Rule 2(1)]

S/No	Offences	Law	Sentences
1.	Obscene and indecent acts	Section 200 PC	7 years imprisonment or fine or both
2.	Keeping brothel	Section 201 PC	1 years imprisonment or fine or both
3.	Sale of obscene books, etc.	Section 202 PC	2 years imprisonment or fine or both
4.	Obscene songs, etc	Section 203 PC	3 months imprisonment or fine or both
5.	Keeping gaming house or lottery office	Section 205 PC	2 years imprisonment or fine or both

6	Abandonment of child under twelve years	Section 237 PC	7 years imprisonment or fine or both
7.	Procuration of minor girl	Section 275 PC	10 years imprisonment and fine
8.	Importation of girls from foreign country	Section 276 PC	10 years imprisonment and fine
9.	Buying and selling minor for immoral purpose	Section 278 PC	10 years imprisonment and fine
10.	Buying or disposing of slave	Section 279 PC	14 years imprisonment and fine
11	Unnatural offences	Section 284 PC	14 years imprisonment and fine
12.	Acts of gross indecency	Section 285 PC	7 years imprisonment and fine
13	Deceitfully inducing belief of lawful marriage	Section 383 PC	10 years imprisonment and fine
14.	Marrying again during lifetime of husband or wife	Section 384 PC	7 years imprisonment and fine
15.	Re-marrying with concealment of former marriage	Section 385 PC	10 years imprisonment and fine
16.	Marriage ceremony fraudulently gone through without lawful marriage	Section 386 PC	7 years imprisonment and fine
17.	Adultery by a man	Section 387 PC	2 years imprisonment or fine or both
18	Adultery by a woman	Section 388 PC	2 years imprisonment or fine or both
19.	Enticing or taking away or detaining with criminal intent a married woman	Section 389 PC	2 years imprisonment or fine or both
20.	Incest (with consent)	Section 390 PC	7 years imprisonment and fine
21	Word, gesture or act intended to insult the modesty of a woman	Section 400 PC	1 year imprisonment or fine or both
22.	Drunkenness in private place	Section 402 PC	6 months imprisonment or fine or both

23.	Drinking alcoholic drink	Section 403 PC	1 month imprisonment or fine or both
24.	Contracting same sex marriage	Section 5(1) SSMPA	14 years imprisonment
25.	Registering, operating or participating in gay clubs	Section 5 (2) SSMPA	10 years imprisonment
26.	Administering, witnessing, abetting or aiding solemnization of same sex marriage	Section 5 (3) SSMPA	10 years imprisonment
27.	Incest with consent	Section 25 (b) VAPPA	5 years imprisonment minimum without option of fine
28	Indecent exposure	Section 26(3) VAPPA	1 year imprisonment or fine or both

## THE TWELFTH SCHEDULE

### LIST OF SOME HOMICIDE RELATED OFFENCES UNDER THE PENAL CODE (PC)

[Order 1 Rule 2(1) (b) and Order 9 Rule 2(1)]

S/N	Offences	Law	Sentences
1.	Culpable homicide punishable with death	Section 221 PC	Death
2.	Culpable homicide not punishable with death	Section 224 PC	Life imprisonment or fine or both
3.	Death caused when intention is to cause hurt only	Section 225 PC	14 years imprisonment or fine or both
4.	Death caused in act of committing offence	Section 226 PC	10 years imprisonment or fine or both
5.	Abetment of suicide of child or insane person	Section 227 PC	Death
6.	Abetment of suicide	Section 228 PC	10 years imprisonment and fine
7.	Attempt to commit culpable homicide	Section 229 PC	Life imprisonment or fine or both, Death if committed while serving life sentence
8.	Attempt to commit culpable homicide not punishable with death	Section 230 PC	3 years imprisonment or fine or both 7 years imprisonment or fine or both if committed while serving life sentence and hurt results

9.	Attempt to commit suicide	Section 231 PC	1 year imprisonment or fine or both
10.	Causing miscarriage	Section 232 PC	14 years imprisonment or fine or both
11.	Death caused by act done with intent to cause miscarriage	Section 233 PC	14 years imprisonment and fine, Life imprisonment if act done without consent of the woman
12.	Causing miscarriage unintentionally	Section 234 PC	3 years imprisonment or fine or both 5 years imprisonment or fine or both if woman was with child
13	Act done with intent to prevent child being born alive or to cause it to die after birth	Section 235 PC	14 years imprisonment or fine or both
14	Causing death of quick unborn child by act amounting to culpable homicide	Section 236 PC	Life imprisonment and fine
15	Concealment of birth	Section 239 PC	2 years imprisonment or fine or both

### THE THIRTEENTH SCHEDULE

#### LIST OF SOME OFFENCES AGAINST PROPERTY UNDER ROBBERY AND FIREARMS (SPECIAL PROVISIONS) ACT PENAL CODE (PC)

[Order 1 Rule 2(1) (b) and Order 9 Rule 2(1)]

S/N	Offences	Law	Sentences
1	Robbery	Section 1 (1) Robbery and Firearms (Special Provisions) Act	21 years imprisonment
2	Robbery with firearms	Section 1 (2) Robbery and Firearms (Special Provisions) Act	Death
3	Attempted robbery	Section 2 (1) Robbery and Firearms (Special Provisions) Act	14-21 years imprisonment
4	Attempted armed robbery	Section 2 (2) Robbery and Firearms (Special Provisions) Act	Life imprisonment
5	Illegal purchase or bid for property offered for sale by authority of public officer	Section 147 PC	1 month imprisonment or fine or both

6	Fraudulent removal of property to prevent lawful seizure or execution	Section 174 PC	2 years imprisonment or fine or both
7	Taking gift to help to recover stolen property	Section 181 PC	7 years imprisonment or fine or both
8	Negligent conduct causing danger to person or property	Section 196 PC	6 months imprisonment or fine or both
9	Voluntarily causing hurt to extort property or to constrain to an illegal act	Section 250	10 years imprisonment and fine 14 years imprisonment and fine if grievous hurt is caused
10	Voluntarily causing hurt to extort, confession or to compel restoration of property	Section 251 PC	7 years imprisonment and fine 10 years imprisonment and fine if grievous hurt is caused
11	Wrongful confinement to extort property or constrain to illegal act	Section 260 PC	3 years imprisonment and fine
12	Wrongful confinement to extort confession or compel restoration of property	Section 261 PC	3 years imprisonment and fine
13	Assault or criminal force in attempt to commit theft of property carried by a person	Section 269 PC	3 years imprisonment or fine or both
14	Theft	Section 287 PC	5 years imprisonment or fine or both
15	Theft in dwelling-house, etc.	Section 288 PC	7 years imprisonment or fine or both
16	Theft by clerk or servant of property in possession of master	Section 289 PC	7 years imprisonment or fine or both
17	Theft after preparing to cause death, hurt or restraint in order to commit theft	Section 290 PC	14 years imprisonment with fine
18	Extortion	Section 292 PC	5 years imprisonment or fine or both

19	Putting a person in fear of injury in order to commit extortion	Section 293 PC	2 years imprisonment or fine or both
20	Extortion by putting a person in fear of death or grievous hurt	Section 294 PC	14 years imprisonment and fine
21	Extortion by threat of accusation of an offence punishable with death	Section 295 PC	14 years imprisonment and fine
22	Criminal misappropriation	Section 309 PC	2 years imprisonment or fine or both
23	Criminal misappropriation of property possessed by deceased person at the time of his death	Section 310 PC	3 years imprisonment and fine 7 years imprisonment and fine if employee of the dead
24	Criminal breach of trust	Section 312 PC	7 years imprisonment or fine or both
25	Criminal breach of trust by carrier, etc.	Section 313 PC	10 years imprisonment and fine
26	Criminal breach of trust by clerk or servant	Section 314 PC	10 years imprisonment and fine
27	Criminal breach of trust by public officer or by banker, merchant or agent	Section 315 PC	14 years imprisonment and fine
28	Dishonestly receiving stolen property	Section 317 PC	14 years imprisonment or fine or both
29	Dishonestly receiving property stolen in the commission of brigandage	Section 318 PC	Life imprisonment and fine
30	Assisting in concealment of stolen property	Section 319 PC	5 years imprisonment or fine or both
31	Possessing thing reasonably suspected of having been stolen	Section 319A PC	6 months imprisonment or fine or both
32	Cheating	Section 322 PC	3 years imprisonment or fine or both
33	Cheating person whose interest offender is bound to protect	Section 323 PC	5 years imprisonment or fine or both
34	Cheating by personation	Section 324 PC	5 years imprisonment or fine or both

35	Cheating and dishonestly inducing delivery of property	Section 325 PC	7 years imprisonment and fine
36	Mischief	Section 327 PC	2 years imprisonment or fine or both
37	Mischief by killing or maiming animal	Section 329 PC	3 years imprisonment or fine or both
38	Mischief by killing or maiming cattle, etc.	Section 330 PC	5 years imprisonment or fine or both
39	Mischief by injury to public road, bridge, river or channel	Section 332 PC	Life imprisonment or fine or both
40	Mischief by inundation or obstruction to public drainage	Section 333 PC	5 years imprisonment or fine or both
41	Mischief in relation to electricity, telegraphs and telephones	Section 334 PC	5 years imprisonment or fine or both
42	Mischief by destroying or moving a public landmark	Section 335 PC	1 year imprisonment or fine or both
43	Mischief by fire or explosive with intent to cause damage	Section 336 PC	7 years imprisonment and fine
44	Mischief by fire or explosive with intent to destroy house, etc.	Section 337 PC	Life imprisonment and fine
45	Mischief to vessel	Section 338 PC	14 years imprisonment or fine or both
46	Mischief by fire to vessel	Section 339 PC	Life imprisonment and fine
47	Running vessel aground or ashore with intent to commit theft	Section 340 PC	14 years imprisonment and fine
48	Mischief committed after preparation made for causing death or hurt	Section 341 PC	5 years imprisonment and fine
49	Criminal trespass	Section 348 PC	1 year imprisonment or fine or both
50	House trespass	Section 349 PC	1 year imprisonment or fine or both
51	House trespass to commit offence punishable with death	Section 350 PC	14 years imprisonment and fine
52	House trespass to commit offence punishable with fourteen years	Section 351 PC	10 years imprisonment and fine

53	House trespass to commit offence punishable with imprisonment	Section 352 PC	7 years imprisonment and fine
54	Lurking house trespass or house breaking	Section 353 PC	2 years imprisonment and fine
55	Lurking house trespass or house breaking in order to commit offence punishable with imprisonment	Section 354 PC	14 years imprisonment and fine
56	Lurking house trespass or house breaking by night	Section 355 PC	3 years imprisonment and fine
57	Lurking house trespass or house breaking by night to commit offence punishable with imprisonment	Section 356 PC	Life imprisonment and fine
58	Joint liability for lurking house trespass or house breaking by night where death or grievous hurt caused	Section 357 PC	Life imprisonment and fine
59	Breaking open receptacle containing property	Section 358 PC	2 years imprisonment or fine or both
60	Breaking open receptacle by person entrusted with custody	Section 359 PC	3 years imprisonment or fine or both
61	Lurking with house breaking implements	Section 360 PC	3 years imprisonment and fine
62	Fabrication of false key or instrument	Section 361 PC	2 years imprisonment and fine
63	Forgery	Section 364 PC	14 years imprisonment or fine or both
64	Forgery of public seals, etc.	Section 365 PC	Life imprisonment and fine
65	Using as genuine a forged document	Section 366 PC	14 years imprisonment or fine or both
66	Making or possessing counterfeit seal with intent to commit forgery	Section 367 PC	14 years imprisonment and fine
67	Possession of forged record	Section 368 PC	14 years imprisonment and fine
68	Counterfeiting device or mark used for authenticating documents	Section 369 PC	14 years imprisonment and fine



69	Fraudulent cancellation or destruction of document of title	Section 370 PC	14 years imprisonment and fine
70	Falsification of accounts	Section 371 PC	7 years imprisonment or fine or both
71	Using a false property mark	Section 374 PC	1 year imprisonment or fine or both
72	Counterfeiting a property mark used by another	Section 375 PC	2 years imprisonment or fine or both
73	Counterfeiting a mark used by a public officer	Section 376 PC	3 years imprisonment and fine
74	Making or possession of any instrument for counterfeiting a property mark	Section 377 PC	3 years imprisonment or fine or both
75	Making a false mark upon any receptacle containing goods	Section 378 PC	3 years imprisonment or fine or both
76	Making use of any such false mark	Section 379 PC	3 years imprisonment or fine or both
77	Tampering with property mark	Section 380 PC	1 years imprisonment or fine or both

## THE FOURTEENTH SCHEDULE

**LIST OF SOME CORRUPTION, FINANCIAL CRIMES AND RELATED OFFENCES  
PENAL CODE (PC)  
CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT (CRPA)  
ECONOMIC AND FINANCIAL CRIMES ACT (EFCCA)  
ADVANCE FEE FRAUD AND OTHER FRAUD RELATED OFFENCES ACT (AFFA)  
MONEY LAUNDERING ACT (MLA)**

**[Order 1 Rule 2(1) (b) and Order 9 Rule 2(1)]**

<b>S/N</b>	<b>Offences</b>	<b>Law</b>	<b>Sentences</b>
1.	Public officers taking gratification in respect of official act	Section 115 PC	7 years imprisonment or fine or both 14 years imprisonment or fine or both if acting in judicial capacity or as police officer
2.	Taking gratification in order to influence public officer	Section 116 PC	3 years imprisonment or fine or both

3.	Abetment by public officer of offence mentioned in section 116	Section 117 PC	3 years imprisonment or fine or both
4.	Offering or giving gratification to public officer	Section 118 PC	3 years imprisonment or fine or both
5.	Public officer obtaining valuable thing without consideration from person concerned in proceeding or business transacted by such public officer	Section 119 PC	5 years imprisonment or fine or both
6.	Offering or giving valuable thing without consideration	Section 120 PC	2 years imprisonment or fine or both
7.	Third person profiting by gratification	Section 121 PC	1 year imprisonment or fine or both
8.	Public officer dishonestly receiving money or property not due	Section 122 PC	5 years imprisonment or fine or both
9.	Public officer disobeying direction of law with intent to cause injury or to save person from punishment or property from forfeiture	Section 123 PC	2 years imprisonment or fine or both
10.	Public officer framing incorrect document with intent to cause injury	Section 124 PC	3 years imprisonment or fine or both
11.	Public officer in judicial proceeding acting contrary to law	Section 125 PC	7 years imprisonment or fine or both
12.	Wrongful committal or confinement by public officer	Section 126 PC	7 years imprisonment or fine or both
13.	Public officer omitting to arrest or aiding escape	Section 127 PC	14 years imprisonment with or without fine if the person is under sentence of death, 7 years imprisonment with or without fine if the person is under

			<p>sentence to term of 10 years and above,  3 years imprisonment or fine or both if the person is under sentence to a term not exceeding 10years,  2 years imprisonment or fine or both in any other case</p>
14	Public officer omitting to arrest or permitting to escape	Section 128 PC	2 years imprisonment or fine or both
15	Public officer causing danger by omitting to perform duty	Section 129 PC	2 years imprisonment or fine or both
16	Abandonment of duty by public officer	Section 130 PC	2 years imprisonment or fine or both
17	Public officer unlawfully purchasing property	Section 131 PC	2 years imprisonment or fine or both
18	Gratification by an official	Section 12 CRPA	7 years imprisonment
19	Corrupt offers to public officers	Section 13 CRPA	7 years imprisonment
20	Corrupt demand by persons	Section 14 CRPA	7 years imprisonment
21	Fraudulent acquisition of property	Section 15 CRPA	7 years imprisonment
22	Deliberate frustration of investigation by the Commission	Section 18 CRPA	7 years imprisonment
23	Making false statement or return	Section 19 CRPA	7 years imprisonment
24	Gratification by or through agents	Section 20 CRPA	5 years imprisonment or fine
25	Bribery of public officer	Section 21 CRPA	5 years imprisonment with hard labour
26	Using office or position for gratification	Section 22 CRPA	5 years imprisonment without option of fine
27	Bribery for giving assistance etc. in regard to contract	Section 25 CRPA	7 years imprisonment or fine

28	Dealing with, using, holding, receiving or concealing gratification	Section 27 CRPA	5 imprisonment years
29	Financial malpractices	Section 14 EFCCA	5 years imprisonment or fine or both
30	Retention of proceeds of a criminal conduct	Section 17 EFCCA	3 years imprisonment or fine or both
31	Economic and financial crimes	Section 18 EFCCA	2 years imprisonment minimum and 5 years imprisonment maximum
32	Obtaining property by false pretence	Section 1 AFFA	10 years imprisonment without option of fine
33	Laundering of funds obtained through unlawful activity	Section 7AFFA	N1million fine for corporate body and 10 years imprisonment without option of fine for officers of the corporate body
34	Money laundering	Section 14 MLA	2 years imprisonment minimum and 3 years imprisonment maximum
35	Retention of proceeds of a criminal conduct	Section 16 MLA	5 years imprisonment minimum or to fine or both

**MADE AT ABUJA THIS .....DAY OF SEPTEMBER, 2020**

**HON. JUSTICE ISHAQ USMAN BELLO**  
Chief Judge  
Federal Capital Territory High Court, Abuja

## **EXPLANATORY NOTE**

(This note does not form part of these Practice Directions but is intended to explain its purport)

These Practice Directions seeks to establish appropriate standards and guidelines for sentencing in offences against the State, person, public order, morality, homicide, property, corruption, financial crimes and related offences, for the purpose of ensuring reasonable uniformity, proportionality and fairness in sentencing in the Federal Capital Territory; establish the requirements and procedure for imposing custodial and non-custodial sentences for the purpose of preventing abuse and ensuring reasonable uniformity and fairness in sentencing; and ensure that congestion in correctional centres is reduced to the barest minimum through the use of non-custodial sentences in line with section 470(2)(c) of the Administration of Criminal Justice Act, 2015, section 2(1)(b) of the Nigerian Correctional Service Act, 2019 and any other applicable provisions of the Law.