

Chapter 4 Part III  
The Centre for Islamic Legal Studies'  
Draft Harmonised Sharia Penal Code Annotated

What follows for the next hundred pages or so is the “Harmonised Sharia Penal Code” produced by the Centre for Islamic Legal Studies of Ahmadu Bello University, Zaria, annotated to show variations between it and the Penal Code of 1960 on the one hand, and the enacted Sharia Penal Codes of ten of the Sharia States on the other hand.

1. List of codes included in the annotations, in order of their coming into operation:

PC: Penal Code Law, Northern Region of Nigeria No. 18 of 1959, coming into operation on **30th September 1960**, as amended to 1963; as found in Chapter 89, *Laws of Northern Nigeria* 1963.

Zamfara: Sharia Penal Code Law 2000, Law No. 10 of 2000, signed into law on 27<sup>th</sup> January 2000, coming into operation on **27<sup>th</sup> January 2000**, Zamfara State Gazette Vol. 3 No. 1, 15<sup>th</sup> June, 2000.

Kano: Sharia Penal Code Law 2000, signed into law on 25<sup>th</sup> November 2000, coming into operation on **26<sup>th</sup> November 2000**, no gazette information available; printed and published by Kano Printing Corporation, Kano.

Kebbi: Penal Code (Amendment) Law 2000, Law No. 21 of 2000, signed into law on 1<sup>st</sup> December 2000, coming into operation on **1<sup>st</sup> December 2000**, Kebbi State Gazette Vol. 2 No. 1, Supplement 31<sup>st</sup> December 2000.

Jigawa: Sharia Penal Code Law 2000, Law No. 12 of 2000, signed into law on 18<sup>th</sup> December 2000,<sup>53</sup> coming into operation on **27<sup>th</sup> December 2000**, Jigawa State Gazette Vol. 1 No. 12, 27<sup>th</sup> December 2000.

Sokoto: Sharia Penal Code Law 2000, signed into law on 25<sup>th</sup> January 2001, coming into operation on **31<sup>st</sup> January 2001**, gazetted as a separate volume given no number or date.

Yobe: Sharia Penal Code Law 2000, Law No. 8 of 2001, signed into law 9<sup>th</sup> March 2001, coming into operation on **25<sup>th</sup> April 2001**, gazetted in Yobe State Gazette Vol. II No. 12, 22<sup>nd</sup> March 2001.

Bauchi: Sharia Penal Code Law 2001, no date of signing into law given, no date of coming into operation given [guessing **May 2001**],<sup>54</sup> Bauchi State Gazette Vol. 26 No. 16, 18<sup>th</sup> September 2001.

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<sup>53</sup> The page on which the Governor signed says 18<sup>th</sup> December 2001, but this is evidently a mistake.

<sup>54</sup> Bauchi's Sharia Penal Code was amended by a law signed on 29<sup>th</sup> June 2001 – before the Code itself had even been gazetted. The amending law was gazetted in Bauchi State Gazette Vol. 26 No. 7, 29<sup>th</sup> June 2001: it deleted what had been subsection (2) of §148 (punishment for dealing in alcoholic drinks) and added what became §376 (prohibition of praise singing, etc.). We are guessing that the Code itself was signed and came into force sometime in May 2001.

#### CHAPTER 4: THE SHARIA PENAL CODES

Katsina: Sharia Penal Code Law 2001, Law No. 2 of 2001, no date of signing given, coming into operation on **20<sup>th</sup> June 2001**, Katsina State Gazette Vol. 12 No. 23, 27<sup>th</sup> August 2001.

Gombe: Sharia Penal Code Law 2001, signed into law on **23<sup>rd</sup> November 2001**, no date of coming into operation given, no gazette information available, photocopy of signed original in possession of editor.

Kaduna: Sharia Penal Code Law 2002, Law No. 4 of 2002, signed into law on 21<sup>st</sup> June 2002, coming into operation on **21<sup>st</sup> June 2002**, Kaduna State Gazette No. 17 Vol. 36, 4<sup>th</sup> July 2002, pp. A15-A108, a separate bound volume (with Sharia Criminal Procedure Code).

#### 2. Not included in the annotations:

Borno: Sharia Penal Code Law 2001, signed into law on **3<sup>rd</sup> March 2003**, no date of coming into operation given, no gazette information available, photocopy of signed original in possession of editor.

Niger: Penal Code (Amendment) Law 2000, HB.4/2000, signed into law on 22<sup>nd</sup> February 2000, coming into operation on **4<sup>th</sup> May 2000**, Niger State Gazette Vol. 25 No. 8, 9<sup>th</sup> March 2000.

Zamfara: Sharia Penal Code Law 2005, No. 5 of 2005, signed into law on **23<sup>rd</sup> November 2005**, no date of coming into operation given, no gazette information available, photocopy of signed original in possession of editor.

The Borno law was not obtained until May 2006, after the work of annotation of the CILS code had been completed. The Niger law is not a complete Sharia Penal Code: it merely amends the Penal Code of 1960, laying down that certain sections, when applied to Muslims, will carry different burdens of proof and different punishments than when applied to non-Muslims; it is printed in its entirety as part IV of this chapter. The Zamfara Sharia Penal Code of 2005 is the CILS code published and annotated here (except for certain corrections subsequently made to the CILS code).

3. Some comments on the annotations. In making our annotations we have ignored what we considered to be clearly typographical errors (of which the Sharia Penal Codes published by the States are full), unless the meaning was unclear, in which case we noted it. We have also ignored what we considered to be immaterial variations. For instance, CILS §173 defines the crime of “cheating by personation”. Some of the codes have “personification” instead of “personation”: we did not note that.

A greater difficulty was presented by the many variations, not only in punishments, but in the manner of specifying punishments. One example will illustrate how we have tried to deal with this without unduly lengthening the notes. CILS §157 states that whoever is convicted of putting any person in fear of injury in order to commit extortion “shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to fifty lashes.” The footnote reads as follows:

PC: 2 years or fine or both. Bauchi, Jigawa, Kano, Katsina, Kebbi, Zamfara: 5 years/15 lashes. Sokoto: 2 years/15 lashes. Yobe: 5 years/50 lashes. Gombe: 5 years/caning. Kaduna: *ta’azir*.

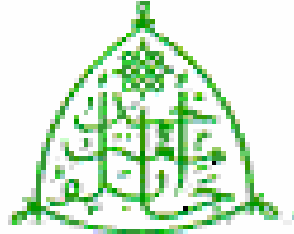
One difference between the PC and CILS is the difference between “and” and “or”: this is clearly noted. But this still leaves the footnote ambiguous as to whether the indicated numbers are maximums, minimums, or to be imposed exactly as stated, and also as to whether the punishments specified by the States are conjunctive or disjunctive. To resolve these ambiguities the reader should read the variants back into the language of the section being annotated. Thus all the numbers in this case are maximums, and the stroke means “and shall also be liable to”. Where this does not work we have made fuller notes. There remain some ambiguities in the language of the codes which we have of course not attempted to resolve.

4. Omission of section titles in the body of the code. The titles of the code sections are given at the beginning under the heading “Arrangement of Sections”. In order to save space we have not repeated the titles in the body of the code; anyone wanting to know the title of a particular section can refer to the list at the beginning.

5. Note on spellings, formatting, etc. As throughout this work, we have corrected and standardised spellings, capitalisations, etc. in the Harmonised Sharia Penal Code, and made adjustments to the formatting. This is discussed further in the Preface to Volumes I - V.

6. The CILS Harmonised Sharia Penal Code Annotated follows.

**HARMONISED  
SHARIA PENAL CODE LAW, 2002**



**CENTRE FOR ISLAMIC LEGAL STUDIES  
AHMADU BELLO UNIVERSITY  
ZARIA**

**MARCH, 2002**

**THE SHARIA PENAL CODE LAW, 200\_**

**Arrangement of sections:**

- |   |   |
|---|---|
| 1. Citation and commencement.                     | 4. Offences against laws of the State.        |
| 2. Establishment of Sharia Penal Code.            | 5. Civil remedies.                            |
| 3. Punishment of offences committed in the State. | 6. Contempt of court.                         |
|   | 7. Retrospective effect of acts or omissions. |

**SCHEDULE A: SHARIA PENAL CODE**

**Arrangement of sections:**

**CHAPTER 1 – GENERAL EXPLANATIONS AND DEFINITIONS**

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|--|---|
| 1. Sense of expression once explained.     | 16. Fraudulently.                                       |
| 2. Gender.                                 | 17. Reason to believe.                                  |
| 3. Number.                                 | 18. Likely, probable                                    |
| 4. Man, Woman.                             | 19. Property in possession of wife, clerk or servant.   |
| 5. Person.                                 | 20. Counterfeit.  |
| 6. Public.                                 | 21. Writing, document.                                  |
| 7. Court of Justice.                       | 22. Document of title.                                  |
| 8. Judicial proceedings.                   | 23. Words referring to acts include illegal omissions.  |
| 9. Public servant.                         | 24. Act, omission.                                      |
| 10. Armed forces.                          | 25. Effect caused partly by act and partly by omission. |
| 11. Movable property.                      | 26. Voluntarily.  |
| 12. Wrongful gain.                         | 27. Offence.  |
| 13. Wrongful loss.                         | 28. Illegal.  |
| 14. Gaining wrongfully, losing wrongfully. | 29. Legally bound to do.                                |
| 15. Dishonestly.                           |   |

- |                             |                             |
|-----------------------------|-----------------------------|
| 30. Injury.                 | 47. <i>Taklif.</i>          |
| 31. Life, death.            | 48. <i>Mukallaf.</i>        |
| 32. Animal.                 | 49. <i>Walyy al-damm.</i>   |
| 33. Vessel.                 | 50. <i>Qatl al-gheelah.</i> |
| 34. Year, month.            | 51. <i>Wa'a'az.</i>         |
| 35. Oath.                   | 52. <i>Tash-beer.</i>       |
| 36. Good faith.             | 53. <i>Hajar.</i>           |
| 37. Compensation.           | 54. <i>Al-musadarab.</i>    |
| 38. Invalid consent.        | 55. <i>Ghurrah.</i>         |
| 39. Harbour.                | 56. <i>Ta'azir.</i>         |
| 40. Genital.                | 57. <i>Hudud.</i>           |
| 41. <i>Zina.</i>            | 58. <i>Qisas.</i>           |
| 42. Married.                | 59. <i>Tawbikb.</i>         |
| 43. <i>Sadaq al-mithli.</i> | 60. <i>Diyab.</i>           |
| 44. <i>Rajm.</i>            | 61. <i>Hukumah.</i>         |
| 45. <i>Hirz.</i>            | 62. Government.             |
| 46. <i>Nisab.</i>           | 63. Foreign government.     |

#### CHAPTER II – CRIMINAL RESPONSIBILITY

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|---|--|
| 64. Basic criminal responsibility.  | 78. Communication made in good faith.  |
| 65. Common knowledge.   | 79. Act to which a person is compelled by threats.   |
| 66. Presumption of knowledge of an intoxicated person.  | 80. Non-voluntary act.   |
| 67. Act done by person justified by law.  | 81. Act of necessity.  |
| 68. Act of court of justice.  | 82. Act causing slight harm.   |
| 69. Act done pursuant to the judgment or order of court.  | 83. Presumption of right of <i>diyab</i> , damages, etc.   |
| 70. Accident in doing a lawful act.   | <i>The Right of Private Defence</i>  |
| 71. Act likely to cause injury but done without criminal intent and to prevent other injury or to benefit person injured. | 84. Things done in private defence.  |
| 72. Act of child.   | 85. Right of private defence.  |
| 73. Act of person of unsound mind or person asleep.   | 86. Right of private defence against act of a person of unsound mind, etc.                         |
| 74. Involuntary intoxication.   | 87. General limit of right of private defence.   |
| 75. Act not intended to cause death or grievous hurt done by consent.   | 88. No right of private defence when protection of public authorities available.                   |
| 76. Act not intended to cause death done by consent for a person's benefit.   | 89. Limitation of right of private defence against act of public servant.                          |
| 77. Correction of child, pupil, apprentice or wife.   | 90. When right of private defence of the body extends to causing death.                            |
|   | 91. When right of private defence of property extends to causing death.                            |
|   | 92. Right of private defence against deadly assault when there is risk of harm to innocent person. |

#### CHAPTER III – PUNISHMENTS AND COMPENSATION

- |                                |   |
|--------------------------------|---|
| 93. Punishments.               | 95. Special provision for juvenile offenders. |
| 94. Limitation on punishments. | 96. Amount of fine.                           |

CHAPTER 4: THE SHARIA PENAL CODES

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|---|--|
| 97. Sentence of imprisonment for non-payment of fine.               | offence or when offence made up of several offences. |
| 98. Imprisonment or caning in default of payment of fine.           | 100. Caning or lashing.                              |
| 99. Limit of punishment when act within definition of more than one | 101. Punishment for misdemeanours.                   |
|   | 102. Restitution or compensation.                    |
|   | 103. Closure of premises.                            |

**CHAPTER IV – JOINT ACTS**

- 104. Acts done by several persons in furtherance of common intention.
- 105. When such act is criminal by reason of its being done with a criminal knowledge or intention.
- 106. Co-operation by doing one of several acts constituting an offence.
- 107. Persons concerned in criminal act may be guilty of different offences.

**CHAPTER V – ABETMENT**

- 108. Abetment defined.
- 109. Abetment of offence defined.
- 110. Abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.
- 111. Abetment if person abetted does act with different intention from that of abettor.
- 112. Liability of abettor when one act abetted and different act done.
- 113. Abettor when liable to cumulative punishment for act abetted and for act done.
- 114. Liability of abettor for an effect caused by the act abetted different from that intended by abettor.
- 115. Abettor present when offence committed liable as principal.
- 116. Abetment of offence punishable with death or imprisonment for life if offence not committed.
- 117. Abetment of offence punishable with imprisonment if offence is not committed.
- 118. Abetting commission of offence by the public or by more than ten persons.
- 119. Administering unlawful oath.

**CHAPTER VI – ATTEMPTS TO COMMIT OFFENCES**

- 120. Attempting to commit offences punishable with imprisonment.

**CHAPTER VII – CRIMINAL CONSPIRACY**

- 121. Criminal conspiracy defined.
- 122. Punishment for criminal conspiracy.
- 123. Unlawful society defined.
- 124. Punishment for managing or membership of unlawful society.

**CHAPTER VIII – HUDUD AND HUDUD-RELATED OFFENCES**

- |                                       |                             |
|---------------------------------------|-----------------------------|
| <i>Zina (Adultery or Fornication)</i> | <i>Sodomy (Liwat)</i>       |
| 125. <i>Zina</i> defined.             | 129. Sodomy defined.        |
| 126. Punishment for <i>zina</i> .     | 130. Punishment for sodomy. |
| <i>Rape</i>                           | <i>Incest</i>               |
| 127. Rape defined.                    | 131. Incest defined.        |
| 128. Punishment for rape.             | 132. Punishment for incest. |

- Lesbianism (Sibaq)*  
 133. Lesbianism defined.  
 134. Punishment for lesbianism.
- Bestiality (Wat al-Babimah)*  
 135. Bestiality defined.  
 136. Punishment for bestiality.
- Gross Indecency*  
 137. Acts of gross indecency.
- False Accusation of Zina (Qadhf)*  
 138. *Qadhf* defined.  
 139. Punishment for *qadhf*.  
 140. Remittance of the offence of *qadhf*.
- Defamation*  
 141. Defamation  
 142. Punishment for defamation.
- Theft (Sariqah)*  
 143. Theft punishable with *hadd* defined.  
 144. Punishment for theft punishable with *hadd*.  
 145. Theft not punishable with *hadd* defined.  
 146. Remittance of the *hadd* for theft.  
 147. Punishment for theft not punishable with *hadd*.
- Drinking alcoholic drink (Shurb al-Khamr)*  
 148. Punishment for drinking alcoholic drink.  
 149. Punishment for dealing in alcoholic drinks.  
 150. Punishment for drunkenness in a public or private place.
- Hirabah - (Robbery)*  
 151. *Hirabah* defined.  
 152. Punishment for *hirabah*.  
 153. Making preparation to commit *hirabah*.  
 154. Belonging to gang of persons associated for the purpose of committing *hirabah*.
- Extortion*  
 155. Extortion defined.  
 156. Punishment for extortion.  
 157. Putting person in fear of injury in order to commit extortion.  
 158. Extortion by putting a person in fear of death or grievous hurt.
159. Extortion by threat of accusation of an offence punishable with death.
- Criminal Misappropriation*  
 160. Criminal misappropriation defined.  
 161. Punishment for criminal misappropriation.  
 162. Criminal misappropriation of property possessed by deceased person at the time of his death.
- Criminal Breach of Trust*  
 163. Criminal breach of trust defined.  
 164. Punishment for criminal breach of trust.  
 165. Criminal breach of trust by carrier, etc.  
 166. Criminal breach of trust by clerk or servant.  
 167. Criminal breach of trust by public servant or by banker, merchant or agent.
- Receiving Stolen Property*  
 168. Stolen property defined.  
 169. Dishonestly receiving stolen property.  
 170. Assisting in concealment of stolen property.  
 171. Having possession of thing reasonably suspected of being stolen.
- Cheating*  
 172. Cheating defined.  
 173. Cheating by personation defined.  
 174. Punishment for cheating.  
 175. Cheating person whose interest offender is bound to protect.  
 176. Punishment for cheating by personation.  
 177. Cheating and dishonestly inducing delivery of property.
- Criminal Trespass*  
 178. Criminal trespass defined.  
 179. House trespass defined.  
 180. Lurking house trespass defined.  
 181. Lurking house trespass by night defined.  
 182. Housebreaking defined.  
 183. Housebreaking by night defined.  
 184. Punishment for criminal trespass.  
 185. Punishment for house trespass.  
 186. House trespass to commit offence punishable with death.  
 187. House trespass to commit offence punishable with seven years imprisonment.  
 188. House trespass to commit offence punishable with imprisonment.

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| 189. Punishment for lurking house trespass or housebreaking.   | offence punishable with imprisonment.   |
| 190. Punishment for lurking house trespass or housebreaking in order to commit offence punishable with imprisonment. | 193. Joint liability for lurking house trespass or housebreaking where death or grievous hurt caused. |
| 191. Lurking house trespass or housebreaking by night.   | 194. Breaking open receptacle containing property.  |
| 192. Lurking house trespass or housebreaking by night to commit  | 195. Breaking open receptacle by person entrusted with custody.                                       |
|  | 196. Lurking with house breaking instruments.   |
|  | 197. Fabrication of false key or instrument.  |

**CHAPTER IX – QISAS AND QISAS-RELATED OFFENCES**

*Homicide*

- |   |  |
|---|--|
| 198. Intentional homicide defined.        | 218. Punishment for causing hurt.                          |
| 199. Punishment for intentional homicide. | 219. Punishment for causing grievous hurt.                 |
| 200. Unintentional homicide defined.      | 220. Punishment for unintentionally causing grievous hurt. |

201. Punishment for unintentional homicide.
202. *Walīyy al-damm* causing death of suspect.
203. Remittance of *qisas*.
204. Attempts to commit intentional homicide.
205. Abetment in cases of homicide.

*Causing Miscarriage, etc.*

206. Causing miscarriage.
207. Causing miscarriage unintentionally.
208. Death caused by act done with intent to cause miscarriage.
209. Act done with intent to prevent child being born alive or to cause it to die after birth.
210. Causing death of quick unborn child by act amounting to intentional homicide.
211. Abandonment of child under fifteen years.
212. Cruelty to children.
213. Concealment of birth.

*Hurt*

214. Hurt defined.
215. Grievous hurt defined.
216. Voluntarily causing hurt.
217. Voluntarily causing grievous hurt defined.

*Criminal Force and Assault*

221. Force defined.
222. Criminal force defined.
223. Assault defined.
224. Punishment for assault or criminal force.
225. Assault or criminal force to deter public servant from discharge of his duty.
226. Assault or criminal force to woman with intent to outrage modesty.
227. Assault or criminal force in attempt to commit theft of property carried by a person.
228. Assault or criminal force in attempt wrongfully to confine a person.

*Kidnapping, Abduction and Forced Labour*

229. Kidnapping defined.
230. Abduction defined.
231. Punishment for kidnapping.
232. Punishment for abduction.
233. Kidnapping or abducting in order to cause death.
234. Procuration of minor girl or woman.
235. Importation of girl or woman from any place outside the State.
236. Concealing or keeping in confinement kidnapped or abducted person.
237. Buying or selling minor or unsound minded person for immoral purpose.
238. Unlawful compulsory labour.
239. Traffic in women.



## CHAPTER X – TA’AZIR OFFENCES

- Criminal Intimidation*
240. Criminal intimidation defined.
241. Punishment for criminal intimidation.
242. Criminal intimidation by anonymous communication.
- Wrongful Restraint; Wrongful Confinement*
243. Wrongful restraint defined.
244. Wrongful confinement defined.
245. Punishment for wrongful restraint.
246. Punishment for wrongful confinement.
247. Wrongful confinement after warrant or order or writ issued for production or liberation.
248. Wrongful confinement in secret.
249. Wrongful confinement to extort property or constrain to illegal act.
250. Wrongful confinement to extort confession or compel restoration of property.
- Forgery*
251. Making a false document defined.
252. Forgery and forged document defined.
253. Punishment for forgery.
254. Forgery of public seals, etc.
255. Using as genuine a forged document.
256. Making or possessing counterfeit seal with intent to commit forgery.
257. Possession of forged record.
258. Counterfeiting device or mark used for authenticating document.
259. Fraudulent cancellation or destruction of document of title.
260. Falsification of accounts.
- Property and Other Marks*
261. Property mark defined.
262. Using a false property mark defined.
263. Punishment for using a false property mark.
264. Punishment for counterfeiting a property mark used by another.
265. Counterfeiting a mark used by a public servant.
266. Making or possession of any instrument for counterfeiting a property mark.
267. Punishment for making a false mark upon any receptacle containing goods.
268. Making use of any such false mark.
269. Tampering with property mark.
- Criminal Breach of Contracts of Service*
270. Breach of contract of service during voyage or journey.
271. Breach of contract to attend on and supply wants of helpless person.
- Breach of Official Trust*
272. Breach of official trust defined.
273. Punishment for breach of official trust.
- Offences against the Public Peace*
274. Unlawful assembly defined.
275. Membership of unlawful assembly defined.
276. Punishment for membership of unlawful assembly.
277. Joining unlawful assembly armed with deadly weapon.
278. Joining or continuing in unlawful assembly knowing it has been commanded to disperse.
279. Rioting defined.
280. Punishment for rioting.
281. Rioting armed with deadly weapon.
282. Every member of unlawful assembly guilty of offence committed in prosecution of common object.
283. Promoter of unlawful assembly liable as a member.
284. Joining or continuing in assembly of five or more persons knowing that it has been commanded to disperse.
285. Wearing or carrying of emblem, flag, etc.
286. Assaulting or obstructing public servant when suppressing riot, etc.
287. Disturbance of public peace.
288. Inciting disturbance.
- Offences by or Relating to Public Servants*
289. Public servant taking gratification in respect of official act.
290. Taking gratification in order to influence public servant.

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|---|---|
| 291. Abetment by public servant of offence mentioned in section 290.  | 311. Furnishing false information.  |
| 292. Offering or giving gratification to public servant.  | 312. False information with intent to mislead public servant.                                     |
| 293. Public servant obtaining valuable thing without consideration from person concerned in proceeding or business transacted by such public servant. | 313. Refusing to answer public servant authorised to question.                                    |
| 294. Offering or giving valuable thing without consideration.   | 314. Refusing to sign statement.  |
| 295. Third person profiting by gratification.   | 315. Resistance to taking of property by lawful authority of public servant.                      |
| 296. Public servant dishonestly receiving money or property not due.  | 316. Obstructing sale of property offered for sale by authority of public servant.                |
| 297. Public servant disobeying direction of law with intent to cause injury or to save person from punishment or property from forfeiture.            | 317. Removing property under lawful seizure.  |
| 298. Public servant framing incorrect document with intent to cause injury.   | 318. Illegal purchase or bid for property offered for sale by authority of public servant.        |
| 299. Public servant in judicial proceeding acting contrary to law.  | 319. Obstructing public servant in discharge of functions.  |
| 300. Wrongful committal or confinement by public servant.   | 320. Obstructing public servant in discharge of duty under any written law.                       |
| 301. Public servant omitting to arrest or aiding escape.  | 321. Failing to assist public servant when bound by law to assist.                                |
| 302. Public servant negligently omitting to arrest or permitting to escape.   | 322. Contravention of residence order.  |
| 303. Public servant causing danger by omitting to perform duty.   | 323. Disobedience to order duly promulgated by public servant.                                    |
| 304. Abandonment of duty by public servant.   | 324. Threat of injury to public servant.  |
| 305. Public servant unlawfully purchasing property.   | 325. Threat of injury to induce person to refrain from applying for protection to public servant. |
| 306. Personating a public servant.  | 326. Intentional insult or interruption to public servant sitting in judicial proceeding.         |
| <i>Contempt of the Lawful Authority of Public Servants</i>  |   |
| 307. Absconding to avoid or preventing service or publication of summons, notice or order, etc.   | <i>False Evidence and Offences Relating to the Administration of Justice</i>                      |
| 308. Failure to attend in obedience to an order from public servant.  | 327. Giving false evidence defined.   |
| 309. Failure to produce document to public servant.   | 328. Fabricating false evidence defined.  |
| 310. Failure to give notice or information to public servant.   | 329. Punishment for false evidence.   |
|   | 330. Giving false evidence to procure conviction of capital offence.                              |
|   | 331. Giving false evidence to procure conviction of offence punishable with imprisonment.         |
|   | 332. Using evidence known to be false.  |
|   | 333. Issuing or signing false evidence.   |
|   | 334. Using as true a certificate known to be false.   |
|   | 335. False statement in declaration which is by law receivable as evidence.                       |
|   | 336. False translation.   |
|   | 337. Destruction of document to prevent its production as evidence.                               |

- Screening of Offenders*
338. Causing disappearance of evidence of offence or giving false information to screen offender.
339. Taking gratification to screen an offender from punishment.
340. Offering gratification in consideration of screening offender.
341. Penalty for harbouring offender who commits the offence of *hirabah*.
- Resistance to Arrest and Escape*
342. Resistance or obstruction to lawful arrest of another person.
343. Resistance or obstruction by a person to his lawful arrest or escape.
344. Resistance or obstruction to lawful arrest or escape in cases not provided for by section 343.
- Fraudulent Dealings with Property*
345. Fraudulent removal of property to prevent lawful seizure or execution.
346. Fraudulently suffering decree for sum not due.
347. Fraudulently obtaining decree for sum not due.
348. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
- Miscellaneous*
349. Giving false information respecting an offence.
350. False personation.
351. False charge of offence made with intent to injure.
352. Taking gift to help to recover stolen property.
353. Influencing course of justice.
- Public Nuisance*
354. Public nuisance defined.
355. Adulteration of food or drink intended for sale.
356. Sale of food or drink not corresponding to description.
357. Sale of adulterated food or drink.
358. Sale of noxious food or drink.
359. Adulteration of drugs.
360. Sale of adulterated or expired drugs.
361. Sale of drug as a different drug or preparation.
362. Fouling water of public well.
363. Making atmosphere noxious to health.
364. Exhibition of false light, mark or buoy.
365. Obstruction in public way or line of navigation.
366. Employees engaged on work of public utility ceasing work without notice.
367. Negligent conduct causing danger to person or property.
368. Negligent conduct with respect to animal.
369. Punishment for public nuisance in cases not otherwise provided for.
370. Continuance of nuisance after injunction to discontinue.
371. Invasion of privacy.
372. Obscene or indecent acts.
373. Keeping a brothel.
374. Sale of obscene books, etc.
375. Obscene songs, etc.
- Vagabonds*
376. Definitions.
377. Penalty on conviction as idle person.
378. Penalty on conviction as vagabond.
379. Penalty on conviction as incorrigible vagabond.
380. Evidence of intent to commit an offence.
- Mischief*
381. Mischief defined.
382. Punishment for mischief.
383. Mischief by killing or maiming animal.
384. Mischief in relation to water supply.
385. Mischief by injury to public road, bridge, river, channel or pipeline.
386. Mischief by inundation or obstruction to public drainage.
387. Mischief in relation to electricity, telegraphs and telephones.
388. Mischief by destroying or moving a public landmark.
389. Mischief by fire or explosive with intent to cause damage.
390. Mischief by fire or explosive with intent to destroy house, etc.
391. Mischief to vessel.

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392. Mischief by fire to vessel.	<i>Offences Relating to Religion</i>
393. Running vessel aground or ashore with intent to commit theft.	402. Insulting or exciting contempt of religious creed.
394. Mischief committed after preparation made for causing death or hurt.	403. Injuring or defiling place of worship.
<i>Lotteries and Gaming Houses</i>	404. Disturbing religious assembly.
395. Definitions.	405. Committing trespass on place of worship or burial.
396. Keeping gaming house or lottery office.	406. Blasphemous acts, utterances, etc.
397. Offences relating to lotteries.	<i>Offences Relating to Ordeal, Witchcraft and Juju</i>
398. Power to order forfeiture of lottery equipment, proceeds, etc.	407. Trial by ordeal.
<i>Cruelty to Animals</i>	408. Prohibition of juju.
399. Ill treatment of domestic animals	409. Offences relating to witchcraft and juju.
400. Overriding and neglect of animal.	410. Attending places of witchcraft or trial by ordeal.
401. Power to order temporary custody or destruction of animal.	411. Causing death by witchcraft or juju.
	412. Criminal charms.
	413. Cannibalism.
	414. Unlawful possession of human corpse or any part thereof

**SCHEDULE B**

PART A:	Cases that warrant the penalty of <i>qisas</i> .
PART B:	Cases that warrant the payment of the full amount of <i>diyab</i> .
PART C:	Cases that warrant triple payment of the full <i>diyab</i> .
PART D:	Cases that warrant the payment of half of the full <i>diyab</i> .
PART E:	Cases that warrant the payment of one-third of the full <i>diyab</i> .
PART F:	Cases that warrant the payment of one-tenth of the full <i>diyab</i> .
PART G:	Cases that warrant the payment of one-twentieth of the full <i>diyab</i> .
PART H:	Cases that warrant the payment of one-thirtieth of the full <i>diyab</i> .
PART I:	Cases that warrant the payment of three-twentieths of the full <i>diyab</i> .
PART J:	Cases that do not warrant the payment of <i>diyab</i> but are subject to computation of damages only ( <i>bukumab</i> ).

**THE SHARIA PENAL CODE LAW 200\_**

**A BILL FOR A LAW TO ESTABLISH A SHARIA PENAL CODE  
FOR ..... STATE**

**BE IT ENACTED by the ..... State House of Assembly as follows:**

1. This Law may be cited as the Sharia Penal Code Law, 200\_ and it shall come into operation on the ..... day of .....<sup>1</sup>
2. The provisions contained in the schedules to this Law<sup>2</sup> shall be the law of the State<sup>3</sup> with respect to the several matters therein dealt with and the said schedules may be cited as<sup>4</sup> the Sharia Penal Code.
3. Every person who is a Muslim and/or every other person who voluntarily consents to the exercise of the jurisdiction of any of the Sharia Courts established under the Sharia Courts Law, ..... shall be liable to punishment under this law for every act or omission contrary to the provisions thereof of which he shall be guilty within the State.<sup>5</sup>

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<sup>1</sup> PC: "This Law may be cited as the Penal Code Law". Kebbi enacted its Sharia Penal Code by a "Penal Code (Amendment) Law 2000" which amended its former Penal Code Law, the new Sharia Penal Code becoming the first Schedule, and the former Penal Code becoming the Second Schedule thereto. PC and Sokoto specify the date of commencement by a separate un-numbered notation preceding the first section.

<sup>2</sup> Katsina adds here: "and the Islamic Penal System (Adoption) Law 2000", referring to the statute of that name enacted on 31<sup>st</sup> July 2000, see Supplement to Katsina State Gazette No. 5 Vol. 11 of 10 August 2000 pp. A97-A98. That statute enacts that: "3. (1) Notwithstanding any provision contained in the Penal Code and the Criminal Procedure Code, proceedings for the determination of any civil or criminal matter before any Sharia Court shall be governed in accordance with the primary sources of Islamic Law, that is to say – (a) Qur'an; and (b) Hadith. (2) Subject to the provisions contained in the texts mentioned in subsection (1) of this section, a Sharia Court is empowered, in any proceedings before it to refer to and utilise the texts in the Maliki School of Law: Provided that they are in consonance with the Qur'an and Hadith. 4. Offences committed on or after the date of commencement of this Law shall be tried in accordance with the provisions of this Law". There were objections, at the time, that this enactment did not comply with §36(12) of the Nigerian Constitution of 1999, which provides that "a person shall not be convicted of a criminal offence unless that offence is defined and the penalty therefor is prescribed in a written law; and in this subsection, a written law refers to an Act of the National Assembly or a Law of a State, any subsidiary legislation or instrument under the provisions of a law." The full Katsina State Sharia Penal Code Law annotated here was then enacted in 2001; but offences under the Islamic Penal System (Adoption) Law were still triable, see n. to §7 below.

<sup>3</sup> PC: "law of Northern Nigeria"; and in general, where in this Draft Harmonised Code and in the SPCs references are made to "the State", PC has "Northern Nigeria"; this will not be specially noted subsequently. Gombe, Kebbi: "the law of [Gombe or Kebbi] State".

<sup>4</sup> PC and all SPCs except Gombe, Kano, Katsina add here: "and is hereinafter [or hereby] called".

<sup>5</sup> PC: "(1) Every person shall be liable to punishment under the Penal Code for every act or omission contrary to the provisions thereof of which he shall be guilty within Northern Nigeria. (2) After the commencement of this Law no person shall be liable to punishment under any native law or custom." All SPCs, on the contrary, agree in limiting their application to Muslims or to others who voluntarily consent to the jurisdiction of the Sharia courts in which the SPCs are to be applied; those not subject to the SPCs then go under the old PC. Katsina omits the concluding phrase "for every act or omission

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4. (1) Where by the provisions of any law of the State<sup>6</sup> the doing of any act or the making of any omission is made an offence, those provisions shall apply to every person subject to the provisions of this Law<sup>7</sup> who is in the State at the time of his doing the act or making the omission.

(2) Where any such offence comprises several elements and any acts, omissions or events occur which, if they all occurred in the State, would constitute an offence, and any of such acts, omissions or events [occur in the State, although the other acts, omissions or events]<sup>8</sup>, which if they occurred in the State would be elements of the offence, occur elsewhere than in the State then:

(a) if the act or omission, which in the case of an offence committed wholly in the State would be the initial element of the offence, occurs in the State, the person who does that act or makes that omission is guilty of an offence of the same kind and is liable to the same punishment as if all the subsequent elements of the offence occurred in the State; and

(b) if that act or omission occurs elsewhere than in the State and the person who does that act or makes that omission afterwards enters the State, he is by such entry guilty of an offence of the same kind, and is liable to the same punishment as if that act or omission had occurred in the State and he had been in the State when it occurred.

\*\* [subsections (3) and (4)]<sup>9</sup>

5. (1) When by the provisions of this law<sup>10</sup> any act is declared to be lawful no action shall be brought in respect thereof.

(2) Except as aforesaid, the provisions of this Law shall not affect any right of action which any person would have had against another, if this Law had not been passed; nor shall the omission from this law<sup>11</sup> of any penal provision in respect of any act or omission which before the time of the coming into operation of this law constituted an actionable wrong affect<sup>12</sup> any right of action in respect thereof.

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contrary to the provisions thereof of which he shall be guilty within the State". Kaduna and Yobe add to this section a subsection (2), which here and in all other SPCs is §7 below.

<sup>6</sup> Bauchi, Gombe, Jigawa, Kano, Katsina, Sokoto, Zamfara: "provisions of this law".

<sup>7</sup> PC, Kebbi: omit "subject to the provisions of this law". Gombe: "shall apply to any Muslim in the State who commits such act or omission."

<sup>8</sup> Bracketed language in PC, but omitted here and in all SPCs except Bauchi.

<sup>9</sup> PC adds here two further subsections, as follows: "(3) Notwithstanding the provisions of subsection (2) it shall be a defence to the charge in any such case to prove that the person accused did not intend that the act or omission should have effect in Northern Nigeria. (4) The provisions of subsection (2) do not extend to a case in which the only material event that occurs in Northern Nigeria is the death of a person whose death is caused by an act or omission at a place outside, and at a time when that person was outside, Northern Nigeria."

<sup>10</sup> PC, Kebbi: "When by the Penal Code". All SPCs except Kano and Katsina: "When by the Sharia Penal Code".

<sup>11</sup> PC and Kebbi, on one side, and all SPCs except Kano and Katsina on the other: instead of "this law" here and in the next line, refer to "the Penal Code" or "the Sharia Penal Code", respectively.

<sup>12</sup> Kano, Katsina: "which would affect".

6. Nothing in this Law<sup>13</sup> shall affect the authority of<sup>14</sup> courts subject to the jurisdiction of this Law<sup>15</sup> to punish a person summarily for the offence commonly known as contempt of court.
7. No act or omission committed by a person shall be an offence under the provisions of this law unless such act or omission was committed on or after the commencement date of this law.<sup>16</sup>

## SCHEDULE A: SHARIA PENAL CODE

### CHAPTER I – GENERAL EXPLANATIONS AND DEFINITIONS<sup>17</sup>

1. Every expression, which is explained in any part of this Sharia Penal Code, is used in every part of this Sharia Penal Code in conformity with the explanation, unless the subject or sense of the context otherwise requires.
  2. The pronoun "he" and its derivatives are used for any person whether male or female.
  3. Unless the contrary appears from the context, words importing the singular number include the plural number and words importing the plural number include singular number.
  4. The word "man" denotes a male human being of any age and the word "woman" denotes a female human being of any age.<sup>18</sup>
- \*\* ["age of maturity"]<sup>19</sup>
5. (1) The word "person" includes any company or association or body of persons, whether incorporated or not.<sup>20</sup>
  - (2) A child becomes a person when it has been born alive whether the umbilical cord is severed or not.<sup>21</sup>

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<sup>13</sup> PC: "in this Law or in the Penal Code".

<sup>14</sup> Kano, Katsina: "shall preclude".

<sup>15</sup> PC: "courts of record".

<sup>16</sup> PC omits this section. Kaduna and Yobe have it as subsection (2) of §3. Katsina: "An act or omission committed by a person shall not be an offence nor shall it have retrospective effect under the provisions of this Law, unless such an act or omission was committed on or after the commencement of this Law or the Islamic Penal System (Adoption) Law, 2000", cf. n. 3 above. Kano as Katsina but omitting the reference to Katsina's Islamic Penal System (Adoption) Law. Kebbi adds a subsection (2) to this section providing that "all pending criminal cases commenced or instituted prior to the coming into force of this Law shall continue to be tried under the [old Penal Code]."

<sup>17</sup> Kano, Katsina entitle this Chapter INTERPRETATION. As to the order of the definitions: the HSPC and all SPCs except Kebbi and Sokoto follow the order of the definitions given in PC, with insertions or omissions noted subsequently. Kebbi and Sokoto order the definitions alphabetically by section title (except in the case of the first section, which is the same as here).

<sup>18</sup> Sokoto divides this definition into two, one under "Man" and the other under "Woman".

<sup>19</sup> Bauchi inserts here a definition of "age of maturity": "denotes the attainment of the age of fifteen or of puberty in the case of a man and of the age of fourteen in the case of a woman or of the attainment of such woman's menstruation whichever of the two conditions may precede in either case." No other code has a similar definition. Bauchi then uses the phrase in its versions of what are here §§38, 77, 95, 127, etc.

<sup>20</sup> Jigawa: "The word 'person' includes any class or section of the public" – obviously conflating the definition of 'person' with that of 'the public' in the next section. Jigawa then omits subsection (2) of this section.

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6. The words "the public" include any class or section of the public.<sup>22</sup>
- \*\* ["Magistrate"]<sup>23</sup>
7. "Court of justice" includes every civil or criminal court established by any Act or Law or deemed to be so established and every person or body of persons exercising judicial functions in the State by virtue of any Act or Law in force in the State.<sup>24</sup>
8. "Judicial proceedings" denotes<sup>25</sup> a proceeding in the course of which it is lawful to take evidence whether on oath or not.<sup>26</sup>
9. The words "public servant" denote a person falling under any of the descriptions hereinafter following, that is to say:<sup>27</sup>
- (a) every person appointed<sup>28</sup> by the Government or the Government of the Federation or of a State while serving in the State<sup>29</sup> or by any Local Government Council<sup>30</sup> and every person serving in the State appointed by a servant or agent of any such Government or council for the performance of a specific public duty<sup>31</sup> while performing that duty;<sup>32</sup>
  - (b) every person not coming within the description set forth in paragraph (a) who is in the service of the Government or of any Local Government Council<sup>33</sup> in a judicial or quasi-judicial, executive, administrative or clerical capacity;<sup>34</sup>
  - (c) every commissioned officer of the Nigerian Armed Forces;<sup>35</sup>

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<sup>21</sup> Bauchi, Gombe, Kano, Sokoto separate the subsections of this section into two sections, one under "Person" and the other under "Child".

<sup>22</sup> Sokoto omits this definition.

<sup>23</sup> PC has here "The word 'magistrate' denotes a magistrate under the Criminal Procedure Code." The Sharia Criminal Procedure Codes of course do not refer to magistrates.

<sup>24</sup> PC adds: "and shall also include every court martial held in Northern Nigeria under the military law in force in Northern Nigeria."

<sup>25</sup> PC, Gombe: "includes" instead of "denotes"; Kaduna and Sokoto: "means".

<sup>26</sup> PC, Gombe: "proceeding in the course of which it is lawful to take evidence on oath."

<sup>27</sup> Bauchi, Jigawa, Yobe, Zamfara add: "without prejudice to the provisions of [designated sections of their Sharia Courts statutes]". Kebbi does not divide what follows into subsections, saying only: "The phrase 'public servant' shall have the same meaning as defined by the 1999 Constitution of the Federal Republic of Nigeria."

<sup>28</sup> Katsina: "appointed as a civil servant by". Gombe: "appointed or employed by".

<sup>29</sup> Gombe, Jigawa, Kano, Katsina: "by the Government of the Federation or of a State". Sokoto: "by the Government of the State or the Government of the Federation or of a State". Gombe, Katsina omit "while serving in the State".

<sup>30</sup> PC: "or by any native, provincial, municipal or other local authority".

<sup>31</sup> PC: "for the performance of public duties whether with or without remuneration or for the performance of a specific public duty". Gombe: "and their agents for the performance of the public duties with or without remuneration".

<sup>32</sup> Katsina omits "while performing that duty".

<sup>33</sup> PC: "in the service of the Government or of any native, provincial, municipal or other local authority". Kano, Katsina: "in the service of the Government".

<sup>34</sup> Katsina adds at the end: "or belonging to any of the armed forces". Katsina then omits what is here subsection (c). Gombe omits this subsection entirely.

<sup>35</sup> PC: "every commissioned officer of the Nigerian military forces or of the military forces of Great Britain while serving in Northern Nigeria". Katsina omits this subsection.



- (d) every assessor or other person assisting a court of justice or a public servant exercising judicial or quasi-judicial functions while acting in that capacity;<sup>36</sup>
- (e) every arbitrator or other person to whom any cause or matter has been referred for decision or report by any court of justice or by any other competent public authority, while acting in that capacity;<sup>37</sup>
- (f) every officer or other person not being a member who is appointed to perform any duty in connection with the discharge of its functions by anybody forming part of the Legislature of the State;<sup>38</sup>
- (g) every person who is in the service of any public corporation established by any Act or Law;<sup>39</sup>
- (h) every person within the employment of the Federal, State and Local Governments, and their parastatals, departments and agencies.<sup>40</sup>
10. The term "armed forces" includes army, naval and air forces and defences.<sup>41</sup>
11. The words "movable property" include corporeal property<sup>42</sup> of every description except land and things attached to the earth or permanently fastened to anything which is attached to the earth.
12. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.
13. "Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.
14. A person is said to gain wrongfully when such person retains wrongfully as well as when such person acquires wrongfully, and a person is said to lose wrongfully when such person is wrongfully kept out of any property as well as when such person is wrongfully deprived of property.<sup>43</sup>
15. A person is said to do a thing "dishonestly" who does that thing with the intention of causing a wrongful gain to himself or another or of causing wrongful loss to any other person.
16. A person is said to do a thing "fraudulently" or "with intent to defraud" who does that thing with intent to deceive and by means of such deceit to obtain some advantage for himself or another or to cause loss to any other person.
17. A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing but not otherwise.

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<sup>36</sup> Bauchi combines this with the previous subsection. Katsina omits this subsection.

<sup>37</sup> Katsina omits this subsection.

<sup>38</sup> Katsina omits this subsection.

<sup>39</sup> Katsina omits this subsection.

<sup>40</sup> PC, Gombe, and Katsina omit this subsection. PC adds two explanations following this series of subsections, omitted here and in all SPCs.

<sup>41</sup> PC: "The term 'military forces' includes naval and air forces and the term 'military affairs' includes affairs relating to naval and air forces and defences." Bauchi, Jigawa as here except omits "and defences". Sokoto omits this section.

<sup>42</sup> Gombe, Kano: "corporal property". Jigawa: "corporate property".

<sup>43</sup> Sokoto omits this section.

18. (1) An act is said to be “likely” to have a certain consequence or to cause a certain effect if the occurrence of that consequence or effect would cause no surprise to a reasonable man.
- (2) An effect is said to be a probable consequence of an act if the occurrence of that consequence would be considered by a reasonable man to be the natural and normal effect of the act.<sup>44</sup>
19. When property is in the possession of a person’s wife, clerk or servant on account of that person, it is in that person’s possession within the meaning of this Law.<sup>45</sup>
20. A person is said to “counterfeit” who causes one thing to resemble another thing intending by means of that resemblance to practise deception or knowing it to be likely that deception will thereby be practised.<sup>46</sup>
21. The word “writing” denotes any marks made upon paper or other substance to express words or ideas, and includes marks made by printing, lithography, photography, engraving or any other process; and the word “document” signifies any writing intended to be used or which may be used as evidence of the matter expressed thereby.<sup>47</sup>
22. The words “document of title” denote a document which is or purports to be a document whereby a legal right is created, extended, transferred, restricted, extinguished, revoked<sup>48</sup> or released, or whereby the existence or the extinction or revocation<sup>49</sup> of a legal right is acknowledged or established.
23. In every part of this law, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.
24. The word “act” denotes a series of acts as well as a single act and the word “omission” denotes a series of omissions as well as a single omission.<sup>50</sup>
25. Wherever the causing of a certain effect or an attempt to cause that effect by an act or by an omission is an offence, it is to be understood that the causing of that effect or the attempt to cause that effect partly by an act and partly by an omission is the same offence.<sup>51</sup>
26. A person is said to cause an effect “voluntarily” when he causes it by means whereby he intended to cause it or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.<sup>52</sup>
27. Except where otherwise appears from the context,<sup>53</sup> the word “offence” includes an offence under any law for the time being in force.
28. Everything which is prohibited by law and which is an offence or which furnishes ground for a civil action is said to be “illegal”.

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<sup>44</sup> Sokoto puts this subsection as a separate section under the heading “probable”.

<sup>45</sup> PC has an explanation following this section, omitted here and in all SPCs.

<sup>46</sup> PC has two explanations following this section, omitted here and in all SPCs.

<sup>47</sup> Sokoto splits this section into two, “writing” and “document”.

<sup>48</sup> Only Kaduna, Kano and Katsina include the word “revoked”.

<sup>49</sup> Only Kaduna includes the word “revocation”.

<sup>50</sup> Sokoto splits this section into two, “act” and “omission”.

<sup>51</sup> Sokoto omits this section.

<sup>52</sup> PC has an illustration after this definition, omitted here and in all SPCs.

<sup>53</sup> Sokoto omits “Except where otherwise appears from the context”.

29. A person is said to be “legally bound to do” not only whatever he is bound by law to do but also everything the omission to do which by him is an offence or furnishes ground for a civil action.
30. The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation, modesty<sup>54</sup> or property.
31. The words “life” and “death” denote the life or death of human being unless it otherwise appears from the context.<sup>55</sup>
32. The word “animal” does not include a human being.
33. The word “vessel” denotes anything made for the conveyance by water of human beings or of property.
34. Wherever the word “year” or the word “month” is used, it is to be understood that the year or the month is to be reckoned according to the Islamic calendar and its Gregorian equivalent.<sup>56</sup>
35. The word “oath” includes swearing in the name of Almighty Allah (SWT) or any of His attributes.<sup>57</sup>
36. Nothing is said to be done or believed in good faith which is done or believed without due care and attention.<sup>58</sup>
- \*\* [provocation]<sup>59</sup>
37. Any person who is convicted of an offence under this law may be adjudged to make compensation to any person injured by his offence and such compensation may be either in addition to or in substitution for any other punishment.<sup>60</sup>
38. A consent is not such a consent as is intended by any section of this law, if the consent is given:

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<sup>54</sup> PC omits “modesty”.

<sup>55</sup> Sokoto omits this section.

<sup>56</sup> PC: “according to the Gregorian calendar”.

<sup>57</sup> Sokoto as here, but then adds the PC definition as follows: the word “oath” “includes a solemn affirmation substituted by law for an oath, and any declaration required or authorised by law to be made before a public servant or to be used for the purpose of proof, whether in a court of justice or not.”

<sup>58</sup> Sokoto: “‘Good faith’ means an act done in good faith if it is done with due care and attention.”

<sup>59</sup> PC has here a definition captioned “Provocation”: “Such grave and sudden provocation as under any section of this Penal Code modifies the nature of an offence or mitigates the penalty which may be inflicted shall not be deemed to include: (i) provocation sought or voluntarily provoked by the offender as an excuse for committing an offence; (ii) provocation given by anything done in obedience to the law or by a public servant in the lawful exercise of the powers of such public servant; (iii) provocation given by anything done in the lawful exercise of the right of private defence.” This is followed by three illustrations. No SPC has this.

<sup>60</sup> PC has this section, but places it in the chapter on PUNISHMENTS AND COMPENSATION; and see the section of this code on “Restitution or Compensation”, §102 below. Gombe: “‘Compensation’ is a fixed amount of wealth against a convicted [sic] person for an offence under this Sharia Penal Code Law to any person injured by his offence and such compensation may be either in addition to or substitution for any other punishment.”

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- (a) by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or
- (b) by a person who, from unsoundness of mind or involuntary intoxication,<sup>61</sup> is unable to understand the nature and consequence of that to which he gives his consent; or
- (c) by a person who is under eighteen years of age or has not attained puberty.<sup>62</sup>
39. A person is said to “harbour” another person who has committed or intends to commit an offence or who is seeking to evade arrest when he supplies that other with shelter, food, drink, money, clothes, arms, ammunition, or means of conveyance, or assists that other in any way to evade arrest.
40. The word “genital” includes the vagina and the rectum.<sup>63</sup>
41. The word “*zina*” includes adultery and fornication.<sup>64</sup>
42. The word “married” means having ever consummated a valid marriage, such consummation not being done whilst in a state of fasting or seclusion thereof (*i'tikaf*), or in a state of ritual consecration of pilgrimage (*ihram*), or in a state of menstruation.<sup>65</sup>
43. The words “*sadaq al-mithli*” denote the dower due to brides within the same social, educational and family background.<sup>66</sup>
44. The word “*rajm*” means the penalty of stoning or pelting to death of a Muslim convicted for the offence of “*zina*”, rape, incest or sodomy.<sup>67</sup>
45. The word “*hirz*” denotes any location, place or means<sup>68</sup> that is customarily understood to represent safe keeping or custody or protection.
46. The word “*nisab*” denotes the minimum amount of property, or its value not below a quarter of a *dinar* or three *dirhams* which, if stolen, shall attract *hadd* punishment.<sup>69</sup>
47. The word “*taklif*” denotes the age of attaining legal and religious responsibilities.<sup>70</sup>
48. The word “*mukallaf*” denotes a person possessed of full legal and religious capacity.<sup>71</sup>

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<sup>61</sup> PC omits “involuntary”.

<sup>62</sup> PC: under 14 years of age. Bauchi: under the age of maturity.

<sup>63</sup> PC omits this section.

<sup>64</sup> PC omits this section.

<sup>65</sup> PC omits this section. All SPCs except Kaduna define marriage “in relation to punishment for adultery” or “under the meaning of the punishment for adultery”: “means being married or ever consummating a valid marriage.” Kaduna just says “‘marriage’ means being married or ever consummating a valid marriage”. No SPC has the elaborate definition given here.

<sup>66</sup> PC omits this section.

<sup>67</sup> PC omits this section. Bauchi, Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara omit “rape, incest or sodomy”. Kaduna: “The word ‘*rajm*’ means the execution of death penalty on a Muslim convicted for the offence of *zina*, rape, incest or sodomy through stoning by more than one person, firing squad or hanging.”

<sup>68</sup> PC omits this section. All SPCs except Kaduna: “any location or place”.

<sup>69</sup> PC omits this section. All SPCs except Kaduna and Yobe: “minimum amount of property, liable to payment of *zakat*, or which if stolen, the thief shall be liable to *hadd* punishment.” Yobe: “minimum amount of property (*ribu ¼ dinar*) which, if stolen . . .”.

<sup>70</sup> PC omits this section. Bauchi adds: “and is the age of maturity”. Sokoto: “the state of attaining legal and religious responsibilities by both age and mental soundness”.

49. The words "*waliyy al-damm*" include male agnatic heirs, daughters, full sisters, paternal aunts and consanguine sisters.<sup>72</sup>

50. The words "*qatl al gheelah*" denote the act of luring a person to a secluded place and killing him to take away his property.<sup>73</sup>

\*\* [*al-aqila*]<sup>74</sup>

51. The word "*wa'az*" denotes admonishing a person who has committed an offence.<sup>75</sup>

52. The word "*tashbeer*" denotes public disclosure of a person convicted of an offence.<sup>76</sup>

53. The word "*hajar*" denotes social boycott of the offender by the public.<sup>77</sup>

54. The word "*al-musadarab*" denotes confiscation of property owned by the offender.<sup>78</sup>

55. The word "*ghurrah*" denotes compensation which is paid in respect of causing miscarriage of fetus.<sup>79</sup>

56. The word "*ta'azir*" denotes any punishment applied or fixed by the State for an offence the punishment of which is not specified by way of *hadd* or *qisas*.<sup>80</sup>

57. The word "*hudud*" denotes offences or punishments that are fixed under the Sharia and includes offences or punishments as provided under sections 125, 126, 127, 128, 129, 130, 131, 132, 138, 139, 143, 144, 148, 150, 151, 152 and 341 of this law.<sup>81</sup>

<sup>71</sup> PC omits this section. Sokoto: "possessed of full legal age, mental soundness and religious capacity".

<sup>72</sup> PC omits this section. All SPCs except Kaduna and Sokoto: "male agnatic heirs, including three classes of females: full sister whether alone, consanguine sister and daughter, who are agnatised by their bothers." Kaduna: "legal heirs of a deceased victim of homicide". Sokoto: "male agnatic heirs including daughter, full sister, paternal sister and consanguine sister".

<sup>73</sup> PC omits this section. Bauchi, Gombe, Kano, Katsina: "luring a person to a secluded place and killing him". Kaduna: "luring a person, killing him and taking away his property".

<sup>74</sup> All SPCs insert here (or, in the case of Kebbi and Sokoto, in alphabetical order within the definitions) a definition of "*al-aqila*". All except Kaduna: "agnatic relatives of the killer who are responsible jointly for the payment of *diyab* each according to his capacity". Kaduna: "legal heirs and other associates whether individual or corporate of the killer who are responsible jointly or severally for the payment of *diyab*". PC omits this definition.

<sup>75</sup> PC omits this section. SPCs: "reminding [Gombe: admonishing; Kano, Katsina: warning] the person who has committed a transgression that he has done an unlawful act".

<sup>76</sup> PC omits this section. All SPCs except Kaduna and Kebbi: "public disclosure usually consists of the taking of the offender by some of the court officials to every [Kano, Katsina: any] part of the city and telling the people what he had committed for which he had received a *ta'azir* punishment". Kaduna: "the taking of the convict by court officials to parts of the city telling the people what offence he has committed". Kebbi: "the public display of offender by court officials, taking him to every part of the city, making public the offence for which he had received *ta'azir* punishment".

<sup>77</sup> PC omits this section. All SPCs except Kaduna: "boycotting the offender by the public". Bauchi rather defines "*hujran*", and Kano and Katsina "*hijran*": "boycotting the offender by the public".

<sup>78</sup> PC omits this section.

<sup>79</sup> PC omits this section. All SPCs except Kaduna: "compensation which is equivalent to 1/20 of *diyab* paid in respect of causing miscarriage of fetus".

<sup>80</sup> PC omits this section. Bauchi: "the body of Islamic laws pertaining to correctional punishment left to the discretion of the judge". All other SPCs except Kaduna, Yobe: "a discretionary punishment for offence whose punishment is not specified". Kaduna: "any punishment not provided for by way of *hadd* or *qisas* and includes the offences under section 96(1) [here §93] except paragraphs (g) and (h) thereof". Yobe: as here.

#### CHAPTER 4: THE SHARIA PENAL CODES

58. The word "*qisas*" includes punishments inflicted upon offenders by way of retaliation for causing death/injuries to a person.<sup>82</sup>
59. The word "*tanbih*" denotes a severe rebuke or reprimand for misdemeanours.<sup>83</sup>
60. The word "*diyab*" denotes a fixed amount of money paid to a victim of bodily hurt<sup>84</sup> or to the deceased's legal heirs<sup>85</sup> in homicide cases.<sup>86</sup>
61. The word "*bukumab*"<sup>87</sup> denotes the amount of compensation short of *arsb*<sup>88</sup> payable to a victim of bodily injuries of unspecified quantum,<sup>89</sup> based on the discretion of the court.<sup>90</sup>
62. The word "Government" means the Government of a State or the Federal Government or Local Government.<sup>91</sup>
63. The words "foreign government" mean any government other than any government within the Federation of Nigeria.<sup>92</sup>
- \*\* [additional definitions in some SPCs]<sup>93</sup>

#### CHAPTER II – CRIMINAL RESPONSIBILITY

64. (1) There shall be no criminal responsibility except upon a *mukallaf*.
- (2) There shall be no criminal responsibility unless an unlawful act or omission is done intentionally or negligently.<sup>94</sup>

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<sup>81</sup> PC, Gombe, Jigawa, Sokoto, Zamfara omit this section. Bauchi: "*hudud* (sing. *badd*) means a specific punishment for committing a stated offence imposed on the offender (and it is Allah's right)". Kano, Katsina: "punishable offences prescribed by Qur'an [Katsina: Holy Qur'an] and Hadith". Kaduna defines "*badd*": "punishment that is fixed by Islamic law". Kebbi: "the punishment prescribed by the Qur'an and Sunnah". Yobe: as here.

<sup>82</sup> PC, Gombe, Jigawa, Kano, Katsina, Kebbi, Sokoto, Zamfara: omit this section. Bauchi: "the body of Islamic laws relating to retaliation".

<sup>83</sup> PC omits this section.

<sup>84</sup> Kaduna: "compensation paid to a person injured".

<sup>85</sup> All SPCs have "agnatic heirs" instead of "legal heirs".

<sup>86</sup> All SPCs except Kaduna and Sokoto have "murder cases" instead of "homicide cases". Bauchi adds: "applying to both *qisas* [retaliatory] cases as well as non-*qisas* cases". All SPCs except Bauchi and Kaduna add at the end: "the quantum of which is one thousand dinar, or twelve thousand dirham or 100 camels". Bauchi adds further: "or two hundred heads of cattle, or two thousand heads sheep". Kaduna has nothing like this at all. PC omits this section entirely.

<sup>87</sup> Gombe uses "*qeamab*" instead of "*bukumab*", but the definition is otherwise the same except as noted.

<sup>88</sup> All SPCs except Kaduna: "short of *diyab*".

<sup>89</sup> Kebbi: "compensated quantum".

<sup>90</sup> All SPCs: "discretion of the judge". PC omits this section entirely.

<sup>91</sup> PC: "means the Government of Northern Nigeria". Bauchi: "means the Government of Bauchi State except where the context otherwise admits or any of its Local Government Councils". Other SPCs insert the names of their own states instead of putting "a State".

<sup>92</sup> PC adds: ", the Government of the United Kingdom or of any British possession or part thereof".

<sup>93</sup> Kaduna and Yobe add a definition of "*arsb*": "specific amounts payable as compensation for injuries that do not involve the loss of life". Sokoto defines "*al-sabir*": "includes a magician". Kebbi: "building" means a structure of any kind whether permanent or temporary and includes a hut, store, granary, pound and a compound completely enclosed by a wall or other structure". Kaduna: "code": "unless otherwise indicated the word 'code' means the Sharia Penal Code".

65. A person is presumed, unless the contrary is proved, to have knowledge of any material fact if such fact is a matter of common knowledge.
66. A person who does an act in a state of voluntary intoxication is presumed to have the same knowledge as he would have had if he had not been intoxicated.
67. (1) Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law, in good faith believes himself to be justified by law in doing it.
- (2) Whoever being a *waliyy al-damm* of a deceased person causes the death of the suspect alleged to have killed the deceased shall not be punished with death, save as provided under section 202 of this law.<sup>95</sup>

Illustrations:<sup>96</sup>

- (a) *A an officer of a court of justice being ordered by that court to arrest Y and after due enquiry believing Z to be Y arrests Z. A has committed no offence.*
- (b) *A sees Z commit what appears to A to be culpable homicide. A in the exercise to the best of his judgment exerted in good faith of the power which the law gives to all persons of arresting murderers seizes Z in order to bring him before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self defence.*
- (c) *A kills B. C, the son of B, kills A before A is convicted of killing B. C will not be punished for intentional homicide if it is established that A was indeed guilty of intentional homicide against B.*<sup>97</sup>

68. Nothing is an offence which is done by a person when acting judicially as a court of justice or as a member of a court of justice in the exercise of any power which is or which in good faith he believes to be given to him by law.
69. Nothing which is done in pursuance of or which is warranted by the judgment or order of a court of justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding that the court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the court had such jurisdiction.
70. Nothing is an offence which is done by accident or misfortune and without any criminal intention or knowledge in the course of doing a lawful act in a lawful manner by lawful means and with proper care and caution.
71. (1) Nothing is an offence by reason of an injury which it may cause or be intended by the doer to cause or be known by the doer to be likely to cause, if it be done without any criminal intention to cause injury and in good faith for the purpose of preventing or avoiding other injury to person or property or of benefiting the person to whom injury is or may be caused: *Provided:*

- (a) that, having regard to all the circumstances of the case, the doing of the thing was reasonable; and

<sup>94</sup> PC omits this entire section, but see §72 below and notes thereto. Kano and Katsina have: “upon an adult and sane person (*mukallaf*)”.

<sup>95</sup> No similar subsection in PC or in Bauchi, Gombe, Kano, Katsina, Kebbi, Jigawa, Sokoto, Zamfara.

<sup>96</sup> Illustrations not included in Gombe.

<sup>97</sup> Illustration (c) not included in PC or in any of the SPCs.

(b) that, where the circumstances so require, the thing is done with reasonable care and skill.

(2) This section shall not apply to the intentional causing of death or to the attempting to cause death in order to prevent or avoid injury to property only except as is provided for in section 91 of this law.

(3) The death of a person shall under no circumstances be deemed to be for the benefit of that person.

(4) Mere pecuniary benefit is not benefit within the meaning of this section.

Illustrations:<sup>98</sup>

(a) *A, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it is found that in the circumstances, A's act was reasonable, A is not guilty of an offence;*

(b) *A, a surgeon knowing that a particular operation is likely to cause the death of Z, who suffers from a painful complaint, but not intending to cause Z's death and intending in good faith Z's benefit performs that operation. Z dies in consequence of the operation. If the operation is one which in all the circumstances it was reasonable for A to perform and it was performed with reasonable care and skill, A has committed no offence;*

(c) *Z is seized by a hyena. A fires at the hyena in order to save the life of Z. A in fact kills Z. A has committed no offence.*

72. No act is an offence which is done:<sup>99</sup>

(a) by a child under seven years; or

(b) in cases of *hudud* and *qisas*, by a child below the age of *taklif*.<sup>100</sup>

73. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, or sleep, is incapable of knowing the nature or the consequences of the act, or he is doing what is either wrong or contrary to law.<sup>101</sup>

74. Nothing is an offence which is done by a person who, at the time of doing it, is by reason of intoxication caused by something administered to him without his knowledge or against his will, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

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<sup>98</sup> No state includes any of these illustrations except Sokoto, which includes only (a). PC includes a 4<sup>th</sup> illustration, involving a speeding passenger train approaching a stationary one on the same line of rails, and a railway employee who switches the moving train onto a siding in order to prevent a collision. PC also includes two qualifications to what is here illustration (b), involving (i) what happens if A is drunk when he performs the operation, and (ii) the relevance of Z's having consented to the operation.

<sup>99</sup> Bauchi omits this whole section.

<sup>100</sup> PC subsection (b) reads: "by a child above seven years of age but under twelve years of age who has not attained sufficient maturity of understanding to judge the nature and consequence of such act." Kano and Katsina: "in cases of punishable offences by the Qur'an or Hadith (*hudud*) by a child below the age of criminal responsibility (*taklif*)". No state, in subsection (b), mentions *qisas* as well as *hudud*.

<sup>101</sup> PC omits "or sleep".



75. (1) No act is an offence by reason of the injury it has caused to the person or property of any person who, being above the age of *taklif*, has voluntarily and with understanding given his consent express or implied to that act.<sup>102</sup>
- (2) This section shall not apply to acts which are likely to cause death or grievous hurt, nor to acts which constitute offences independently of any injury which they are capable of causing to the person who has given his consent or to his property.
76. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.
77. (1) Nothing is an offence which does not amount to the infliction of grievous hurt upon any person and which is done:
- (a) by a parent or guardian for the purpose of correcting his child or ward;<sup>103</sup> or
  - (b) by a school master for the purpose of correcting a child entrusted to his charge;<sup>104</sup> or
  - (c) by a master for the purpose of correcting his apprentice such apprentice being under eighteen years of age;<sup>105</sup> or
  - (d) by a husband for the purpose of correcting his wife.<sup>106</sup>
- (2) No correction is justifiable which is unreasonable in kind or in degree, regard being had to the age and physical and mental condition of the person on whom it is inflicted; and no correction is justifiable in the case of a person who, by reason of tender years or otherwise, is incapable of understanding the purpose for which it is inflicted.
78. No communication made in good faith is an offence by reason of any harm caused to the person to whom it is made, if it is made for the benefit of that person.<sup>107</sup>
79. Except homicide, grievous hurt and offences against the State punishable with death, no act is an offence which is done by a person who is compelled to do it by coercion or by threat of death or imminent grievous hurt to his person or family or serious injury to his property which at the time of doing it reasonably caused the apprehension that instant death to that person will otherwise be the consequence:
- Provided that* the person doing the act did not, of his own accord or from apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such compulsion.

<sup>102</sup> PC: “above the age of eighteen years”.

<sup>103</sup> PC and Gombe, Jigawa, Kano, Katsina, Kebbi, Yobe, Zamfara: “child or ward being under eighteen years of age”. Bauchi: “under the age of maturity”.

<sup>104</sup> PC, Gombe, Jigawa, Kano, Katsina, Kebbi, Sokoto, Yobe, Zamfara: “child under eighteen years of age”. Bauchi: “under the age of maturity”.

<sup>105</sup> PC and all states except Kaduna: “servant or apprentice”.

<sup>106</sup> PC goes on: “such husband and wife being subject to any native law or custom in which such correction is recognised as lawful.”

<sup>107</sup> PC adds this illustration: “A, a surgeon, in good faith communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient’s death.”

80. No act is an offence which is done by a person involuntarily and without the ability of controlling his act by reason of act of God or sudden illness which makes him incapable of avoiding that act.<sup>108</sup>

81. It shall not be an offence if an act is done by a person who is compelled by necessity to protect his person, property or honour, or person, property or honour of another from imminent grave danger which he has not wilfully caused or wilfully exposed himself or other persons to and which he or that other person is not capable of avoiding.<sup>109</sup>

82. Nothing is an offence by reason that it causes or that it is intended to cause or that it is likely to cause any injury if that injury is so slight that no person of ordinary sense and temper would complain of such injury.

83. Nothing contained in the provisions of sections 66–81 shall prejudice the right of *diyyah* or damages in appropriate cases.<sup>110</sup>

*The Right of Private Defence*

84. Nothing is an offence which is done in the lawful exercise of the right of private defence.

85. Every person has a right, subject to the restrictions hereinafter contained, to defend:

(a) his own body and the body of any other person against any offence affecting the human body;

(b) the property whether movable or immovable of himself or of any other person against any act, which is an offence falling under the definition of theft (*sariqah*), robbery (*hirabah*), mischief (*fasad*) or criminal trespass (*ta'addi*), or which is an attempt to commit theft (*sariqah*), robbery (*hirabah*), mischief (*fasad*) or criminal trespass (*ta'addi*).<sup>111</sup>

86. When an act, which would otherwise be a certain offence is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act or by reason of any misconception on the part of that person,<sup>112</sup> every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations:<sup>113</sup>

(a) *Z under the influence of madness attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.*

(b) *A enters by night a house which he is legally entitled to enter. Z, in good faith taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.*

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<sup>108</sup> Not in PC.

<sup>109</sup> Not in PC.

<sup>110</sup> Not in PC.

<sup>111</sup> PC does not include the Arabic words for the specified offences.

<sup>112</sup> Bauchi compresses all conditions into: “by reason of infirmity of mind or misconception of the offender”.

<sup>113</sup> Gombe does not include the illustrations.

87. Subject to the provisions of section 203 paragraph (c) of this law,<sup>114</sup> the right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

88. There is no right of private defence in cases in which there is reasonable time to have recourse to the protection of the public authorities.<sup>115</sup>

89. There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done or attempted to be done:

- (a) by a public servant doing an act justifiable in law and in good faith; or
- (b) by any person acting under the direction of a public servant acting lawfully and in good faith.<sup>116</sup>

90. The right of private defence of the body extends, under the restrictions mentioned in sections 87 and 88 to the voluntary causing of death only when the act to be repelled is of any of the following descriptions, namely:

- (a) an attack which causes reasonable apprehension of death or grievous hurt; or
- (b) rape or an assault with the intention of gratifying unnatural lust; or
- (c) abduction or kidnapping.

91. The right of private defence of property extends, under the restrictions mentioned in sections 87 and 88 to the voluntary causing of death only when the act to be repelled is of any of the following descriptions, namely:

- (a) robbery (*hirabah*); or
- (b) house-breaking by night; or
- (c) mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling or as a place for the custody of property; or
- (d) theft, mischief, or house-trespass in such circumstances as may reasonably cause apprehension that, if such right of private defence is not exercised, death or grievous hurt will be the consequence.

92. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.<sup>117</sup>

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<sup>114</sup> PC, Gombe, Jigawa, Kano, Kebbi, Sokoto, Zamfara all leave out this initial “subject to” clause.

<sup>115</sup> The word “reasonable” is omitted from all codes except Kano and Katsina.

<sup>116</sup> PC adds the following explanation not included in any SPC: “A person is not deprived of the right of private defence against an act done or attempted to be done: (a) by a public servant as such unless he knows or has reason to believe that the person doing that act is such public servant; or (b) by the direction of a public servant, unless he knows or has reason to believe that the person doing the act is acting by such direction or unless such person states the authority under which he acts or, if he has authority in writing, unless he produces such authority if demanded.”

<sup>117</sup> PC and Sokoto insert an illustration following this section: “A is attacked by a mob which attempts to kill him. He cannot effectually exercise his right of private defence without firing on the mob and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.”

\*\* [General offences<sup>118</sup>]

**CHAPTER III – PUNISHMENTS AND COMPENSATION**

93. (1) The punishments to which offenders are liable under the provisions of this law are:

- (i) death (*qatl*);
- (ii) imprisonment (*siḥn*);
- (iii) closure of premises;
- (iv) forfeiture and destruction of property (*al-musadarah-wal ibadah*);
- (v) detention in a reformatory (*habs fi islahiyyah*);
- (vi) fine (*gharamah*);
- (vii) caning (*jald*);<sup>119</sup>
- (viii) amputation (*qat'*);
- (ix) retaliation (*qisas*);
- (x) blood-wit (*diyyah*);
- (xi) restitution (*radd*);
- (xii) reprimand (*tambikah*);
- (xiii) public disclosure (*tash-beer*);<sup>120</sup>
- (xiv) boycott (*hajar*);
- (xv) exhortation (*wa'az*);<sup>121</sup>
- (xvi) compensation (*bukumah*);
- (xvii) warning (*tabdid*); and
- (xviii) stoning to death (*rajm*).<sup>122</sup>

(2) Nothing in this section shall prevent a court from dealing with an offender in accordance with the Probation of Offenders Law.<sup>123</sup>

94. No sentence of imprisonment shall be passed on any person who in the opinion of the Court is under fifteen years of age.

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<sup>118</sup> Bauchi, Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara all have in this place a provision entitled “General Offences”, of which we quote Zamfara’s: “Any act or omission which is not specifically mentioned in this Sharia Penal Code but is otherwise declared to be an offence under the Qur’an, Sunnah, and *ijtihad* of the Maliki school of Islamic thought, shall be an offence under this code and such act or omission shall be punishable: (a) with imprisonment for a term which may extend to five years, or (b) with caning which may extend to 50 lashes, or (c) with a fine which may extend to ₦5,000.00, or with any two of the above punishments.” Gombe omits the word ‘*ijtihad*’ and puts instead “*qiyas* and *ijma* and other sources of the Maliki school of thought”. Bauchi varies the punishments: imprisonment may extend to 1 year only, caning may extend to 40 lashes only, and the fine may extend to ₦50,000.00. PC has nothing similar.

<sup>119</sup> Sokoto has “*hadd-lashing*” in addition to caning. The PC also has the following provision on *haddi* lashing: “Offenders who are of the Moslem faith may in addition to the punishments specified in subsection (1) be liable to the punishment of *Haddi* lashing as prescribed by Moslem law for offences contrary to sections 387 [adultery by a man], 388 [adultery by a woman], 392 [defamation], 393 [injurious falsehood], 401, 402, 403 and 404 [all relating to alcohol] of this Penal Code.”

<sup>120</sup> Called “public scorn” in Gombe.

<sup>121</sup> Called “admonishing” in Gombe.

<sup>122</sup> Only Gombe, Kano and Katsina have stoning to death in addition to death.

<sup>123</sup> Gombe adds: “or any other written law enforced in this State.”

\*\* [Fractions of term of punishment]<sup>124</sup>

95. (1) When an accused person who has completed his seventh but not completed his eighteenth year of age<sup>125</sup> is convicted by a court of any offence, the court may instead of passing the sentence prescribed under this law, subject the accused to:

- (a) confinement in a reformatory home for a period not exceeding one year; or
- (b) caning which may extend to twenty lashes, or with fine or with both.<sup>126</sup>

(2) Where it is proved that the offence committed by the accused person is by negligence of the parent or guardian the court may impose a fine not exceeding five thousand naira.<sup>127</sup>

96. (1) Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited but shall not exceed the jurisdiction of the court imposing it and shall not be excessive.

(2) The court shall assess fine with reference to the nature of the offence committed, the amount of wrongful gain obtained thereby, the degree of the offender's participation and his financial status.<sup>128</sup>

97. Whenever an offender is sentenced to a fine whether with or without imprisonment under this law the court which sentences the offender may direct by the sentence that, in default of payment of the fine, the offender shall be committed to prison for a certain term which term shall be in excess of any other term of imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.<sup>129</sup>

98. (1) If an offence is punishable with fine or with imprisonment and fine the court may direct that in default of payment the offender shall be imprisoned for any term not exceeding the maximum fixed in the following scale, or the offender may be caned with a number of lashes not exceeding the maximum fixed in the same scale:<sup>130</sup>

<b>Where the fine:</b>	<b>The period of imprisonment shall not exceed:</b>	<b>Number of lashes shall not exceed:</b>
(a) does not exceed two hundred naira;	seven days;	five lashes;
(b) exceeds two hundred naira and	fourteen days;	ten lashes;

<sup>124</sup> PC has a section in this place that states: "In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years." No SPC has this.

<sup>125</sup> Bauchi: "accused person who has attained his penultimate year before maturity but has not completed the age of maturity."

<sup>126</sup> PC: "deal with the accused in accordance with the provisions of the Children and Young Persons Law." Kano and Katsina omit "or fine or both". Kaduna omits both subsections (a) and (b), saying: "subject the convict to *ta'azir* punishment."

<sup>127</sup> Only Kano and Katsina have subsection (2).

<sup>128</sup> Subsection (2) not in PC.

<sup>129</sup> Kaduna: "may direct that his movable or immovable property shall be auctioned or he shall be given fine to pay instalmentally."

<sup>130</sup> Not in Kaduna. PC and all SPCs omit the possibility of lashes in case of default. The ranges of fines and the periods of imprisonment for default vary among the codes, the highest period of imprisonment being five years in Kebbi State if the fine exceeds ₦20,000.

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- does not exceed four hundred naira;
- (c) exceeds four hundred naira and does not exceed one thousand five hundred naira; one month; fifteen lashes;
- (d) exceeds one thousand five hundred naira and does not exceed two thousand naira; two months; twenty lashes;
- (e) exceeds two thousand naira and does not exceed three thousand naira ; four months; twenty-five lashes;
- (f) exceeds three thousand naira and does not exceed five thousand naira six months; thirty lashes;
- (g) exceeds five thousand naira and does not exceed eight thousand naira; eight months; forty lashes;
- (h) exceeds eight thousand naira and does not exceed ten thousand naira; ten months; forty-five lashes;
- (i) exceeds ten thousand naira and does not exceed twenty thousand naira; one year; fifty-five lashes.

(2) The sentence served under subsection (1) shall discharge the offender from liability to pay the fine or the unpaid part thereof.<sup>131</sup>

(3) The Governor may, with the approval of the House of Assembly by order review the fine in the scale prescribed in subsection (1) of this section when it is considered to be practicable in the interest of justice.<sup>132</sup>

\*\* [Fine not discharged by death or service of sentence in default of payment]<sup>133</sup>

99. When the same act falls within the definition of more than one offence or when an offence consists of a series of acts each of which or any one or more of which constitutes the same or some other offence, the offender shall not, unless it be otherwise expressly provided, be punished with a more severe punishment than the court which tries him could award for any one of such offences.<sup>134</sup>

100. A sentence of caning may be passed by any court whether trying a case summarily or otherwise on any offender as the punishment for that offence or in lieu of or in addition to

<sup>131</sup> Neither PC nor any SPC has this subsection; but see \*\* following §98.

<sup>132</sup> Only Kano and Katsina have this subsection.

<sup>133</sup> PC has here the following provision, also contained in Gombe, Jigawa, Kebbi, Sokoto, Yobe, and Zamfara: “Where a fine or any part thereof remains unpaid the offender or his estate, if he is dead, is not discharged from liability to pay the fine or the unpaid part thereof notwithstanding that he has served a term of imprisonment in default of payment of the fine.” Bauchi has the same provision but changes “not discharged” to “discharged”. Kaduna, Kano and Katsina omit the provision entirely.

<sup>134</sup> Not in Kaduna. PC inserts an illustration: “A gives Z fifty strokes with a stick. Here A can be punished for one beating only, although each blow may by itself constitute an offence.” But if, while A is beating Z, Y interferes and A strikes Y, A is liable to two punishments – one each for Y and Z.

any other punishment to which he might be sentenced for any offence not punishable with death.<sup>135</sup>

Explanation:

*In a situation where death sentence or hadd or qadbf punishments are combined the punishment of hadd shall precede that of death.*<sup>136</sup>

101. A sentence of reprimand (*tambikb*), or warning (*tabdid*), exhortation (*wa'az*) or boycott (*hajar*) may be passed by any court whether trying the case summarily or otherwise on any offender in lieu of, or in addition to any other punishment to which he might be sentenced for any offence not punishable with death, or offences falling under *budud* or *qisas*.<sup>137</sup>

102. Any person who is convicted of an offence under this law shall, in addition to the punishment for the offence, be ordered to make complete restitution of any benefits, moneys, funds or properties obtained by the crime or other illegal means to the person(s), authorities, bodies or corporations concerned, and the court may, upon application by the victim or his relatives, order compensation for any injury that had resulted from the offence, in accordance with provisions of the relevant Act or Law.<sup>138</sup>

103. The court may order the closure of any premises used in conducting in any way any business in contravention of the provisions of this law for a period of not less than one month and not exceeding one year.<sup>139</sup>

#### CHAPTER IV – JOINT ACTS

104. When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

105. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

106. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.<sup>140</sup>

<sup>135</sup> Not in Kaduna. PC limits the caning to twelve strokes, and to male offenders.

<sup>136</sup> Only Kano and Katsina have this explanation.

<sup>137</sup> Not in PC. Kano and Katsina omit warning.

<sup>138</sup> Not in Kaduna. PC provides for “compensation to any person injured ... in addition to or in substitution for any other punishment.” Sokoto: “upon application by the victim or his legal representative and in case of victim’s death by his legal heirs, order compensation ... in accordance with the relevant provisions of this code or the general principles of Maliki School of thought.” Note also the section on compensation included in the chapter on GENERAL EXPLANATIONS AND DEFINITIONS, above §37.

<sup>139</sup> Not in PC. Bauchi and Katsina omit the period of closure. Jigawa: “not exceeding one year or pending the determination of the case.” Kaduna allows the court to vacate any such order to allow the premises to be used for any legitimate purpose.

<sup>140</sup> PC has three illustrations to this section, of which Sokoto alone includes one, the second, as follows: “A and B are joint jailors and as such have the charge of Z a prisoner alternately for six hours at a time. A and B intending to cause Z’s death knowingly co-operate in causing that effect by illegally

107. Where several persons are engaged or concerned in the commission of a criminal act each person may be guilty of a different offence or offences by means of that act.<sup>141</sup>

**CHAPTER V – ABETMENT**

108. A person abets the doing of a thing, who:

- (a) instigates any person to do that thing; or
- (b) engages with one or more person or persons in any conspiracy for the doing of that thing; or
- (c) intentionally aids or facilitates by any act or illegal omission the doing of that thing.<sup>142</sup>

109. A person abets an offence who abets either the commission of an offence or the commission of an act which would be an offence, if committed with the same intention or knowledge as that of the abettor by a person capable by law of committing an offence.<sup>143</sup>

110. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment and no express provision is made by this law or by any other law for the time being in force for the punishment of such abetment, be punished with the punishment provided for the offence.<sup>144</sup>

111. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

112. When an act is abetted and a different act is done and the act done was a probable consequence of the abetment and was committed under the influence of the instigation or in pursuance of the conspiracy or with the aid which constitutes the abetment, the abettor is

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omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of culpable homicide.”

<sup>141</sup> PC has an illustration after this section, omitted in all SPCs and here.

<sup>142</sup> PC has an explanation and two illustrations following this section. Only Kano, Katsina and Sokoto include any of this, namely, the two illustrations, as follows: “(a) A is authorised by a warrant from a court of justice to arrest Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z and thereby intentionally causes A to arrest C. Here B abets by instigation the arrest of C. (b) A, a policeman, bound as such to give information of all designs to commit robbery and knowing that Z intends to commit a robbery illegally omits to give information of Z’s intention, knowing that the commission of the robbery is likely to be thereby facilitated. Here A has abetted the robbery.”

<sup>143</sup> PC has five explanations and six illustrations following this section. Kano and Katsina include the first two explanations only, as follows: “Explanation 1. The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act. Explanation 2. To constitute the offence of abetment, it is not necessary that the act abetted should be committed or that the effect requisite to constitute the offence should be caused.” Sokoto includes a different one of the explanations, as follows: “The abetment of an offence being an offence, the abetment of such an abetment is also an offence.” No other SPC includes any of the illustrations or explanations, the rest of which we omit here.

<sup>144</sup> PC has an explanation and two illustrations following this section. These are omitted in all SPCs and here. Kaduna changes the provision as follows: “... if the act abetted is committed in consequence of the abetment be subjected to *ta’azir* punishment.”



liable for the act done in the same manner and to the same extent as if he had directly abetted it.<sup>145</sup>

113. If the act for which the abettor is liable under section 112 is committed in addition to the act abetted and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

114. When an act is abetted with the intention on the part of the abettor of causing a particular effect and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.<sup>146</sup>

115. Whenever any person who if absent would be liable to be punished as an abettor is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.<sup>147</sup>

116. (1) Whoever abets the commission of an offence punishable with death or imprisonment for life shall, if that offence be not committed in consequence of the abetment and no express provision is made by this law or by any other Act or Law for the time being in force for the punishment of such abetment, be punished with imprisonment for a term which may extend to two years and shall also be liable to caning, which may extend to fifty lashes.<sup>148</sup>

(2) If the abettor is a public servant whose duty it is to prevent the commission of such offence, he shall be liable to imprisonment for a term which may extend to four years and shall also be liable to caning which may extend to fifty lashes.<sup>149</sup>

117. (1) Whoever abets an offence punishable with imprisonment shall, if that offence is not committed in consequence of the abetment and no express provision is made by this law or by any other Act or Law for the time being in force for the punishment of such abetment, be punished with imprisonment for a term which may extend to one fourth part of the longest term provided for that offence or with such fine as is provided for that offence or with both.<sup>150</sup>

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<sup>145</sup> PC has two illustrations following this section, omitted in all SPCs and here.

<sup>146</sup> PC has an explanation and an illustration following this section, omitted in all SPCs and here.

<sup>147</sup> This section is omitted from Kaduna.

<sup>148</sup> PC: up to “seven years and shall also be liable to fine.” Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe and Zamfara have the same provision as here. Bauchi reduces the maximum number of lashes to 40, Kebbi to 15; and Kebbi allows fine in the alternative to imprisonment. Kaduna’s punishment provision is different: “Whoever abets ... shall be liable to *ta’azir* punishment.”

<sup>149</sup> PC: up to “ten years and shall also be liable to fine.” The only state with the identical punishment as here is Yobe. Gombe, Jigawa, Kano, Katsina and Zamfara: up to 2 years and 50 lashes. Bauchi: 3 years/40 lashes; Sokoto: 3 years/60 lashes. Kebbi again allows fine in the alternative to imprisonment and up to 15 lashes. Kaduna omits this section entirely. PC also includes an illustration not included in any SPC or here.

<sup>150</sup> Kaduna omits this and the next subsection entirely.

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(2) If the abettor is a public servant whose duty it is to prevent the commission of such offence, he shall be liable to imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to fifty lashes.<sup>151</sup>

118. Whoever abets the commission of an offence by the public generally or by any member thereof or class of persons exceeding ten, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.<sup>152</sup>

119. Whoever administers, or takes, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to commit any offence shall be punished:

(a) with imprisonment for a term which may extend to two years or with fine or with both;<sup>153</sup> and

(b) if the offence is an offence punishable with death, with imprisonment for a term which may extend to five years, or with fine and shall in addition be liable to caning of forty-five lashes.<sup>154</sup>

#### CHAPTER VI – ATTEMPTS TO COMMIT OFFENCES

120. Whoever attempts to commit an offence punishable with imprisonment or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence shall, where no express provision is made by this law or by any other Act or Law for the time being in force for the punishment of such attempt, be punished with imprisonment for a term which may extend to one half of the longest term provided for that offence or with such fine as is provided for the offence or with both.<sup>155</sup>

#### CHAPTER VII – CRIMINAL CONSPIRACY

121. (1) When two or more persons agree to do or cause to be done:

- (a) an illegal act; or
- (b) an act which is not illegal by illegal means,

such an agreement is called a criminal conspiracy.

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<sup>151</sup> PC includes an illustration not included in any SPC or here. PC punishes with imprisonment for up to “one half of the longest term provided for that offence or with such fine as is provided for the offence or with both.” Gombe, Jigawa, Kano, Katsina, Yobe and Zamfara are identical to the provision here. Bauchi: 1 year/40 lashes. Sokoto: 1 year/50 lashes. Kebbi again allows fine in the alternative to imprisonment for up to 3 years, plus 15 lashes.

<sup>152</sup> Bauchi: up to 2 years or fine or both. Kano and Katsina add to the punishment provisions here, in the alternative, five to forty lashes, “or all”. Kaduna’s provision is different: “Whoever abets the commission of an offence by more than one person shall be subject to *ta’azir* punishment.”

<sup>153</sup> Bauchi raises the maximum term of imprisonment to 7 years. Kano and Katsina specify the amount of the fine: ₦50,000. Kaduna omits this subsection and the next entirely.

<sup>154</sup> PC: up to life or fine or both. Bauchi: up to life. Gombe, Jigawa, Kebbi, Yobe and Zamfara: up to 5 years or fine or both. Sokoto is like these last except imprisonment may only be for up to 2 years. Katsina is as here, except the amount of the fine is put at ₦50,000. Kano is like Katsina except that the 45 lashes are in the alternative instead of in addition.

<sup>155</sup> PC gives two illustrations following this section, omitted in all SPCs and here. Kaduna eliminates the requirement that the offence attempted be punishable with imprisonment, and makes the punishment “*ta’azir* punishment.”

(2) Notwithstanding the provisions of subsection (1), no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation 1:

*It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.*

Explanation 2:

*This section shall not apply to an agreement of two or more persons to do or cause to be done any act in contemplation or furtherance of a trade dispute if such act committed by one person would not be punishable as an offence.<sup>156</sup>*

122. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death or with imprisonment shall where no express provision is made in this law for the punishment of such a conspiracy be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment for a term not exceeding six months or with fine or with both.<sup>157</sup>

123. Any society which by its composition, nature, or conduct is anti-social, counter productive or opposed to the general belief and culture of the people of the State, or is dangerous and obstructive to the good governance of the State or any part thereof, is said to be an unlawful society.<sup>158</sup>

124. Whoever manages or is a member of an unlawful society shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to caning which may extend to sixty lashes.<sup>159</sup>

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<sup>156</sup> PC contains a third explanation omitted in all SPCs and here. Gombe omits all explanations.

<sup>157</sup> Kaduna collapses the two subsections of this section into: "Whoever is a party to a criminal conspiracy to commit an offence shall be punished in the same manner as if he had abetted such offence."

<sup>158</sup> Sokoto: "opposed to the general belief in worship and culture". PC has an entirely different wording: "A society is an unlawful society if declared by an order of the Governor in Council to be a society dangerous to the good government of the State or any part thereof."

<sup>159</sup> PC: up to 7 years or fine or both. Gombe, Jigawa, Kano, Katsina, Yobe and Zamfara as here except that Kano and Katsina add "or with both". Bauchi: 7 years/40 lashes. Sokoto: 2 years/60 lashes. Kebbi: 7 years or fine, and up to 15 lashes. Kaduna: *ta'azir*.

**CHAPTER VIII – HUDUD AND HUDUD-RELATED OFFENCES<sup>160</sup>**

*Zina (Adultery or Fornication)<sup>161</sup>*

125. Whoever, being a man or a woman fully responsible, has sexual intercourse through the genital of a person over whom he has no sexual rights and in circumstances in which no doubt exists as to the illegality of the act, is guilty of the offence of *zina*.<sup>162</sup>

126. Whoever commits the offence of *zina* shall be punished:

- (a) with caning of one hundred lashes if unmarried, and where the offender is a man shall also be liable to imprisonment for a term of one year;<sup>163</sup> or
- (b) if married, with stoning to death (*rajm*).<sup>164</sup>

Explanation:

*Mere penetration is sufficient to constitute the sexual intercourse necessary to the offence of zina.*<sup>165</sup>

*Rape*

127. (1) A man is said to commit rape who, save in the case referred in subsection (2),<sup>166</sup> has sexual intercourse with a woman in any of the following circumstances:

- (a) against her will;
- (b) without her consent;
- (c) with her consent, when her consent has been obtained by putting her in fear of death or of hurt;

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<sup>160</sup> This chapter gathers offences organised and sometimes defined differently in PC. Adultery and incest come in PC in a chapter entitled OFFENCES RELATING TO MARRIAGE AND INCEST; five other PC offences relating to marriage, e.g. “Deceitfully inducing belief of lawful marriage”, are omitted here and in all SPCs. Rape, sodomy, lesbianism, bestiality and gross indecency come in PC in the chapter on OFFENCES AFFECTING THE HUMAN BODY, where sodomy, lesbianism, and bestiality are not differentiated but are presumably what is meant there by “unnatural offences”. There is a separate chapter of PC dealing with DEFAMATION, where *qadhf* is not separately distinguished. Offences related to alcohol are dealt with in PC in a chapter on CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE AND DRUNKENNESS. All the rest of the offences included in this chapter are grouped in PC under OFFENCES AGAINST PROPERTY. The only PC offences against property not included in this chapter are those relating to *Mischief*, which are put here in the chapter on TA’AZIR OFFENCES. For more details, see notes to the specific sections.

<sup>161</sup> Compare PC §§387 and 388: “Whoever, being a [§387: man; §388: woman] subject to any native law or custom in which extra-marital sexual intercourse is recognised as a criminal offence, has sexual intercourse with a person who is not and whom [he; she] knows or has reason to believe is not [his wife; her husband] [§387: such sexual intercourse not amounting to the offence of rape] is guilty of the offence of adultery and shall be punished with imprisonment for a term which may extend to two years or with fine or with both.”

<sup>162</sup> Bauchi: “fully responsible and of Islamic faith”. Kebbi: “no doubt exists as to the committal of the act”. Kebbi also adds: “PROVE: 1. Four male witnesses to the act of *zina* who shall be Muslims; 2. Self confession; 3. Pregnancy.”

<sup>163</sup> Bauchi and Kebbi: imprisonment “in a location other than his domicile”. Gombe, Jigawa, Katsina, Kebbi, Sokoto, Yobe and Zamfara omit the limitation of the punishment of imprisonment to males.

<sup>164</sup> Kebbi: “if married and the marriage consummated”.

<sup>165</sup> Gombe omits the explanation.

<sup>166</sup> Kano and Katsina omit this excepting clause in subsection (1), but nevertheless include the exception as subsection (2).

- (d) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married;
  - (e) with or without her consent, when she is under fifteen years of age or of unsound mind.<sup>167</sup>
- (2) Sexual intercourse by a man with his own wife is not rape.<sup>168</sup>

Explanation:

*Mere penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.*

128. Whoever commits rape, shall be punished:<sup>169</sup>

- (a) with caning of one hundred lashes if unmarried, and shall also be liable to imprisonment for a term of one year;<sup>170</sup> or
- (b) if married, with stoning to death (*rajm*); and
- (c) in addition to either (a) or (b) above shall also pay the dower of her equals (*sadaq al-mithli*) and other damages to be determined by the court.<sup>171</sup>

[Explanation:]<sup>172</sup>

*Sodomy (Limat)*<sup>173</sup>

129. Whoever has anal coitus with any man is said to commit the offence of sodomy.<sup>174</sup>

<sup>167</sup> PC: “when she is under fourteen years”. Bauchi: “under the age of maturity”. Kaduna: “under the age of *taklif*”.

<sup>168</sup> PC adds: “if she has attained to puberty”.

<sup>169</sup> PC omits subsections (a)-(c), punishing rape “with imprisonment for life or for any less term and shall also be liable to fine.”

<sup>170</sup> Bauchi: “imprisonment for a term which may extend to fourteen years in a location other than his domicile”. Kano and Katsina: “imprisonment which may extend to life imprisonment”.

<sup>171</sup> Only Kaduna includes, as here, “and other damages to be determined by the court”.

<sup>172</sup> Kano and Katsina have the following explanation here: “The conditions for proving the offences of *zina* (fornication or adultery) or rape in respect of a married person are as follows: (a) Islam; (b) maturity; (c) sanity; (d) liberty; (e) valid marriage; (f) consummation of the marriage; (g) four witnesses; or (h) confession. If any of the above conditions has not been proved by the person alleging *zina* or rape there is no punishment of stoning to death; the person alleging such offence shall be imprisoned for one year and shall also be liable to caning which may extend to one hundred lashes.”

<sup>173</sup> PC omits the separate offence of sodomy, presumably including it under “Unnatural offences”: “Whoever has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine. Explanation: Mere penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.”

<sup>174</sup> Only Kaduna and Yobe have this same language. All other states: “Whoever has carnal intercourse against the order of nature with any man or woman is said to commit the offence of sodomy.” Kano and Katsina qualify this: “with any man or woman through her rectum”. All states except Kaduna also add the following proviso: “Except that whoever is compelled by the use of force or threats [Sokoto: of force or in fear of death or grievous hurt or fear of any other serious injury] or without his consent to commit that act of sodomy [Kano and Kaduna: with another shall not be the subject] [all others: upon the person of another or be the subject] of the act of sodomy nor shall he be deemed to have committed the offence.” Kebbi also adds the following: “PROVE: 1. Sound mind; 2. Self Confession; 3. Four male witnesses in the act of sodomy who shall be trustworthy Muslims.”

130. (1) Subject to the provisions of subsection (2), whoever commits the offence of sodomy shall be punished with stoning to death (*rajm*).<sup>175</sup>
- (2) Whoever has anal coitus with his wife shall be punished with caning which may extend to fifty lashes.<sup>176</sup>

Explanation:

*Mere penetration is sufficient to constitute anal coitus necessary to the offence of sodomy.*<sup>177</sup>

*Incest*<sup>178</sup>

131. (1) Whoever being a man, has sexual intercourse with a woman who is and whom he knows or has reason to believe to be his daughter, his grand daughter, his mother or any other of his female ascendants or descendants, his sister or the daughter of his sister or brother or his paternal or maternal aunt has committed the offence of incest.
- (2) Whoever, being a woman, voluntarily permits a man who is and whom she knows or has reason to believe to be her son, her grandson, her father or any other of her male ascendants or descendants, her brother or the son of her brother or sister or her paternal or maternal uncle to have sexual intercourse with her, has committed the offence of incest.<sup>179</sup>
132. Whoever commits incest shall be punished:<sup>180</sup>
- (a) with caning of one hundred lashes if unmarried, and where the offender is a male shall also be liable to imprisonment for a term of not less than one year and not exceeding five years;<sup>181</sup> or
- (b) if married, with stoning to death (*rajm*).

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<sup>175</sup> Only Yobe is as here. Kaduna, Katsina and Kebbi: "Whoever commits the offence of sodomy shall be punished with stoning to death (*rajm*)."<sup>175</sup> Bauchi adds: "or by any other means decided by the state." Gombe, Jigawa, Kano and Zamfara: "Whoever commits the offence of sodomy shall be punished: (a) with caning of 100 lashes if unmarried and shall also be liable to imprisonment for a term of one year, or (b) if married [Kano: or has previously been married] with stoning to death (*rajm*)."<sup>175</sup> Sokoto: "shall be punished (a) with stoning to death; (b) if the act is committed by a minor on an adult person the adult person shall be punished by way of *ta'azir* which may extend to 100 lashes and minor with correctional punishment."

<sup>176</sup> Only Kaduna and Yobe vary the punishment in the case of sodomy with the wife, as here. Yobe: punishment as here. Kaduna: *ta'azir*.

<sup>177</sup> Gombe and Kaduna omit this explanation.

<sup>178</sup> Kano and Katsina omit the offence of incest.

<sup>179</sup> PC includes subsections (1) and (2) in one section, which also specifies the punishment. PC also includes an explanation: "In this section words expressing relation include relatives of the half blood and relatives whose relation is not traced through a lawful marriage."

<sup>180</sup> PC omits subsections (a) and (b), punishing all incest "with imprisonment for a term which may extend to seven years and shall also be liable to fine."

<sup>181</sup> Bauchi, Gombe, Jigawa, Kebbi, Sokoto, Yobe, and Zamfara omit the limitation of the punishment of imprisonment to males. All states make the term of imprisonment one year. Kebbi adds: "PROVE: Four trustworthy male witnesses to the act of incest."

*Lesbianism (Sibag)*<sup>182</sup>

133. Whoever, being a woman, engages another woman in carnal intercourse through her sexual organ or by means of stimulation or sexual excitement of one another has committed the offence of lesbianism.

134. Whoever commits the offence of lesbianism shall be punished with caning which may extend to fifty lashes and in addition be sentenced to a term of imprisonment which may extend to six months.<sup>183</sup>

[Explanation:]<sup>184</sup>

*Bestiality (Wat al-Babimah)*<sup>185</sup>

135. Whoever, being a man or woman, has carnal intercourse with any animal is said to commit the offence of bestiality.

136. Whoever commits the offence of bestiality shall be punished with caning of fifty lashes and in addition shall be sentenced to a term of imprisonment of six months.<sup>186</sup>

Explanation:<sup>187</sup>

*Mere penetration is sufficient to constitute the carnal intercourse necessary to the offence of bestiality.*

*Gross Indecency*

137. Whoever commits an act of gross indecency by way of kissing in public, exposure of nakedness in public and other related acts of similar nature capable of corrupting public morals shall be punished with caning which may extend to forty lashes and may be liable to imprisonment for a term not exceeding one year and may also be liable to fine.<sup>188</sup>

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<sup>182</sup> PC omits the separate offence of lesbianism, presumably including it under “Unnatural offences”: see note to *Sodomy (Linat)* above.

<sup>183</sup> Bauchi: “imprisonment which may extend to up to five years.” Kano and Katsina: stoning to death. Kaduna: *ta’azir*.

<sup>184</sup> Bauchi, Jigawa, Katsina, Kebbi, Sokoto, Yobe and Zamfara include the following explanation: “The offence is committed by the unnatural fusion of the female sexual organs and/or by the use of natural or artificial means to stimulate or attain sexual satisfaction or excitement.”

<sup>185</sup> PC omits the separate offence of bestiality, presumably including it under “Unnatural offences”: see note to *Sodomy (Linat)* above.

<sup>186</sup> Bauchi: “shall be punished with caning of 40 lashes and in addition shall be sentenced to a term of imprisonment of fourteen years and animal shall be caused to be killed.” Kano and Katsina: 100 lashes and two years. Kaduna: *ta’azir*.

<sup>187</sup> Kebbi adds: “PROVE: 1. Self confession; 2. Sound mind; 3. Four male witnesses in act of bestiality who shall be trustworthy Muslims.” Explanation omitted in Gombe.

<sup>188</sup> Definition of the offence: Kaduna: omits “by way of kissing”. Kano and Katsina: “in order to corrupt” instead of “capable of corrupting”. Gombe: “any sexual offence against the normal or usual standards of behaviour.” PC, Bauchi, Jigawa, Kebbi, Sokoto, Yobe and Zamfara do not define gross indecency, saying only: “Whoever commits an act of gross indecency upon the person of another without his consent or by the use of force or threat compels a person to join with him in the commission of such act shall be punished ...” Punishment: PC: up to 7 years and fine. Bauchi: 40 lashes, 7 years and fine. Kaduna: *ta’azir*. Sokoto varies the provision here only by using ‘or’ instead of ‘and’ and adding ‘or both’. All states except Kaduna add the following proviso: “Provided that a consent given by a person below the age of [PC: 16 years] [Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 15 years] [Kano, Katsina: puberty] [Bauchi: maturity] to such an act when done by his

*False Accusation of Zina (Qadhf)*<sup>189</sup>

138. Whoever by words either spoken or reproduced by mechanical or electronic<sup>190</sup> means or intended to be read or by signs or by visible representations makes or publishes any false imputation of *zina* or sodomy concerning a chaste person<sup>191</sup> or contests the paternity of such person even where such person is dead, is said to commit the offence of *qadhf*.

*Provided that* a person is deemed to be chaste who has not been convicted of the offence of *zina* or sodomy.

139. Whoever commits the offence of *qadhf* shall be punished with caning of eighty lashes.<sup>192</sup>

140. The offence of *qadhf* shall be remitted in any of the following cases:

- (a) where the complainant (*maqdhuf*) pardons the accuser (*qadhf*)
- (b) where a husband accuses his wife of *zina* and undertakes the process of mutual imprecation (*li'an*);
- (c) where the complainant (*maqdhuf*) is a descendant of the accuser (*qadhf*).

*Defamation*<sup>193</sup>

141. (1) Whoever by words either spoken or reproduced by mechanical or electronic<sup>194</sup> means or intended to be read or by signs or by visible representations makes or publishes any imputation concerning a person, intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, save in the cases hereinafter excepted, to defame that person.

(2) It is not defamation -

- (a) to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published; whether or not it is for the public good is a question of fact;
- (b) to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions or respecting his character so far as his character appears in that conduct and no further;
- (c) to express in good faith any opinion whatever respecting the conduct of any person touching any public question and respecting his character so far as his character appears in that conduct and no further;

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teacher, guardian or any person entrusted with his care or education shall not be deemed to be a consent within the meaning of this section.”

<sup>189</sup> PC omits these provision on *qadhf*.

<sup>190</sup> Only Kaduna includes “or electronic”.

<sup>191</sup> All SPCs add after ‘chaste person’: *mubsin*; similarly after ‘chaste’ in next sentence.

<sup>192</sup> Bauchi, Gombe, Jigawa, Katsina, Kebbi, Sokoto, Yobe, Zamfara add: “and his testimony shall not be accepted thereafter unless he repents before the court.” “Before the court” however omitted in Sokoto.

<sup>193</sup> PC includes identical provisions on defamation, only varying the punishment as noted below. PC also includes many explanations and illustrations omitted here and in all SPCs.

<sup>194</sup> Only Kaduna includes “or electronic”.



- (d) to publish a substantially true report of proceedings of a Court of Justice or of the result of any such proceedings;
- (e) to express in good faith any opinion whatever respecting the merits of any case civil or criminal which has been decided by a court of justice or respecting the conduct of any person as a party, witness or agent in any such case or respecting the character of such person as far as his character appears in that conduct and no further;
- (f) to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public or respecting the character of the author so far as his character appears in such performance and no further;
- (g) in a person having over another any authority either conferred by law or arising out of a lawful contract made with that other to pass in good faith any censure on the conduct of that other in matters to which lawful authority relates;
- (h) to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of the accusation;
- (i) to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it or of any other person or for the public good;
- (j) to convey a caution in good faith to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed or of some person in whom that person is interested or for the public good.

142. Whoever defames another shall be punished with caning which may extend to forty lashes and may be liable to imprisonment for a term which may extend to six months or fine which may extend to five thousand naira or with both.<sup>195</sup>

*Theft (Sariqah)*

143. The offence of theft shall be deemed to have been committed by a person who covertly, dishonestly and without consent, takes any lawful and movable property belonging to another, out of its place of custody (*hirz*) and valued not less than the minimum stipulated value (*nisab*) without any justification.<sup>196</sup>

144. Whoever commits the offence of theft punishable with *badd* shall be punished with amputation of the right hand from the joint of the wrist; and where the offender is convicted for the second theft, shall be punished with the amputation of the left foot from the ankle; and where the offender is convicted for the third theft, shall be punished with the amputation of the left hand from the joint of the wrist; and where the offender is convicted for the fourth theft, shall be punished with the amputation of the right foot from the ankle;

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<sup>195</sup> PC: 2 years or fine or both. Bauchi, Zamfara: 2 years and 40 lashes. Gombe, Jigawa, Kano, Katsina, Kebbi, Sokoto, Yobe: 1 year and 40 lashes. Kaduna: *ta'azir*.

<sup>196</sup> PC: "(1) Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to take it is said to commit theft. (2) Whoever dishonestly abstracts, diverts, consumes or uses any electricity or electric current is said to commit theft." In PC, five explanations and fourteen illustrations follow.

and where the offender is convicted for the fifth or subsequent thefts, he shall be imprisoned for a term not exceeding one year.<sup>197</sup>

145. Whoever commits the offence of theft that does not meet with the requirement of *hirz* or *nisab* as provided under section 144 is said to commit the offence of theft not punishable with *hadd*.<sup>198</sup>

146. The penalty of *hadd* for theft shall be remitted in any of the following cases:

- (a) where the offence was committed by ascendant against descendant;
- (b) where the offence was committed between spouses within their matrimonial home; provided the stolen property was not under the victim's lock and key;
- (c) Where the offence was committed under circumstances of necessity and the offender did not take more than he ordinarily requires to satisfy his need or the need of his dependents;
- (d) where the offender believes in good faith that he has a share (or a right or interest) in the said stolen property and the said stolen property does not exceed the share (or the right or interest) to the equivalent of the minimum value of the property (*nisab*);
- (e) where the offender retracts his confession before execution of the penalty in cases where proof of guilt was based only on the confession of the offender;
- (f) where the offender returns or restitutes the stolen property to the victim of the offence and repents before he was brought to trial, he being a first time offender;
- (g) where the offender was permitted access to the place of custody (*hirz*) of the stolen property;
- (h) where the victim of the offence is indebted to the offender and is unwilling to pay, and the debt was due to be discharged prior to the offence, and the value of the property stolen is equal to, or does not exceed the debt due to the offender to the extent of the *nisab*;
- (i) Where the confession made by the offender was obtained involuntarily in cases where proof of guilt was based only on the confession of the offender.<sup>199</sup>

<sup>197</sup> PC does not include anything similar to what are here §§144-146. SPCs: only Kaduna includes the words "from the ankle" in this section. For fifth offence: Bauchi: life; Kaduna: *ta'azir*. Kebbi: "PROVE: 1. Moveable property. 2. Property must be moved. 3. No right of entry. 4. *Mukaliif* (sound mind). 5. Self confession. 6. Property must not be in open place."

<sup>198</sup> Kaduna adds: "Provided that a person may not be subject to *hadd* punishment who commits theft in times of war, famine, or other natural" [sic]. Katsina omits this section entirely. Kano, instead of this section, has here: "Whoever is a public servant or a staff of a private sector including bank or company connives with somebody or some other people or himself and stole public funds or property under his care or somebody under his jurisdiction he shall be punished with amputation of his right hand wrist and sentence of imprisonment of not less than five years and stolen wealth shall be confiscated. If the money or properties stolen are mixed with another different wealth it will all be confiscated until all monies and other properties belonging to the public are recovered. If the confiscated amount and stolen properties are not up to the amount the whole wealth shall be confiscated and he will be left with some amount to sustain himself." This provision of Kano's substitutes for the section on "criminal breach of trust by public servant or by banker, merchant or agent", §167 here, which Kano omits.

147. Whoever commits the offence of theft under section 145 or where the punishment of theft was remitted under section 146 shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to fifty lashes.<sup>200</sup>

*Drinking alcoholic drink (Shurb al-Khamr)*

148. Whoever drinks alcohol or any other intoxicant knowingly and voluntarily, shall be punished with caning of eighty lashes.<sup>201</sup>

149. Whoever prepares alcohol by either manufacturing, pressing, extracting or tapping whether for himself or for another; or transports, carries or loads alcohol whether for himself or for another; or trades in alcohol by buying or selling or supplying premises by either leasing or storing or leasing out premises for the storing or preserving or consumption or otherwise dealing or handling in any way alcoholic drinks or any other intoxicant shall be punished with caning which may extend to forty lashes or with imprisonment for a term which may extend to six months or with both.<sup>202</sup>

150. Whoever is found drunk or drinking in a public or private place; and conducts himself in a disorderly manner, to the annoyance of any person or incapable of taking care of himself, shall in addition to the punishment specified in section 148 above, be punished with imprisonment for a term which may extend to six months or with a fine which may extend to two thousand naira or with both.<sup>203</sup>

*Robbery (Hirabah)*

151. Whoever acting alone or in conjunction with others in order to seize property or to commit an offence, or for any other reasons voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant hurt, or of

<sup>199</sup> Subsection (i) not included in any SPC.

<sup>200</sup> Bauchi: 1 year/40 lashes. Kaduna: *ta'azir*. PC: punishment for theft: 5 years or fine or both; but if in or from any building, tent, or vessel etc., or if by a clerk or servant etc., 7 years or fine or both; and if done having made preparation for causing death or hurt or restraint etc., 14 years and fine; with two illustrations.

<sup>201</sup> Bauchi: "whoever, being a Muslim". No SPC includes the word "knowingly". Bauchi adds: "For the purpose of this section the intake of any substance that causes a change in the physical balance of the individual shall attract the same penalty." PC: "Whoever being of the Moslem faith drinks anything containing alcohol other than for a medicinal purpose shall be punished with [up to 1 month or £5 or both]." PC §404: punishments can double or triple for 2<sup>nd</sup> or subsequent convictions within 6 months.

<sup>202</sup> Bauchi, Jigawa, Kaduna, Kano and Katsina include "or any other intoxicant", but Kano and Katsina, perhaps inadvertently, omit before this phrase the words "alcoholic drinks". Punishments: Bauchi: 2 years/80 lashes. Kaduna: *ta'azir*. PC: no similar section.

<sup>203</sup> Bauchi: 1 year and 80 lashes, or fine. Kano and Katsina: 6 months or ₦5,000 or both. Kaduna: *ta'azir*. PC contains two separate sections related to this one: §401: "Whoever is found drunk in a public place or in any place by entering which he commits a trespass, shall be punished (a) with [up to 3 months or £50 or both]; and (b) if the person so found conducts himself in such place in a disorderly manner or is incapable of taking care of himself, with [up to 6 months or £100 or both]." §402: "Whoever being drunk in any private place there conducts himself in a disorderly manner to the annoyance of any person having a right to exclude him from such place or fails to leave such place when requested to do so by such person, shall be punished with [up to 6 months or £100 or both]." §404: punishments can double or triple for 2<sup>nd</sup> or subsequent offences within 6 months.

instant wrongful restraint in circumstances that render such person helpless or incapable of defending himself, is said to commit the offence of *hirabah*.<sup>204</sup>

152. Whoever commits *hirabah* shall be punished:<sup>205</sup>

- (a) with imprisonment for life where the offence was committed without seizure of property or causing death;<sup>206</sup>
- (b) with amputation of the right hand from the wrist and the left foot from the ankle where property was seized, but death was not caused;
- (c) with death sentence where death was caused, but property was not seized;<sup>207</sup>
- (d) with *salb*, where murder was committed and property was seized.<sup>208</sup>

153. Whoever makes any preparation for committing the offence of *hirabah*, shall be punished with imprisonment for a term not exceeding one year and shall also be liable to caning which may extend to fifty lashes.<sup>209</sup>

154. Whoever belongs to a gang of persons associated for the purpose of committing *hirabah*, shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to fifty lashes.<sup>210</sup>

*Extortion*

155. Whoever intentionally puts any person in fear of any injury to that person or to any other and thereby dishonestly induces the person so put in fear to deliver to any person any

<sup>204</sup> Kaduna: "... or to commit theft, armed with any dangerous weapon or instrument...", and other minor variations. Bauchi: "*Hirabah* (Brigandage and Armed Robbery) occurs when a person acting singly or in concert with others, commits theft through violence or profits by the fact that his victim(s) are far from help and openly seizes them or their goods, through: (a) the use of narcotics; (b) enticement and ambush; c) the use of naked violence including murder in any area." PC defines robbery as theft done by causing or attempting to cause death or hurt etc. or extortion done by putting in fear of same; there are 4 illustrations. Brigandage is defined as robbery or attempted robbery by 5 or more persons.

<sup>205</sup> PC, like the SPCs, varies the punishments for robbery and brigandage depending on the circumstances, but the parameters and the punishments are different than here. Simple robbery: up to 10 years and fine. If at night on the highway or a person sleeping outside: up to 14 years and fine. If by a person armed with a dangerous weapon: up to life and fine. If hurt caused: up to 14 years and fine. If culpable homicide committed during brigandage: all brigands: death. Etc.

<sup>206</sup> Gombe: up to 14 years. Sokoto: up to 5 years.

<sup>207</sup> Kano and Katsina: "with death sentence where death was caused"; and Kano and Katsina omit subsection (d).

<sup>208</sup> Only Kaduna uses *salb*; others have "crucifixion". Bauchi: "death by impalement (crucifixion)". Kano and Katsina omit this subsection, see previous note.

<sup>209</sup> Bauchi: up to 1 year and 40 lashes. Kaduna: *ta'azir*. Kebbi: up to 7 years and up to 50 lashes. Kano and Katsina omit this section entirely. PC: "preparation for committing brigandage": up to 10 years and fine.

<sup>210</sup> Bauchi: 21 years/40 lashes. Kebbi: 7 years/50 lashes. Kano: 5 years/100 lashes. Katsina: refers back to "Paragraph 140 [here, §152] (a), (b) or (c) as the case may be." Kaduna: *ta'azir*. PC §305: "associated for the purpose of habitually committing brigandage": up to 14 years and fine. §306: "belongs to any wandering gang of persons associated for the purpose of habitually committing theft or robbery and not being a gang of brigands": up to 7 years and fine. §307: "is one of five or more persons assembled for the purpose of committing brigandage": up to 7 years and fine.

property or document of title or anything signed or sealed which may be converted into valuable security, commits extortion.<sup>211</sup>

156. Whoever commits extortion shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to fifty lashes.<sup>212</sup>

157. Whoever in order to commit extortion puts any person in fear or attempts to put any person in fear of any injury to that person or to any other, shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to fifty lashes.<sup>213</sup>

158. Whoever in order to commit extortion puts any person in fear or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to caning which may extend to fifty lashes.<sup>214</sup>

159. Whoever commits extortion by putting any person in fear of an accusation against that person or any other of having committed or attempted to commit any offence punishable with death or with imprisonment for a term which may extend to ten years or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to caning which may extend to fifty lashes.<sup>215</sup>

#### *Criminal Misappropriation*

160. Whoever dishonestly misappropriates or converts to his own use any movable property, commits criminal misappropriation.<sup>216</sup>

161. Whoever commits criminal misappropriation shall be punished with imprisonment for a term which may extend to one year or with caning which may extend to forty lashes or with both.<sup>217</sup>

162. Whoever commits criminal misappropriation of property knowing that the property so misappropriated was in the possession of a deceased person at the time of that person's

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<sup>211</sup> PC gives five illustrations after this section, of which Sokoto includes the following two: "(a) A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion. (b) A, not pretending to be a judicial officer, usurps the functions of a court by unlawfully using his position in the community to force Z to pay a fine to him under threat of injury. A has committed extortion."

<sup>212</sup> PC: 5 years or fine. Bauchi: up to 5 years and 40 lashes. Sokoto: 1 year/50 lashes. Kaduna: *ta'azir*.

<sup>213</sup> PC: 2 years or fine or both. Bauchi, Jigawa, Kano, Katsina, Kebbi, Zamfara: 5 years/15 lashes. Sokoto: 2 years/15 lashes. Yobe: 5 years/50 lashes. Gombe: 5 years/caning. Kaduna: *ta'azir*.

<sup>214</sup> PC: 14 years and fine. Bauchi: 14 years/40 lashes. Gombe, Jigawa, Kano, Katsina, Kebbi, Yobe, Zamfara: 14 years/50 lashes. Sokoto: 5 years/50 lashes. Kaduna: *ta'azir*.

<sup>215</sup> Sokoto lowers the threshold of the offence: threatening accusation of a crime "punishable with death or with imprisonment for a term which may extend to five years". Punishments: PC: 14 years and fine. Bauchi, Gombe, Jigawa, Kano, Katsina, Yobe, Zamfara: 14 years/50 lashes. Kebbi: 10 years/50 lashes. Sokoto: 5 years/50 lashes. Kaduna: *ta'azir*.

<sup>216</sup> PC has two explanations and ten illustrations, omitted here and in all SPCs.

<sup>217</sup> PC: 2 years or fine or both. Kano as here. Bauchi, Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 1 year or 15 lashes or both. Katsina: 1 yr/50 lashes. Kaduna: *ta'azir*.

death and has not since been in the possession of any person legally entitled to such possession shall be punished:

- (a) with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to forty lashes;<sup>218</sup> or
- (b) if the offender at the time of such person's death was employed by him as a clerk or servant, with imprisonment for a term which may extend to five years and shall also be liable to caning which may extend to forty-five lashes.<sup>219</sup>

*Criminal Breach of Trust*

163. Whoever, being in any manner entrusted with property or with any dominion over property, dishonestly misappropriates or converts to his own use that property or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged or of any legal contract express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits criminal breach of trust.<sup>220</sup>

164. Whoever commits criminal breach of trust shall be punished with imprisonment for a term which may extend to seven years and with fine and shall also be liable to caning which may extend to fifty lashes.<sup>221</sup>

165. Whoever, being entrusted with property as a carrier, wharfinger or warehouse keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment for a term which may extend to seven years and with fine and shall also be liable to caning which may extend to sixty lashes.<sup>222</sup>

166. Whoever, being a clerk or servant or employed as a clerk or servant and being in any manner entrusted in such capacity with property or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term which may extend to seven years and with fine and shall also be liable to caning which may extend to sixty lashes.<sup>223</sup>

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<sup>218</sup> PC: 3 years and fine. Kano, Katsina: as here. All other SPCs except Kaduna: 3 years/15 lashes. Kaduna: *ta'azir*.

<sup>219</sup> PC: 7 years and fine. Kano, Katsina: as here. All other SPCs except Kaduna: 5 years/20 lashes. Kaduna: *ta'azir*.

<sup>220</sup> PC has six illustrations, of which Sokoto includes two: "(a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will and appropriates them to his own use. A has committed criminal breach of trust. (b) A is a warehouse keeper. Z, going on a journey, entrusts his furniture to A under a contract that it shall be returned on payment of a stipulated sum for storage. A dishonestly sells the goods. A has committed criminal breach of trust."

<sup>221</sup> PC: 7 years or fine or both. Bauchi: 10 years or fine and 40 lashes. Gombe, Jigawa, Yobe, Zamfara: 10 years or fine or both. Kano, Katsina: 10 years or up to ₦100,000 fine or both. Kebbi, Sokoto: 5 years or fine or both. Kaduna: *ta'azir*.

<sup>222</sup> PC: 10 years and fine. Bauchi: 14 years and fine and 20 lashes. Gombe, Kano, Katsina, Yobe, Zamfara: 14 years/fine. Jigawa: 7 years/fine. Kebbi, Sokoto: 5 years/fine. Kaduna: *ta'azir*.

<sup>223</sup> PC: 10 years and fine. Bauchi: 1 year [sic: probably a typo] and fine and 20 lashes. Gombe, Yobe, Zamfara: 14 years/fine. Jigawa: 7 years/fine. Kano, Katsina: 14 years/fine up to ₦140,000. Kebbi, Sokoto: 5 years/fine, Sokoto adding: "Nothing shall preclude the court from imposing or making an order for the payment of restitution." Kaduna: *ta'azir*.

167. Whoever, being in any manner entrusted with property or with any dominion over property in his capacity as a public servant or in the way of his business as a banker, factor, broker, legal practitioner or agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term which may extend to seven years and with fine and shall also be liable to caning which may extend to sixty lashes.<sup>224</sup>

*Receiving Stolen Property*

168. Property, the possession whereof has been transferred by theft or by extortion or by *hirabab*, and property, which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is stolen property, whether the transfer has been made or the misappropriation or breach of trust has been committed within the State or elsewhere; but if such property subsequently comes into possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.<sup>225</sup>

169. Whoever dishonestly receives or retains any stolen property knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to caning of fifty lashes.<sup>226</sup>

170. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to caning of thirty lashes.<sup>227</sup>

171. Whoever knowingly has in his possession or under his control anything which is reasonably suspected of having been stolen or unlawfully obtained and who does not give an account to the satisfaction of a court of justice as to how he came by the same, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.<sup>228</sup>

*Cheating*

172. Whoever by deceiving any person:

- (a) fraudulently or dishonestly induces the person so deceived to deliver any property to any person or to consent that any person shall retain any property; or

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<sup>224</sup> Kano and Katsina omit this section entirely, but Kano includes a substitute among its provisions on theft, see note to §145 above. Punishments: PC: 14 years and fine. Bauchi, Gombe, Jigawa, Yobe, Zamfara: 15 years/fine. Kebbi: 5 years/fine. Sokoto: 7 years and fine, adding: "Nothing shall preclude the court from imposing or making an order for the payment of restitution." Kaduna: *ta'azir*.

<sup>225</sup> PC has "robbery" where *hirabab* is here and in all SPCs. Brigandage being included within *hirabab*, a separate section of PC prescribing punishment for receiving property stolen in the commission of brigandage is then omitted here and in all SPCs except Bauchi. As to Bauchi, see note to next section.

<sup>226</sup> PC: 14 years or fine or both. Bauchi: 14 years and 40 lashes. Bauchi adds subsection (b) as follows: "Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of brigandage, or dishonestly receives, from a person whom he knows or has reason to believe to belong or have belonged to a gang of brigands, property, which he knows or has reason to believe to have been stolen, shall be punished with imprisonment for life or any less term and shall also be liable to fine." This subsection (b) corresponds to PC §318, omitted here and in all other SPCs. But Bauchi does not separately define "brigandage", cf. note to §151 above.

<sup>227</sup> PC: 5 years or fine or both. Gombe: 7 years/30 lashes. Jigawa: 5 years/50 lashes. Kaduna: *ta'azir*.

<sup>228</sup> PC: 6 months or fine or both. Kaduna: *ta'azir*.

(b) intentionally induces the person so deceived to do or omit to do anything which he would not do or omit to do if he were not so deceived and which act or omission causes or is likely to cause damage or harm to that person in body or mind or reputation or property, is said to cheat.<sup>229</sup>

173. A person is said to cheat by personation if he cheats by pretending to be some other person or by knowingly substituting one person for another or representing that he or any other person is a person other than he or such other person really is.<sup>230</sup>

174. Whoever cheats shall be punished with imprisonment for a term which may extend to two years or with fine and in either case shall also be liable to caning which may extend to twenty lashes.<sup>231</sup>

175. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction, to which the cheating relates, he was bound either by law or by a legal contract to protect, shall be punished with imprisonment for a term which may extend to three years or with fine and in either case shall also be liable to caning which may extend to forty lashes.<sup>232</sup>

176. Whoever cheats by personation shall be punished with imprisonment for a term which may extend to two years or with fine and in either case shall also be liable to caning which may extend to forty lashes.<sup>233</sup>

177. Whoever cheats and thereby fraudulently or dishonestly induces the person deceived to deliver any property to any person or to make, alter or destroy the whole or any part of a document of title or anything which is signed or sealed and which is capable of being converted into a document of title, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to forty lashes.<sup>234</sup>

#### *Criminal Trespass*

178. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,<sup>235</sup> unlawfully remains there with intent thereby to intimidate, insult or annoy or with intent to commit an offence, is said to commit criminal trespass.

179. (1) Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or

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<sup>229</sup> PC and Sokoto have this explanation: "A dishonest concealment of facts is a deception within the meaning of this section." PC has nine illustrations, of which Sokoto has only the first: "A, by falsely pretending to be in the government service, intentionally deceives Z and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats."

<sup>230</sup> PC and Sokoto have this explanation: "The offence is committed whether the individual personated is a real or imaginary person." PC also has two other illustrations.

<sup>231</sup> PC: 3 years or fine or both. Bauchi: maximum term: 5 years; otherwise as here. Kano and Katsina specify the maximum fine at ₦20,000. Kaduna: *ta'azir*.

<sup>232</sup> PC: 5 years or fine or both. Bauchi: maximum term: 5 years; otherwise as here. Kano and Katsina specify the maximum fine at ₦30,000. Kaduna: *ta'azir*.

<sup>233</sup> PC: 5 years or fine or both. Bauchi: maximum term: 5 years; otherwise as here. Kano and Katsina specify the maximum fine at ₦20,000. Kaduna: *ta'azir*.

<sup>234</sup> PC: 7 years and fine. Bauchi: 10 years/40 lashes. Kaduna: *ta'azir*.

<sup>235</sup> PC inserts at this point: "or, having lawfully entered into or upon such property,".



as a place for the custody of property or any railway carriage, motor vehicle or aircraft used for the conveyance of passengers or goods, is said to commit house trespass.<sup>236</sup>

(2) For the purpose of this section "building" means a structure of any kind whether permanent or temporary and includes a hut, store, granary, pound and a compound completely enclosed by a wall or other structure.<sup>237</sup>

180. (1) Whoever commits house trespass, having taken precaution to conceal such house trespass from some person who has a right to exclude or eject the trespasser from the building, tent, vessel, railway carriage, motor vehicle or aircraft which is the subject of the trespass, is said to commit lurking house trespass.<sup>238</sup>

(2) For the purpose of this section "building" means a structure of any kind whether permanent or temporary and includes a hut, tent, store, granary, pound and a compound completely enclosed by a wall or other structure.<sup>239</sup>

181. Whoever commits lurking house trespass between sunset and sunrise, is said to commit lurking house trespass by night.<sup>240</sup>

182. A person is said to commit house breaking, who commits house trespass, if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if being in the house or any part of it for the purpose of committing an offence or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:

(a) if he enters or quits through a passage made by himself or by any abettor of the house trespass in order to commit the house trespass;

(b) if he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance, or through any passage to which he has obtained access by scaling or climbing over any wall or building;

(c) if he enters or quits through any passage which he or any abettor of the house trespass has opened in order to commit the house trespass by any means by which that passage was not intended by the occupier of the house to be opened;

(d) if he enters or quits by opening any lock in order to commit the house trespass or in order to quit the house after a house trespass;

(e) if he effects his entrance or departure by using criminal force or committing an assault or by threatening any person with assault;

(f) if he enters or quits by any passage which he knows to have been fastened against such entrance or departure and to have been unfastened by himself or by an abettor of the house trespass.<sup>241</sup>

<sup>236</sup> PC omits "motor vehicle or aircraft". PC and Sokoto have this explanation: "The introduction of any part of the criminal trespasser's body is sufficient to constitute house trespass."

<sup>237</sup> PC and Kebbi omit subsection (2).

<sup>238</sup> PC omits "motor vehicle or aircraft".

<sup>239</sup> PC and Kebbi omit subsection (2).

<sup>240</sup> Kano and Katsina omit this section.

<sup>241</sup> PC and Sokoto add: "Explanation: The word house in this section includes any place which may be the subject of house trespass. Illustrations: (a) A commits house trespass by making a hole through the

183. Whoever commits house breaking between sunset and sunrise is said to commit house breaking by night.<sup>242</sup>
184. Whoever commits criminal trespass shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to thirty lashes.<sup>243</sup>
185. Whoever commits house trespass shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to thirty lashes.<sup>244</sup>
186. Whoever commits house trespass in order to commit any offence punishable with death, shall be punished with imprisonment for a term not exceeding seven years and shall also be liable to caning which may extend to fifty lashes.<sup>245</sup>
187. Whoever commits house trespass in order to commit any offence punishable with seven years<sup>246</sup> imprisonment, shall be punished with imprisonment for a term not exceeding two years and shall also be liable to caning which may extend to forty lashes.<sup>247</sup>
188. Whoever commits house trespass in order to commit any offence punishable with imprisonment, shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to forty lashes.<sup>248</sup>
189. Whoever commits lurking house trespass or house breaking, shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to forty lashes.<sup>249</sup>
190. Whoever commits lurking house trespass or house breaking in order to commit any offence punishable with imprisonment, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to thirty lashes.<sup>250</sup>

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wall of Z's house or cutting a slit in the tent in which Z is living and putting his hand through the aperture. A commits house breaking. (b) A commits house trespass by entering Z's house through a window. This is house breaking." PC further adds one other explanation and six other illustrations.

<sup>242</sup> Kano and Katsina omit this section.

<sup>243</sup> PC: 1 year or ₦50 or both. Bauchi: 3 years or ₦5,000. Kano and Katsina: as here, but up to 45 lashes. Kaduna: *ta'azir*.

<sup>244</sup> PC: 1 year or ₦50 or both. Bauchi: 3 years or "not than [sic] ₦10,000 fine" and up to 30 lashes. Kebbi: 1 year or fine and 30 lashes. Kaduna: *ta'azir*. Kano and Katsina omit any punishment for house trespass simpliciter.

<sup>245</sup> PC: 14 years/fine. Bauchi: 14 years/40 lashes. Kaduna: *ta'azir*.

<sup>246</sup> Sokoto is the only SPC using "punishable with seven years imprisonment" here; PC and all other SPCs except Kaduna have "fourteen years". Kaduna, in its marginal section title, calls this section "House trespass to commit offence punishable with seven years imprisonment." But the section itself reads: "Whoever commits house trespass in order to commit any offence shall be liable to *ta'azir* punishment"; and then Kaduna omits the next section.

<sup>247</sup> PC: 10 years and fine. Bauchi: 10 years and 40 lashes or fine. All other SPCs except Kaduna: 5 years/40 lashes. Kaduna: *ta'azir*. And see previous note.

<sup>248</sup> Kaduna omits this section. As to punishments: PC: 7 years/fine. Bauchi as here; all other states: 2 years/20 lashes.

<sup>249</sup> PC: 2 years/fine. Kano and Katsina: 5 years/40 lashes. Kebbi: 2 years or fine and 20 lashes. Kaduna: *ta'azir*. All other SPCs: 2 years/20 lashes.

<sup>250</sup> Bauchi omits this section. Kaduna changes the wording: "in order to commit any offence", although marginal definition says "in order to commit offence punishable with imprisonment";

191. Whoever commits lurking house trespass by night or house breaking by night, shall be punished with imprisonment for a term which may extend to four years and shall also be liable to caning which may extend to forty lashes.<sup>251</sup>

192. Whoever commits lurking house trespass by night or house breaking by night in order to commit any offence punishable with imprisonment, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to caning which may extend to fifty lashes.<sup>252</sup>

193. If at the time of the committing of lurking house trespass or house breaking any person guilty of such offence voluntarily causes or attempts to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house trespass or house breaking shall be punished:<sup>253</sup>

- (a) with *qisas* (retaliation) under section 199 if death is caused; or
- (b) with *qisas* (retaliation) under section 219 if grievous hurt is caused;<sup>254</sup> or
- (c) with imprisonment for life or for any less term, and shall also be liable to fine.<sup>255</sup>

194. Whoever dishonestly or with intent to commit mischief breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to twenty lashes.<sup>256</sup>

195. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same dishonestly or with intent to commit mischief breaks open or unfastens that receptacle, shall be punished with imprisonment for a term which may extend to two years and shall be liable to caning which may extend to thirty lashes.<sup>257</sup>

196. Whoever is discovered<sup>258</sup> carrying false keys or other instruments suitable for house breaking and seeks to conceal himself or is otherwise shown to have a criminal intention, shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to thirty lashes.<sup>259</sup>

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punishment is *ta'azir*. Punishments in other codes: PC: 14 years/fine. Kano and Katsina: 7 years/50 lashes. Kebbi: 3 years or fine and 30 lashes. Others as here.

<sup>251</sup> Kano and Katsina omit this section. PC: 3 years/fine. Kebbi: 5 years or fine and 40 lashes. All other SPCs: 5 years/40 lashes.

<sup>252</sup> Bauchi, Kaduna, Kano and Katsina omit this section. PC: up to life/fine. Kebbi: 7 years or fine and 50 lashes.

<sup>253</sup> PC limits this offence to "lurking house trespass by night or house breaking by night". Bauchi omits "or attempts to cause" in the definition of the offence.

<sup>254</sup> Bauchi omits the word "grievous".

<sup>255</sup> This is the only punishment prescribed in PC. Gombe: 14 years/fine. Kano and Katsina: 5 years/fine. Kaduna: *ta'azir*.

<sup>256</sup> PC: 2 years or fine or both. Bauchi: 2 years/40 lashes. Kebbi: 1 year or fine and 20 lashes. Kaduna: *ta'azir*.

<sup>257</sup> PC: 3 years or fine or both. Bauchi: 1 year/40 lashes. Kebbi: 2 years or fine and 30 lashes. Kaduna: *ta'azir*.

<sup>258</sup> All codes except Kaduna, Kano and Katsina insert here: "between sunset and sunrise".

<sup>259</sup> PC: 3 years/fine. Bauchi: 3 years/20 lashes. Jigawa: 1 year/20 lashes. Kebbi: 2 years or fine and 20 lashes. Kaduna: *ta'azir*. All others: 2 years/20 lashes.

197. Whoever imitates or alters any key or fabricates any instrument intending that such false key or instrument shall be used for a criminal purpose, shall be punished with imprisonment for a term which may extend to two years and shall be liable to caning which may extend to thirty lashes.<sup>260</sup>

**CHAPTER IX – QISAS AND QISAS-RELATED OFFENCES<sup>261</sup>**

*Homicide<sup>262</sup>*

198. Except in the circumstances mentioned in section 203,<sup>263</sup> whoever being a *mukallaf*<sup>264</sup> causes the death of a human being by an act<sup>265</sup>:

- (a) with the intention of causing death or such bodily injury as is probable or likely<sup>266</sup> to cause death<sup>267</sup>; or
- (b) in a state of fight, combat, strife or aggression, which is not intrinsically likely or probable to cause death<sup>268</sup>; or

<sup>260</sup> PC: 2 years/fine. Bauchi: 3 years/30 lashes. Jigawa: 1 year/30 lashes. Kebbi: 2 years or fine and 30 lashes. Kaduna: *ta'azir*.

<sup>261</sup> PC puts most of the offences included in this chapter, in a chapter entitled OFFENCES AFFECTING THE HUMAN BODY. Two groups of PC offences affecting the human body are however not included under QISAS AND QISAS-RELATED OFFENCES here or in the SPCs: *Wrongful Restraint and Confinement*, put in the SPCs under TA'AZIR OFFENCES, and *Rape and Unnatural and Indecent Offences Against the Person*, put in the SPCs under HUDUD AND HUDUD-RELATED OFFENCES. Kano and Katsina entitle this chapter RETALIATORY OFFENCES. Gombe groups *qisas* offences with *hudud*.

<sup>262</sup> This and all SPCs divide homicide into intentional, punishable with death (unless remitted by the relatives of the deceased, or unless falling under one of the statutory exceptions, see §203), and unintentional, punishable only with payment of *diyab*, see §§198-201. PC proceeds differently, first defining "culpable homicide", then dividing it into "punishable with death" and "not punishable with death". *Culpable homicide*: "Whoever causes death: (a) by doing an act with the intention of causing death or such bodily injury as is likely to cause death; or (b) by doing an act with the knowledge that he is likely by such act to cause death; or (c) by doing a rash or negligent act, commits the offence of culpable homicide." *Punishable with death*: "Except in the circumstances mentioned in section 222 culpable homicide shall be punished with death: (a) if the act by which the death is caused is done with the intention of causing death; or (b) if the doer of the act knew or had reason to know that death would be the probable and not only a likely consequence of the act or of any bodily injury which the act was intended to cause." *Not punishable with death*: see note to §203. Note: PC also includes separate sections on "causing death of person other than person whose death was intended", "death caused when intention is to cause hurt only", and "death caused in act of committing offence" (felony murder), all omitted here and in all SPCs.

<sup>263</sup> Kano and Katsina omit explicit reference here to the excepted circumstances, but list them in subsequent sections.

<sup>264</sup> Gombe, Kebbi, Sokoto, Yobe and Zamfara add here: "in a state of anger".

<sup>265</sup> Bauchi, Gombe, Jigawa, Kaduna, Kebbi, Sokoto, Yobe, Zamfara omit "by an act".

<sup>266</sup> Kano and Katsina omit "probable or".

<sup>267</sup> All SPCs except Kano and Katsina insert here: "with an object either sharp or heavy".

<sup>268</sup> All SPCs except Bauchi, Kano and Katsina include a subsection (b) on causes "not intrinsically likely or probable to cause death", but they disagree in the specification of such causes. Kaduna: "in a state of anger, with a light stick, a whip or any other thing of that nature which is not intrinsically likely or probable to cause death." Gombe, Jigawa, Kebbi, Sokoto, Yobe and Zamfara: same, but omitting "in a state of anger".

(c) if the doer of the act knew or had reason to know that death would be the probable and not only a likely consequence of the act or of bodily injury which the act was intended to cause<sup>269</sup>,

commits the offence of intentional homicide (*qatl al-amd*).

199. Whoever commits the offence of intentional homicide shall be punished:

- (a) with death; or
- (b) where the relatives of the victim remit the punishment in (a) above, with the payment of *diyyah*; or
- (c) where the relatives of the victim remit the punishment in (a) and (b) above, with caning of one hundred lashes and with imprisonment for a term of one year.<sup>270</sup>

*Provided that* in cases of intentional homicide by way of *gheelah* or *hirabah*, the punishment shall be with death only.<sup>271</sup>

200. Whoever being a *mukallaf* causes the death of any other person by mistake or accident, or by doing a rash or negligent act is said to commit unintentional homicide.<sup>272</sup>

201. Whoever commits the offence of unintentional homicide shall be punished -

- (a) Where the death was caused by mistake or accident, with payment of *diyyah*; or
- (b) Where the death was caused by a rash or negligent act, with payment of *diyyah*, a term of imprisonment which may extend to six months and shall also be liable to caning which may extend to fifty lashes.<sup>273</sup>

202. Whoever being a *waliyy al-damm* of a deceased person causes the death of the suspect alleged to have killed the deceased<sup>274</sup> shall be punished:

- (a) with imprisonment for a term of six months and shall also be liable to caning which may extend to fifty lashes, if it was proved that the person killed was the one who caused the death of the deceased;<sup>275</sup> or
- (b) where it was not proved that the suspect was the one who caused the death of the deceased, or it was proved that the death of the deceased was caused by the suspect

<sup>269</sup> Kaduna: “probable or likely consequence”. Kano (as subsection (b)): “by doing an act with knowledge that he is likely by such act to cause death.” Then in Kano subsection (c) and Katsina subsection (b): “by doing a rash and negligent act”.

<sup>270</sup> Kano and Katsina: “where the relatives of the victim remit the punishment in paragraph (a) and (b) above, the convict shall, in addition to the payment of *diyyah* be imprisoned for a period not exceeding 10 years.” Kaduna omits subsection (c) entirely.

<sup>271</sup> Gombe: “by way of assassination (*qatl al-gheelah*) or robbery (*hirabah*)”. Kaduna omits the proviso entirely.

<sup>272</sup> Only Kaduna includes “or by doing a rash or negligent act”. Bauchi: “by mistake such as with a light stick or whip or any other thing of that nature which is not intrinsically likely or probable to cause death commits the offence of unintentional homicide (*qatl al-kebata*)”.

<sup>273</sup> Only Kaduna divides the punishments into subsections (a) and (b); all the rest say simply “punished with the payment of *diyyah*”; cf. note to previous section. Kaduna subsection (b): “with payment of *diyyah* and liable to *ta’azir* punishment.”

<sup>274</sup> Bauchi inserts here: “with the intention of retaliation before taking the matter to court.”

<sup>275</sup> Bauchi: 6 months/40 lashes. Kano and Katsina: 10 years/50 lashes. Kaduna: *ta’azir*.

but with legal justification the *waliyy al-damm* shall be deemed to have committed intentional homicide punishable under section 199.<sup>276</sup>

203. Except in the circumstances mentioned in section 199 intentional homicide is punishable with the payment of *diyyah* and a term of imprisonment which may extend to one year and not with death in any of the following circumstances<sup>277</sup>:

(a) where the offender is an ascendant or teacher of the victim and the intention of the ascendant or teacher is clearly shown to be the correction or discipline of the victim;<sup>278</sup> or

(b) where the offender, being a public servant acting for the advancement of public justice or being a person aiding a public servant so acting exceeds the powers given to him by law and necessary for the due discharge of his duty as such public servant or for assisting such public servant in the due discharge of such duty and without ill will towards the person whose death is caused;<sup>279</sup> or

(c) where the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.<sup>280</sup>

204. Whoever does any act not resulting in death with such intention or knowledge and in such circumstances that if he by that act caused death, he would be guilty of intentional homicide, shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning of one hundred lashes.<sup>281</sup>

<sup>276</sup> Kaduna does not split the punishments into subsections (a) and (b); what is here subsection (b) is put as a proviso to the foregoing. PC: no similar provision on *waliyy al-damm*.

<sup>277</sup> Bauchi, Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: “punishable with *diyyah* and not with death”. Kano and Katsina complicate this section by dividing it into two subsections: “(1) Except in the circumstances mentioned in section 142, intentional homicide is punishable with the payment of *diyyah* and a term of imprisonment which may extend to ten years where the offender is the father of the victim. (2) Except in the circumstances mentioned in section 142, intentional homicide is punishable with *diyyah* and a term which may extend for life imprisonment: [then giving what are here subsections (b) and (c)].” This section is parallel to PC §222, listing seven cases in which “culpable homicide is not punishable with death”. Two of the PC cases are included here, see notes to subsections (b) and (c). The other five: offender deprived of the power of self control by grave and sudden provocation; committed without premeditation in a sudden fight in the heat of passion; the decedent assumed the risk of death; woman kills her child under one year the balance of her mind being disturbed by not having recovered from giving birth; the death was caused by a rash or negligent act.

<sup>278</sup> No SPC includes “or teacher”. Kano and Katsina omit this subsection altogether. There is also nothing like it in PC.

<sup>279</sup> = PC §222(3), part of the definition of “culpable homicide not punishable with death”, except that after “exceeds the power given to him by law” PC inserts: “and causes death by doing an act which he in good faith believes to be lawful and”.

<sup>280</sup> = PC §222(2), part of the definition of “culpable homicide not punishable with death”.

<sup>281</sup> Bauchi: 1 year/40 lashes. Kebbi: 5 years/100 lashes. Kaduna: *ta’azir*. PC has separate sections on attempts to commit culpable homicide punishable with death and not punishable with death, punishing the former with imprisonment for up to life or fine or both, and the latter with up to 3 years or fine or both unless hurt is caused in which case up to 7 years or fine or both.

205. Whoever abets:

(a) any person under fifteen years of age, or any insane person, or any delirious person or any idiot or any person in a state of intoxication, to commit suicide or to kill himself;<sup>282</sup> or

(b) any person to commit intentional homicide or unintentional homicide, shall be punished under section 199 of this law if:

(i) the abettor knew of the probable or likely consequence or result or effect of the act of the persons mentioned in (a) or (b) above; and

(ii) the execution/carrying out of the act by the persons mentioned in (a) or (b) above would not have been possible without the abetment of the abettor.<sup>283</sup>

*Causing miscarriage, Injuries to unborn children, Exposure of infants, Cruelty to children and Concealment of births*

206. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with the payment of *ghurrah*, and shall also be liable to caning which may extend to ten lashes.<sup>284</sup>

Explanation:

*A woman, who causes herself to miscarry, is within the meaning of this section.*

207. Whoever uses force to any woman and thereby unintentionally causes her to miscarry, shall be punished with the payment of *ghurrah*.<sup>285</sup>

208. Whoever with intent to cause miscarriage of a woman whether with child or not<sup>286</sup> does any act which causes the death of such woman, shall be punished:

(a) with the payment of *diyab*;<sup>287</sup> or

(b) if the act is done without the consent of the woman, with *qisas*.<sup>288</sup>

209. (1) Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive and does by such act prevent that child from being born alive, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with -

(a) Payment of *ghurrah*; and

<sup>282</sup> Bauchi: “under the age of maturity”. Kano, Katsina: “has not attained puberty”. Kebbi: “under eighteen years of age”. No SPC adds “or to kill himself” after “commit suicide”. PC punishes abetment of suicide of persons similarly incapacitated, with death. In subsequent sections, omitted here and in all SPCs, PC also punishes other abetments of suicide with imprisonment of up to 10 years and fine, and punishes attempts to commit suicide with up to 1 year or fine or both.

<sup>283</sup> Gombe omits “/carrying out”. Kebbi omits subsection (ii) altogether. PC: no separate section on abetment of homicide.

<sup>284</sup> PC: 14 years or fine or both. Sokoto has “*ghorrah* (one twentieth of *diyab*)”. Kano and Katsina: “(*ghurrah*) compensation”. Kaduna punishment: *ghurrah/ta’azir*.

<sup>285</sup> PC: up to 3 years or fine or both, but if the offender knew the woman was with child, up to 5 years or fine or both. Kano, Katsina: “(*ghurrah*) compensation”.

<sup>286</sup> Kano, Katsina: “with intent to cause miscarriage of a pregnant woman”.

<sup>287</sup> PC: up to 14 years and fine.

<sup>288</sup> PC: up to life and fine. Jigawa: “(a) with the payment of *qisas*; or (b) if without intention with payment of *diyab*”. PC also has an explanation after this section omitted in all SPCs.

(b) Caning which may extend to fifty lashes.

(2) Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth and does by such act cause it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with *qisas*.<sup>289</sup>

210. Whoever does any act in such circumstances that, if he thereby caused death he would be guilty of intentional homicide,<sup>290</sup> and does by such act cause the death of a quick unborn child, shall be punished with the payment of *ghurrah*, in addition to the punishment for the offence of attempt to cause the death of the woman.<sup>291</sup>

211. Whoever being the father or mother or having the care of a child under the age of fifteen years exposes or leaves such child in any place with the intention of wholly or partly abandoning such child, shall be punished with imprisonment for a term which may extend to three years and shall be liable to caning which may extend to forty lashes.<sup>292</sup>

212. Whoever having the charge or care of a child under the age of fifteen years or being in a position of authority over him wilfully ill-treats or neglects him in such a way as to cause him unnecessary suffering, or denies him access to education shall be punished:<sup>293</sup> -

(a) with imprisonment for a term which may extend to one year or with fine or with both;<sup>294</sup> and

(b) if the ill-treatment or neglect results in serious injury to the health of such child, the offender shall be punished with imprisonment for a term which may extend to five years and payment of *diyah*.<sup>295</sup>

213. Whoever, by secretly burying or otherwise disposing of the dead body of a child whether such a child dies before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to thirty lashes.<sup>296</sup>

<sup>289</sup> Only Kaduna, as here, divides this section into two subsections, in effect distinguishing between the case where the child is born dead and the case where it is born alive, and varying the punishments accordingly. Kaduna's only variation from what is here: punishment under subsection (1): *ghurrah* / *ta'azir*. PC and all other SPCs: whether the intention was to prevent a live birth or to cause the baby to die after being born alive, and whether the baby is born dead or alive, the punishment is: PC: up to 14 years or fine or both; SPCs: "(a) with *qisas*; and (b) if without intention with payment of *diyah*."

<sup>290</sup> PC: "culpable homicide".

<sup>291</sup> PC: up to life and fine. Kano: up to 1 year and payment of *ghurrah* and up to one hundred lashes. Katsina: like Kano, except omits caning. PC also includes an illustration omitted in all SPCs.

<sup>292</sup> PC: "under the age of twelve years"; Bauchi: "maturity"; Kano, Katsina: "puberty". PC: 7 years or fine or both. Bauchi: 1 year/40 lashes. Sokoto: 1 year. Kaduna: *ta'azir*. PC also has an explanation.

<sup>293</sup> Bauchi: "under the age of maturity". Kano, Katsina: "puberty". Only Kaduna includes "or denies him access to education".

<sup>294</sup> PC: 2 years/fine/both. Bauchi: 3 years/fine/both. Kano, Katsina: 1 year/fine of ₦10,000/both. Kaduna: *ta'azir*.

<sup>295</sup> PC and Kebbi: 5 years/fine/both. Bauchi, Gombe, Sokoto, Yobe, Zamfara: 5 years. Jigawa: 3 years/30 lashes. Kano, Katsina: 5 years/₦5,000 fine/both. Kaduna: *diyah*.

<sup>296</sup> PC: 2 years/fine/both. Bauchi: 5 years/40 lashes. Kebbi: 1 year/30 lashes. Kaduna: *ta'azir*.



*Hurt*

214. Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.<sup>297</sup>
215. The following kinds of hurt only are designated as grievous:<sup>298</sup>
- (a) emasculation;
  - (b) permanent deprivation of the sight of an eye, of the hearing of an ear, of the power of speech, taste, smell or sound mind;<sup>299</sup>
  - (c) deprivation of any member or joint;
  - (d) destruction or permanent impairing of the powers of any member or joint;
  - (e) permanent disfiguration of the head or face;
  - (f) fracture or dislocation of a bone or tooth;
  - (g) any hurt which endangers life or which causes the sufferer to be<sup>300</sup> in severe bodily pain or unable to follow his ordinary pursuits.
216. Whoever does any act with the intention of thereby causing hurt to any person or with the knowledge that he is likely thereby to cause hurt to any person and does thereby cause hurt to any person, is said voluntarily to cause hurt.<sup>301</sup>
217. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt and if the hurt which he causes is grievous hurt, is said voluntarily to cause grievous hurt.<sup>302</sup>
218. Whoever voluntarily causes hurt to any person shall be punished with imprisonment for a term which may extend to six months or with caning which may extend to twenty lashes and shall also be liable to pay compensation.<sup>303</sup>
219. Whoever voluntarily causes grievous hurt to any person shall be punished:
- (a) with *qisas*; or

<sup>297</sup> Bauchi goes on to say: “and this shall include: [subsections (a) through (g) of what is here §215].” Bauchi thus does not distinguish between hurt and grievous hurt; see also note to §218.

<sup>298</sup> Bauchi: see note to previous section.

<sup>299</sup> PC omits “, taste, smell or sound mind”.

<sup>300</sup> PC inserts here: “during the space of twenty days”.

<sup>301</sup> Bauchi omits “voluntarily”.

<sup>302</sup> Bauchi omits this section. PC includes one explanation and one illustration.

<sup>303</sup> Bauchi omits this section, punishing all hurts under what is here the next section on grievous hurt. Kaduna: *ta’azir*. All others as here except Kano and Katsina use “*diyab*” instead of “compensation”, and the others use “damages”. PC varies the punishments for voluntarily causing hurt depending on whether it is done “on grave and sudden provocation” (1 month/fine of £10/both) or without provocation (1 year/ fine of £20/both); and then a series of PC sections punishes causing either hurt or grievous hurt: by dangerous means (3 years/fine/both for hurt, 14 years and fine for grievous hurt); “by means of poison or any stupefying, intoxicating or unwholesome drug” (10 years and fine simply for administration with intent); for the purpose of extorting property to constrain an illegal act (10 years and fine for hurt, 14 years and fine for grievous hurt); to extort confession or to compel restoration of property (7 years and fine for hurt, 10 years and fine for grievous hurt); to deter public servant from his duty (3 years/fine/both for hurt, 10 years and fine for grievous hurt); by act endangering life or personal safety of others (1 year/fine/both for hurt, 2 years/fine/both for grievous hurt).

CHAPTER 4: THE SHARIA PENAL CODES

(b) where the *qisas* is remitted or not applicable,<sup>304</sup> with the payment of *diyab* as provided under Schedule B of this law and shall also be liable to imprisonment for a term which may extend to six months; or with caning which may extend to twenty lashes or with both.<sup>305</sup>

220. Whoever unintentionally causes grievous hurt to any person shall be punished with the payment of *diyab* under schedule B of this law.<sup>306</sup>

*Criminal Force and Assault*

221. A person is said to use force to another if he causes motion, change of motion or cessation of motion to that other or if he causes any substance to come into contact with any part of that other's body or with anything which that other is wearing or carrying or with anything so situated that such contact affects that other's sense of feeling where the person causing any effect above mentioned, causes it:

- (a) by his own body power; or
- (b) by disposing any substance in such a manner that the effect takes place without any further voluntary act on his part or on the part of any other person; or
- (c) by means of any animal.<sup>307</sup>

222. Whoever intentionally uses force to any person without that person's consent:

- (a) while preparing to commit any offence; or
- (b) in the course of committing any offence; or
- (c) intending by the use of such force to cause or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used,

is said to use criminal force to that other.

223. Whoever makes any gesture or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.<sup>308</sup>

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<sup>304</sup> Only Kaduna has "remitted or". All SPCs except Kebbi add here: "or the act was done by mistake". But Kebbi adds a subsection (c) after this subsection which says: "(c) where the act was done by mistake with the payment of *diyab*"; and see §220.

<sup>305</sup> Bauchi omits any punishment additional to *diyab*. Kano, Katsina: 6 months and 20 lashes. Kaduna: *diyab* and *ta'azir*. PC again varies the punishments for voluntarily causing grievous hurt depending on whether it is done "on grave and sudden provocation" (4 years/fine of £50/both) or without provocation (7 years and fine); and see note to §218.

<sup>306</sup> No SPC has this section, but see note to §219 on mistake. PC: "(1) Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment for a term which may extend to one year or with fine or with both. (2) Whoever in like manner causes grievous hurt to any person, shall be punished with imprisonment for a term which may extend to two years or with fine or with both."

<sup>307</sup> PC includes eight illustrations, omitted here and in all SPCs.

<sup>308</sup> PC and Sokoto include the following explanation and illustrations: "Explanation. Mere words do not amount to assault, but the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault. Illustrations. (a) A shakes

224. Whoever assaults or uses criminal force to any person or criminal force otherwise than on grave and sudden provocation given by that person,<sup>309</sup> shall be punished with imprisonment for a term which may extend to one month or with fine or with both.<sup>310</sup>

\*\* [punishment for assault or criminal force with provocation]<sup>311</sup>

225. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant or with intent to prevent or deter that person from discharging his duty as such public servant or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant shall be punished with imprisonment for a term which may extend to two years or with fine or with both.<sup>312</sup>

226. Whoever assaults or uses criminal force to any woman intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment for a term which may extend to one year and shall be liable to caning which may extend to forty lashes.<sup>313</sup>

227. Whoever assaults or uses criminal force to any person in attempting to commit theft of any property which that person is then wearing or carrying, shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to forty lashes.<sup>314</sup>

228. Whoever assaults or uses criminal force to any person in attempting wrongfully to confine that person, shall be punished with imprisonment for a term which may extend to two months or with a fine or with both.<sup>315</sup>

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his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault. (b) A beings to untie the lead of a ferocious dog intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dot to attack Z. A has committed an assault upon Z.” PC adds one further illustration.

<sup>309</sup> Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Sokoto, Zamfara: omit the phrase “otherwise than on grave and sudden provocation given by that person”.

<sup>310</sup> PC and all SPCs vary the punishment depending on whether hurt is caused. (a): no hurt: PC, Bauchi: 1 year/fine/both. Gombe, Jigawa, Kano, Katsina, Kebbi, Sokoto, Yobe, Zamfara: 1 month/fine/both. Kaduna: *ta’azīr*. (b) if grievous hurt (or, in Bauchi, hurt) is caused: PC, Bauchi: 3 years/fine/both. All other SPCs except Kaduna: *qisas*. Kaduna: as under §219 above, see notes thereto. Kebbi adds a subsection (c): “If *qisas* is not applicable, with the payment of *dīyah*.” Note: PC adds a section following this one on “punishment for assault or criminal force with provocation” (3 months/fine up to £20/both), omitted here and in all SPCs.

<sup>311</sup> PC inserts a section here as follows: “Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to twenty pounds or with both.”

<sup>312</sup> PC: 3 years/fine/both. Kano, Katsina: 2 years/~~₦~~20,000 fine/both. Bauchi adds: “and if hurt is done to any person by such assault or criminal force, under *qisas*.”

<sup>313</sup> PC: 3 years/fine/both. Bauchi: 3 years/40 lashes. Kaduna: *ta’azīr*.

<sup>314</sup> PC: 3 years/fine/both. Kano, Katsina, Sokoto, Yobe, Zamfara: 1 year/20 lashes. Kebbi: 1 year/fine/both and up to 20 lashes. Kaduna: omits this section.

<sup>315</sup> PC: 2 years/fine/both. Bauchi: 1 year/fine/both. Kano, Katsina: 2 years/~~₦~~20,000 fine/both. Kaduna: *ta’azīr*.

*Kidnapping, Abduction and Forced Labour*

229. Whoever takes or entices any person, under fifteen years of age<sup>316</sup> or any person of unsound mind out of the keeping of the lawful guardian of such person without the consent of such guardian or conveys any such person beyond the limits of someone legally authorised to consent to such removal,<sup>317</sup> is said to kidnap such a person.<sup>318</sup>
230. Whoever by force compels or by any deceitful means induces any person to go from any place, is said to abduct such person.
231. (1) Whoever kidnaps any person under the age of seven shall be punished under section 144 for the offence of theft punishable with *badd*.<sup>319</sup>
- (2) Where the person kidnapped is above the age of seven, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to forty lashes.<sup>320</sup>
232. Whoever abducts any person shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to forty lashes.<sup>321</sup>
233. Whoever kidnaps or abducts any person in order that such person may be killed or may be so disposed of as to be put in danger of being killed, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to caning of fifty lashes.<sup>322</sup>
234. Whoever, by any means whatsoever, induces any girl or woman<sup>323</sup> to go from any place or to do any act with intent that such girl or woman may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with himself or with another person<sup>324</sup> shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to fifty lashes.<sup>325</sup>

<sup>316</sup> Bauchi: “under the age of maturity”. Kano, Katsina: “puberty”. PC and all other SPCs except Kaduna (which is as here) distinguish the ages for males (14) and females (16).

<sup>317</sup> PC, Bauchi, Gombe, Jigawa, Kaduna, Kebbi, Sokoto, Yobe, Zamfara: “beyond the limits of [Northern Nigeria] [the State] without the consent of someone legally authorised . . .” Kano: “beyond the limits of the under limit of *hirz*”.

<sup>318</sup> PC and Sokoto add: “Explanation. The words ‘lawful guardian’ in this section include any person lawfully entrusted with the care or custody of such person and authorised to consent to the taking.”

<sup>319</sup> PC punishes kidnapping and abduction together under the same section: 10 years and fine, without regard to the age of the person kidnapped. Bauchi punishes all kidnappings under the section on theft punishable with *badd*.

<sup>320</sup> Bauchi omits this subsection. Kano, Katsina: also punish these kidnappings under the section on theft punishable with *badd*. Gombe, Jigawa, Kebbi, Yobe, Zamfara: 7 years/40 lashes. Sokoto: 5 years/40 lashes. Kaduna: *ta’azir*. Kano and Katsina add a subsection (c): “Where the person kidnapped is yet to be taken out of the limits of *hirz*”, 1 year/100 lashes.

<sup>321</sup> PC omits this section, see note to §231(1). Bauchi: 10 years/40 lashes. Gombe: 10 years/50 lashes. Jigawa, Yobe, Zamfara: 7 years/40 lashes. Kano, Katsina: 7 years/100 lashes. Kebbi: 7 years or fine and up to 40 lashes. Sokoto: 5 years/40 lashes. Kaduna: *ta’azir*.

<sup>322</sup> PC: 14 years/fine. Bauchi: life. Kaduna: *ta’azir*. Kano, Katsina: 10 years/100 lashes.

<sup>323</sup> PC: “any girl under the age of eighteen years”.

<sup>324</sup> PC: “intercourse with another person”.

<sup>325</sup> PC: 2 years/fine. Bauchi: 5 years/40 lashes. Kaduna: *ta’azir*.

235. Whoever imports into the State from any place outside the State any girl or woman<sup>326</sup> with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with himself or with another person<sup>327</sup> shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to fifty lashes.<sup>328</sup>

236. Whoever knowing that any person has been kidnapped or has been abducted wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person.

237. Whoever buys, sells, hires, lets to hire or otherwise obtains possession or disposes of any person under the age of fifteen years or any person of unsound mind,<sup>329</sup> with intent that such person shall be employed or used for the purpose of prostitution or for any unlawful or immoral purpose or knowing it to be likely that such minor or unsound minded person will be employed or used for any such purpose, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to caning of fifty lashes.<sup>330</sup>

\*\* [Buying or disposing of slave.]<sup>331</sup>

238. (1) Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.<sup>332</sup>

(2) Without prejudice to sub-section (1) above, the person so compelled to labour against his will shall be entitled to compensation to be determined by the court.<sup>333</sup>

239. Whoever, in order to gratify the passions of another person, procures, entices or leads away, even with her consent, any woman or girl for immoral purposes shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to fifty lashes.<sup>334</sup>

## CHAPTER X – TA’AZIR OFFENCES

### *Criminal Intimidation, Insult and Annoyance*

240. Whoever threatens another with any injury to his person, reputation or property or to the person, reputation or property of anyone in whom that person is interested, with intent to cause harm<sup>335</sup> to that person or to cause that person to do any act which he is not legally

<sup>326</sup> PC: “any girl under the age of twenty-one years”.

<sup>327</sup> PC: “intercourse with another person”.

<sup>328</sup> PC: 10 years/fine. Bauchi: 5 years/40 lashes. Kaduna: *ta’azir*.

<sup>329</sup> PC: “person under the age of eighteen years”. Bauchi: “under the age of maturity or of unsound mind”. Kano, Katsina: “any person or any person of unsound mind”.

<sup>330</sup> PC, Bauchi, Gombe, Jigawa, Kebbi, Yobe, Zamfara: 10 years/fine. Kano, Katsina: 10 years/up to ₦100,000 fine. Sokoto: 10 years/50 lashes. Kaduna: *ta’azir*.

<sup>331</sup> PC has in this place: “Whoever imports, exports, removes, buys, sells, disposes, traffics or deals in any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.” No SPC has this.

<sup>332</sup> Kano, Katsina: 1 year/₦10,000/both.

<sup>333</sup> PC does not have subsection (2).

<sup>334</sup> PC: 7 years/fine. Bauchi: 5 years/40 lashes. Kaduna: *ta’azir*.

<sup>335</sup> PC and Sokoto: “alarm” instead of “harm”. PC also has one explanation and one illustration.

bound to do or to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat, commits criminal intimidation.

241. Whoever commits the offence of criminal intimidation shall be punished:<sup>336</sup>
- (a) with imprisonment for a term which may extend to two years or with fine or with both;<sup>337</sup> and
  - (b) if the threat be to cause death or grievous hurt or to cause the destruction of any property by fire or to cause an offence punishable with death or with imprisonment for a term which may extend to seven years or to impute unchastity to a woman, with imprisonment for a term which may extend to four years and shall also be liable to caning which may extend to forty lashes.<sup>338</sup>
242. (1) Whoever commits the offence of criminal intimidation by an anonymous communication or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment for a term which may extend to two years in addition to the punishment provided for the offence by section 241.<sup>339</sup>
- (2) Whoever intending to insult<sup>340</sup> the modesty of any woman utters any word, makes any sound or gesture or exhibits any object, intending that such word or sound shall be heard or that such gesture or object shall be seen by such woman or intrudes upon the privacy of such woman, shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to forty lashes.<sup>341</sup>

*Wrongful Restraint and Wrongful Confinement*

243. (1) Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said to restrain that person wrongfully.
- (2) The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not within the meaning of this section.<sup>342</sup>
244. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said to confine that person wrongfully.<sup>343</sup>
245. Whoever wrongfully restrains any person, shall be punished with imprisonment for a term which may extend to six months or with fine or with both.<sup>344</sup>

<sup>336</sup> Kaduna does not divide the punishments into two subsections, punishing all criminal intimidations with *ta'azir*.

<sup>337</sup> Bauchi: 1 year/fine/both. Kano, Katsina: 2 years/~~₦~~50,000 fine/both. Kaduna: *ta'azir*.

<sup>338</sup> PC, Gombe, Jigawa, Sokoto, Yobe, Zamfara: 7 years/fine/both. Bauchi: 1 year/fine/both. Kano, Katsina: 7 years/~~₦~~70,000 fine/both.

<sup>339</sup> Bauchi: 1 year in addition . . . Kebbi: 2 years or fine or both. Kaduna: *ta'azir*.

<sup>340</sup> Kano, Katsina: "Whoever insults".

<sup>341</sup> PC puts this provision in a separate section, and punishes with 1 year/fine/both. Kebbi: 2 years or fine and up to 40 lashes. Kaduna: *ta'azir*.

<sup>342</sup> PC has an illustration following here.

<sup>343</sup> PC has two illustrations following here.

246. Whoever wrongfully confines any person, shall be punished:<sup>345</sup>
- (a) with imprisonment for a term which may extend to one year or with fine or with both;<sup>346</sup>
  - (b) if the wrongful confinement continues for more than a day,<sup>347</sup> with imprisonment for a term which may extend to one year or with fine or with both;<sup>348</sup>
  - (c) without prejudice to the punishments prescribed in (a) and (b) above, the offender shall be liable to pay compensation to the confined person which shall be determined by the court.<sup>349</sup>
247. Whoever keeps any person in wrongful confinement knowing that a warrant or order or writ for the production or liberation of that person has been duly issued shall be punished with imprisonment for a term which may extend to six months in addition to any term of imprisonment to which he may be liable under any other section of this law.<sup>350</sup>
248. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined or to any public servant or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned shall be punished with imprisonment for a term which may extend to one year in addition to any other punishment to which he may be liable for such wrongful confinement.<sup>351</sup>
249. Whoever wrongfully confines any person for the purpose of extorting from the person confined or from any person interested in the person confined any property or document of title or of constraining the person confined or any person interested in such person to do any thing illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment for a term which may extend to two years and shall be liable to caning which may extend to twenty lashes.<sup>352</sup>
250. Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct or for the purpose of constraining the person confined or any person interested in the person confined to

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<sup>344</sup> PC: 1 month/£30 fine/both. Kano, Katsina: 6 months/₦5,000 fine/both. Sokoto, Yobe, Zamfara: 6 months/₦1,000 fine/both. Kaduna: *ta'azir*.

<sup>345</sup> Kaduna does not divide the punishments into three subsections, punishing all wrongful confinements with *ta'azir* "and shall be liable to pay compensation to the confined person which shall be determined by the court."

<sup>346</sup> PC: 1 year/£50 fine/both. Jigawa, Yobe, Zamfara: 1 year/₦1,000/both. Kano, Katsina: 1 year/₦10,000/both. Sokoto: 6 months/₦1,000/both.

<sup>347</sup> PC: "three days or more".

<sup>348</sup> PC: 3 years/fine/both. Kano, Katsina: 2 years/₦20,000/both.

<sup>349</sup> Omitted in PC.

<sup>350</sup> PC: 2 years in addition. Bauchi, Gombe, Jigawa: 1 year in addition. Kebbi: flat 6 months/fine/both. Kaduna: *ta'azir*.

<sup>351</sup> PC: 2 years in addition. Bauchi: 3 years in addition. Kano, Katsina: 2 years in addition and fine of up to ₦20,000. Kebbi: 18 months or fine or both. Kaduna: *ta'azir*.

<sup>352</sup> PC: 3 years/fine. Bauchi: 5 years/20 lashes. Kebbi: 2 years or fine or both and up to 20 lashes. Kaduna: *ta'azir*.

restore, or to cause the restoration of any property or document of title,<sup>353</sup> shall be punished with imprisonment for a term which may extend to two years and shall be liable to caning which may extend to fifty lashes.<sup>354</sup>

*Forgery*

251. A person is said to make a false document:

(a) who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document or makes any mark denoting the execution of a document with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed [by or by the authority of a person by whom or by whose authority he knows that it was not made, signed sealed or executed]<sup>355</sup> or at a time at which he knows that it was not made, signed, sealed or executed; or

(b) who without lawful<sup>356</sup> authority dishonestly or fraudulently by cancellation or otherwise alters a document in any material part thereof after it has been made or executed either by himself or by any other person whether such person be living or dead at the time of such alteration; or

(c) who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document knowing that such person by reason of unsoundness of mind or intoxication cannot or that by reason of deception practised upon him he does not know the contents of the document or the nature of the alteration.

252. Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person or to support any claim or title or to cause any person to part with property or to enter into any express or implied contract or with intent to commit fraud or that fraud may be committed, commits forgery; and a false document made wholly or in part by forgery is called a forged document.<sup>357</sup>

253. Whoever commits forgery shall be punished with imprisonment for a term which may extend to five years or with fine or with both.<sup>358</sup>

254. Whoever forges:

(a) a thing which purports to be the public seal of Nigeria or of any State of Nigeria or the great or privy seal of any country or the seal of the President or a Governor of a State or a Chairman of a Local Government Council;<sup>359</sup> or

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<sup>353</sup> PC inserts here: “or to satisfy any claim or demand or to give information which may lead to the restoration of any property or document of title”.

<sup>354</sup> PC: 2 years/fine. Bauchi: 2 years/40 lashes. Kebbi: 2 years or fine or both and up to 20 lashes. Kaduna: *ta’azir*.

<sup>355</sup> Sokoto omits the bracketed language.

<sup>356</sup> Katsina omits “lawful”.

<sup>357</sup> PC adds here two explanations and sixteen illustrations.

<sup>358</sup> PC: 14 years/fine/both. Kano, Katsina: 5 years/₦50,000/both. Kaduna: *ta’azir*.

<sup>359</sup> PC makes extensive reference here to seals of the UK. Gombe, Jigawa, Kebbi, Sokoto, Yobe: “privy seal of any country of the Commonwealth”. Gombe, Jigawa, Kaduna, Kebbi, Sokoto, Yobe, Zamfara omit “or a Chairman of a Local Government Council”. Yobe puts instead: “or any Government or Organisation”.



(b) a document having on it or affixed to it any such seal signet or sign manual, or anything which purports to be or is intended by the person to be understood to be, any such seal, signet or sign manual,

shall be punished with imprisonment for a term of five years and shall also be liable to fine.<sup>360</sup>

255. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

256. Whoever makes or counterfeits any seal, plate or other instrument for making an impression intending that the same shall be used for the purpose of committing forgery or with such intent has in his possession any such seal, plate or other instrument knowing the same to be counterfeit, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.<sup>361</sup>

257. Whoever has in his possession any forged document knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.<sup>362</sup>

258. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material or who with such intent has in his possession any material upon or in the substance of which any device or mark has been counterfeited, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.<sup>363</sup>

259. Whoever fraudulently or dishonestly or with intent to cause damage or injury to the public or to any person cancels, destroys or defaces or attempts to cancel, destroy or deface or secretes or commits theft in respect of any document which is or purports to be a document of title or a will or commits mischief in respect to any such document, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to caning which may extend to fifty lashes with fine.<sup>364</sup>

260. Whoever, being a clerk, officer or servant or employed or acting in the capacity of a clerk, officer or servant, wilfully and with intent to defraud destroys, alters, mutilates or falsifies any book, paper, writing, document of title or account, which belongs to or is in the

<sup>360</sup> PC: up to life/fine. Bauchi: 15 years/fine. Gombe, Jigawa, Sokoto, Yobe, Zamfara: 14 years/fine. Kano, Katsina: 14 years/₦140,000. Kebbi: 14 years or fine or both. Kaduna: *ta'azir*.

<sup>361</sup> PC: 14 years/fine. Bauchi: 15 years/40 lashes. Gombe, Jigawa, Sokoto, Yobe, Zamfara: 5 years/fine. Kano, Katsina: 5 years/₦50,000/both. Kebbi: 5 years/fine or up to 40 lashes. Kaduna: *ta'azir*.

<sup>362</sup> PC: 14 years/fine. Bauchi: 15 years/40 lashes. Gombe, Jigawa, Sokoto, Yobe, Zamfara: 5 years/fine. Kano, Katsina: 5 years/₦50,000/both. Kebbi: 5 years/fine or both. Kaduna: *ta'azir*.

<sup>363</sup> PC: 14 years/fine. Bauchi: 15 years/15 lashes. Gombe, Jigawa, Sokoto, Yobe, Zamfara: 5 years/fine. Kano, Katsina: 5 years/₦50,000. Kebbi: 5 years and may be liable to fine or both. Kaduna: *ta'azir*.

<sup>364</sup> PC: 14 years/fine. All SPCs except Kaduna: "shall be punished: (a) with amputation, where the value of the title amounts to *nisab*; or (b) in other cases, with . . .": Bauchi: 15 years/40 lashes. Gombe, Jigawa, Sokoto, Yobe, Zamfara: 5 years/fine. 5 years/₦50,000. Kebbi: 5 years or fine or both. Kaduna punishes all offences under this section with *ta'azir*.

possession of his employer or has been received by him for or on behalf of his employer, or wilfully and with intent to defraud makes or abets the making of any false entry in or omits or alters or abets the omission or alteration of any material particular from or in any such book, paper, writing, document of title or account, shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to fifty lashes with fine.<sup>365</sup>

*Property and Other Marks*

261. A mark used for denoting that movable property belongs to a particular person is called a property mark.

262. Whoever marks any movable property or goods or uses any case, package or other receptacle containing movable property or goods or uses any case, package or other receptacle having any mark thereon in a manner reasonably calculated to cause it to be believed that the property or goods so marked or any property or goods contained in any such receptacle so marked belong to a person to whom they do not belong, is said to use a false property mark.

263. Whoever uses any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to six months and may also be liable to caning which may extend to twenty-five lashes with fine.<sup>366</sup>

264. Whoever counterfeits any property mark shall be punished with imprisonment for a term which may extend to six months and may also be liable to caning which may extend to twenty-five lashes with fine.<sup>367</sup>

265. Whoever counterfeits any property mark used by a public servant or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to forty lashes.<sup>368</sup>

266. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a property mark or has in his possession a property mark for the purpose of denoting that any goods belong to a person to whom they do not belong, shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to thirty lashes with fine.<sup>369</sup>

267. Whoever makes any false mark upon any case, package or other receptacle containing goods in a manner reasonably calculated to cause any public servant or any other person to

<sup>365</sup> PC: 7 years or fine or both. Bauchi: 5 years/20 lashes. Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 5 years or fine or both. Kano, Katsina: 5 years or ₦50,000 or both. Kaduna: *ta'azir*.

<sup>366</sup> PC, Bauchi, Gombe, Kano, Katsina, Kebbi, Sokoto, Yobe, Zamfara: 1 year or fine or both. Gombe: 2 years or fine or both. Kaduna: *ta'azir*. Jigawa omits this section entirely: its caption, "Punishment for using a false property mark", is attached in the Jigawa SPC to the section on "Counterfeiting a property mark used by another", here §264.

<sup>367</sup> PC, Gombe, Jigawa, Kebbi, Sokoto, Zamfara : 2 years or fine or both. Bauchi: 2 years/10 lashes. Kano, Katsina: 2 years or ₦20,000 or both. Yobe: 1 year or 50 lashes or both. Kaduna: *ta'azir*.

<sup>368</sup> PC, Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 3 years/fine. Bauchi: 3 years/10 lashes. Kano, Katsina: 3 years/₦30,000. Kaduna: *ta'azir*.

<sup>369</sup> PC, Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 3 years or fine or both. Bauchi: 3 years/15 lashes. Kano, Katsina: 3 years or ₦30,000 or both. Kaduna: *ta'azir*.

believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature of quality different from the real nature of quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to fifty lashes with fine.<sup>370</sup>

268. Whoever makes use of any such false mark in any manner prohibited by section 267 shall unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

269. Whoever removes, destroys, defaces or adds to any property mark intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to fifty lashes.<sup>371</sup>

*Criminal Breach of Contract of Service*

270. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place or to act as servant to any person during a voyage or journey or to guard any person or property during the voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.<sup>372</sup>

271. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person, who by reason of youth or of unsoundness of mind or of disease or bodily weakness is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.<sup>373</sup>

*Breach of Official Trust*

272. Whoever, by reason or by means of his employment as a public servant acquires any information in respect of which he is under an obligation of secrecy express or implied and at any time communicates or attempts to communicate such information to any person to whom the same ought not in the public interest to be communicated at that time,<sup>374</sup> is said to commit a breach of official trust.

273. Whoever commits a breach of official trust shall:

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<sup>370</sup> All SPCs except Kaduna and Yobe confuse the caption of this section with that of the previous section. As to punishments: PC: 3 years or fine or both. Bauchi: 3 years/15 lashes. Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 2 years or fine or both. Kano, Katsina: 2 years or ₦20,000 or both. Kaduna: *ta'azir*.

<sup>371</sup> PC, Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 1 year or fine or both. Bauchi: 1 year/10 lashes. Kano, Katsina: 1 year or ₦10,000 or both. Kaduna: *ta'azir*.

<sup>372</sup> PC: 1 month or ₦5 or both. Bauchi: 6 months/5 lashes. Kano, Katsina: 1 year or ₦10,000 or both. Kaduna: *ta'azir*. PC also has 3 illustrations and one explanation, omitted in all SPCs.

<sup>373</sup> PC: 3 months or ₦10 or both. Bauchi: "shall (a) pay compensation in a case of negligence and *diyab* where applicable, and (b) shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning of ten lashes." Kano, Katsina: 1 year or ₦10,000 or both. Kaduna: *ta'azir*.

<sup>374</sup> Kano, Katsina: "to whom he is not authorised to make the communication".

CHAPTER 4: THE SHARIA PENAL CODES

- (a) if the communication is made or attempted to be made to the agent of a foreign government, be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to fifty lashes;<sup>375</sup> or
- (b) in any other case shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to thirty lashes.<sup>376</sup>

*Offences against the Public Peace*

274. An assembly of two or more persons<sup>377</sup> is designated an unlawful assembly if the common object of the persons composing that assembly is:

- (a) to overawe by criminal force or show of criminal force the Government or the Government of the Federation or any Government of Nigeria or any public servant in the exercise of his lawful powers; or
- (b) to resist the execution of any law or of any legal process; or
- (c) to commit any mischief or criminal trespass or other offence of any kind whatsoever;<sup>378</sup> or
- (d) by means of criminal force or show of criminal force to enforce any right or supposed right; or
- (e) by means of criminal force or show of criminal force to compel any person to do what he is not legally bound to do or to omit to do what he is legally entitled to do.<sup>379</sup>

275. Whoever being aware of facts which render any assembly an unlawful assembly intentionally joins that assembly or continues in it is said to be a member of an unlawful assembly.

276. Whoever is a member of an unlawful assembly shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to forty lashes.<sup>380</sup>

277. Whoever being a member of an unlawful assembly is armed with any deadly weapon or with anything which if used as a weapon of offence is likely to cause death, shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to fifty lashes.<sup>381</sup>

278. Whoever joins or continues in an unlawful assembly knowing that such unlawful assembly has been lawfully commanded to disperse, shall be punished with imprisonment for

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<sup>375</sup> PC: 14 years/fine. Bauchi: 15 years/40 lashes. Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 14 years and fine or up to 50 lashes. Kano, Katsina: 13 years/50 lashes. Kaduna: *ta'azir*.

<sup>376</sup> PC: 2 years or fine or both. Bauchi: 2 years/20 lashes. Kebbi: 2 years or fine or both and up to 30 lashes.

<sup>377</sup> PC: 5 or more persons. Gombe: 3 or more.

<sup>378</sup> PC omits "of any kind whatsoever".

<sup>379</sup> PC has an explanation following this section, omitted in all SPCs.

<sup>380</sup> PC, Bauchi, Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 1 year or fine or both. Kano, Katsina: 1 year or ₦10,000 or both. Kaduna: *ta'azir*.

<sup>381</sup> PC: 2 years or fine or both. Bauchi: 2 years/40 lashes. Jigawa, Sokoto, Yobe, Zamfara: 5 years/50 lashes. Kano, Katsina: 7 years/60 lashes. Kebbi: 5 years or fine or both and up to 50 lashes. Gombe omits this section entirely.

a term which may extend to one year and may also be liable to caning which may extend to thirty lashes.<sup>382</sup>

279. Whenever force or violence is used by an unlawful assembly or by any member thereof in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

280. Whoever is guilty of rioting shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to fifty lashes.<sup>383</sup>

281. Whoever is guilty of rioting being armed with a deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to sixty lashes.<sup>384</sup>

282. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, every person, who at the time of the committing of that offence is a member of the assembly, is guilty of that offence.

283. Whoever promotes or does any act with intent to assist the promotion of an unlawful assembly, shall be punishable as a member of such unlawful assembly and for any offence which may be committed by any member thereof in the same manner as if he had himself been a member of such unlawful assembly.

284. Whoever joins or continues in any assembly of five or more persons<sup>385</sup> likely to cause disturbance of the public peace knowing that such assembly has been lawfully commanded to disperse, shall be punished with imprisonment for a term which may extend to one year and may also be liable to caning which may extend to thirty lashes.<sup>386</sup>

285. Whoever wears, carries or displays in public any emblem, flag, article of clothing or other token or device in such manner or on such occasion or in such circumstances as:

- (a) to constitute an offence under any other section of this law, or of any other subsisting Act or Law; or
- (b) to cause or be likely to cause annoyance to the public or any section thereof, or a breach of the peace, or disturbance of the public peace, or the commission of an offence,

<sup>382</sup> PC: 5 years or fine or both. Bauchi: 2 years or fine or both. Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 1 year or fine or both. Kano, Katsina: 2 years or ₦20,000 or both. Kaduna: *ta'azir*.

<sup>383</sup> PC, Gombe, Jigawa, Sokoto, Yobe, Zamfara: 3 years or fine or both. Bauchi: 3 years/40 lashes or fine or both. Kano, Katsina: 3 years or ₦30,000 or both. Kaduna: *ta'azir*. Kebbi: omits this section entirely, attaching the title of this section to the next on rioting armed with deadly weapon, which is repeated twice.

<sup>384</sup> PC: 5 years or fine or both. Bauchi: 5 years/40 lashes. Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 5 years/60 lashes. Kano, Katsina: 7 years/60 lashes. Kaduna: *ta'azir*.

<sup>385</sup> Gombe: 3 or more persons.

<sup>386</sup> PC, Gombe: 1 year or fine or both. Bauchi: 2 years or 20 lashes or both. Jigawa, Kebbi, Sokoto, Yobe, Zamfara: 2 years or fine or both. Katsina, Kano: 1 year or ₦10,000 or both. Kaduna: *ta'azir*. PC adds an explanation omitted in all SPCs.

shall be punished with imprisonment for a term which may extend to six months or with fine or with both,<sup>387</sup> and in addition the emblem, flag, article of clothing or other token or device in respect of which an offence under this section has been committed shall be liable to forfeiture.

286. Whoever assaults or threatens to assault or obstructs or attempts to obstruct any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly or to suppress a riot or affray, or uses or threatens or attempts to use criminal force to such public servant, shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to fifty lashes and with fine.<sup>388</sup>

287. Whoever in a public place disturbs the public peace shall be punished with imprisonment for a term which may extend to two years and with caning which may extend to fifty lashes and with fine.<sup>389</sup>

288. Whoever does any act with intent to cause or which is likely to cause a breach of the peace or disturb the public peace shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to sixty lashes and in addition shall be liable to fine.<sup>390</sup>

*Offences by or Relating to Public Servants*

289. Whoever being or expecting to be<sup>391</sup> a public servant accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification whatever whether pecuniary or otherwise, other than lawful remuneration, as a motive or reward:

- (a) for doing or forbearing to do any official act; or
- (b) for showing or forbearing to show in the exercise of his official functions favour or disfavour to any person; or
- (c) for rendering or attempting to render any service or disservice to any person with any department of the public service or with any public servant as such,

shall be punished:

- (i) with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to thirty lashes;<sup>392</sup>
- (ii) if such public servant is a public servant in the service of the Government of the State or of the Government of the Federation acting in a judicial capacity or carrying

<sup>387</sup> Bauchi: 6 months or 5 lashes or both. Kaduna: *ta'azir*.

<sup>388</sup> PC: 5 years or fine or both. Bauchi: 3 years/20 lashes. Gombe, Jigawa, Kano, Katsina, Kebbi, Sokoto, Yobe, Zamfara: 5 years/50 lashes. Kaduna: *ta'azir*.

<sup>389</sup> PC: 1 year or ₦50 or both. Bauchi: 1 year or fine or 10 lashes. Gombe, Jigawa, Sokoto, Yobe, Zamfara: 2 years or ₦5,000 or both. Kano, Katsina: 2 years or ₦20,000 or both. Kebbi: 2 year or fine or both and 30 lashes. Kaduna: *ta'azir*.

<sup>390</sup> PC: 2 years or fine or both. Bauchi: 2 years with fine or 20 lashes. Gombe, Jigawa, Sokoto, Yobe, Zamfara: 3 years or ₦5,000 or both. Kano, Katsina: 3 years or ₦30,000 or both. Kebbi: 3 years or fine or both. Kaduna: *ta'azir*.

<sup>391</sup> Katsina omits "or expecting to be".

<sup>392</sup> PC: 7 years or fine or both. Bauchi: 10 years/40 lashes. Gombe, Jigawa, Sokoto, Yobe, Zamfara: 5 years/30 lashes. Kano, Katsina: 7 years/30 lashes. Kebbi: 5 years or fine or both and 30 lashes. Kaduna: *ta'azir*.

out the duties of a police officer, with imprisonment for a term which may extend to five years and shall also be liable to caning which may extend to fifty lashes.<sup>393</sup>

Explanation 1:

*If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office and that he will serve them, he may be guilty of cheating but he is not guilty of an offence under this section.*

Explanation 2:

*A public servant who receives a gratification as a motive for doing what he does not intend to do or as a reward for doing what he has not done, is guilty of an offence under this section..<sup>394</sup>*

290. Whoever accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification whatever whether pecuniary or otherwise or as a motive or reward for inducing by corrupt or illegal means any public servant:

- (a) to do or forbear to do any official act; or
- (b) in the exercise of the official functions of such public servant to show favour or disfavour to any person; or
- (c) to render or attempt to render any service or disservice to any person with any department of the public service or with any public servant as such,

shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to twenty lashes.<sup>395</sup>

291. Whoever being a public servant, in respect of whom an offence under section 290 is committed, abets the offence, shall be punished with imprisonment for a term which may extend to two years and shall on conviction, be liable to the punishment provided for such offence.<sup>396</sup>

292. Whoever offers or gives or agrees to give any gratification whatever whether pecuniary or otherwise in the circumstances and for any of the purposes mentioned in sections 289 and 290 shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to thirty lashes and in either case shall also be liable to fine.<sup>397</sup>

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<sup>393</sup> PC: 14 years or fine or both. Bauchi: 15 years/40 lashes. Gombe, Jigawa, Sokoto, Yobe, Zamfara: 7 years/50 lashes. Kano, Katsina: 14 years/70 lashes. Kebbi: 7 years or fine or both and 50 lashes. Kaduna: *ta'azir*. Gombe uniquely adds: "and shall be liable to disciplinary action as regards his conduct."

<sup>394</sup> Gombe omits both explanations. PC adds 3 illustrations omitted in all SPCs.

<sup>395</sup> PC: 3 years or fine or both. Bauchi: 3 years/40 lashes. Kebbi: 2 years or fine or both and 20 lashes. Kaduna: *ta'azir*. Gombe uniquely adds: "and shall be liable to disciplinary action as regards his conduct."

<sup>396</sup> PC: 3 years or fine or both. Bauchi: 3 years/20 lashes. Gombe: 2 years/30 lashes "and shall be liable to disciplinary action as regards his conduct." Jigawa, Sokoto, Yobe, Zamfara: 2 years/20 lashes. Kano, Katsina: "shall on conviction, be liable to the punishment provided for such offence." Kebbi: 2 years or fine or both. Kaduna: *ta'azir*.

<sup>397</sup> PC: 3 years or fine or both. Bauchi: 3 years/40 lashes "and in either case shall also be liable to fine." Kano, Katsina: 7 years. Kebbi: 2 years or fine or both "and may be liable to 30 lashes." Kaduna: *ta'azir*. Gombe: as here and adds "and shall be liable to disciplinary action as regards his conduct."

293. Whoever being a public servant accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person any valuable thing without consideration or for a consideration which he knows to be inadequate:

- (a) from any person whom he knows to have been or to be or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant or having any connection with the official functions of himself or of any public servant to whom he is subordinate; or
- (b) from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to thirty lashes.<sup>398</sup>

294. Whoever in any of the circumstances mentioned in section 293 offers or gives or agrees to give to any public servant or to any person, in whom a public servant is interested or to whom he is related, any valuable thing without consideration or for a consideration which he knows to be inadequate, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to thirty lashes.<sup>399</sup>

295. Whoever knowingly profits by any gratification or benefit obtained in any of the circumstances mentioned in sections 289, 290 or 293 but does not take any active part in obtaining such gratification or benefit, shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to twenty lashes.<sup>400</sup>

296. Whoever being a public servant in his capacity as such dishonestly receives from any person any money or other property which he is not authorised to receive or which is in excess of the amount which he is authorised to receive shall be punished with imprisonment for a term which may extend to two years and shall be liable to caning which may extend to twenty lashes.<sup>401</sup>

297. Whoever being a public servant knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant intending thereby or knowing himself to be likely thereby:

- (a) to cause injury to any person or to the public; or
- (b) to save any person from legal punishment or to subject him to a less punishment than that to which he is liable or to delay the imposition on any person of any legal punishment; or

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<sup>398</sup> PC: 5 years or fine or both. Bauchi: 5 years/30 lashes. Kano, Katsina: 3 year or 30 lashes or both. Kebbi: 3 years or fine or both and up to 30 lashes. Kaduna: *ta'azir*. Gombe: as here and adds "and shall be liable to disciplinary action as regards his conduct."

<sup>399</sup> PC: 2 years or fine or both. Bauchi: 3 years/40 lashes. Kebbi: 3 years or fine or both and up to 30 lashes. Kaduna: *ta'azir*. Gombe: as here and adds "and shall be liable to disciplinary action as regards his conduct."

<sup>400</sup> PC: 1 year or fine or both. Bauchi: 6 months/20 lashes. Jigawa: 1 year/30 lashes. Kebbi: 1 year or fine or both and up to 20 lashes. Kaduna: *ta'azir*. Gombe: as here and adds "and shall be liable to disciplinary action as regards his conduct."

<sup>401</sup> PC: 5 years of fine or both. Bauchi: 2 years/40 lashes. Kebbi: 2 years or fine or both and up to 20 lashes. Kaduna: *ta'azir*. Gombe: as here and adds "and shall be liable to disciplinary action as regards his conduct."



(c) to save any property from forfeiture or from any seizure or charge to which it is liable by law or to delay the forfeiture or seizure of any property or the imposition or enforcement of any charge upon any property,

shall be punished with imprisonment for a term which may extend to two years and shall also be liable to caning which may extend to twenty lashes.<sup>402</sup>

298. Whoever, being a public servant, and being as such public servant charged with the preparation or translation of any document, frames or translates that document in a manner which he knows and believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to thirty lashes.<sup>403</sup>

299. Whoever, being a public servant knowing that he is likely to cause injury to any person or intending unlawfully to give any person an advantage makes or pronounces in any stage of a judicial proceeding any report, order, judgment or decision which he knows to be contrary to law, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to thirty lashes.<sup>404</sup>

300. Whoever, being a public servant authorised by law to commit persons for trial or to confinement or to keep persons in confinement, commits any person for trial or to confinement or keeps any person in confinement:

- (a) knowing that he is acting contrary to law; and
- (b) knowing that he is likely to cause injury to any person or intending unlawfully to give any person an advantage,

shall be punished with imprisonment for a term which may extend to three years and shall be liable to caning which may extend to thirty lashes.<sup>405</sup>

301. Whoever, being a public servant whose duty it is as such public servant to arrest any person or to keep any person in confinement or custody, intentionally omits to arrest such person or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement or custody, shall be punished as follows:<sup>406</sup>

<sup>402</sup> PC: 2 years or fine or both. Kano, Katsina: 2 years/20 lashes and “restitution of the property illegally acquired by such person.” Kebbi: 2 years or fine or both and up to 20 lashes. Kaduna: *ta’azir*. Gombe: as here and adds “and shall be liable to disciplinary action as regards his conduct.”

<sup>403</sup> PC: 3 years or fine or both. Kano, Katsina: 3 years/20 lashes. Kebbi: 3 years or fine or both and up to 30 lashes. Kaduna: *ta’azir*. Gombe: as here and adds “and shall be liable to disciplinary action as regards his conduct.”

<sup>404</sup> PC: 7 years or fine or both. 7 years/40 lashes. Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe, Zamfara: 5 years/30 lashes. Kebbi: 5 years or fine or both and up to 30 lashes. Kaduna: *ta’azir*. Gombe: adds “and shall be liable to disciplinary action as regards his conduct.”

<sup>405</sup> PC: 7 years or fine or both. Bauchi: 7 years/30 lashes. Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe, Zamfara: 5 years/30 lashes. Kebbi: 5 years or fine or both and up to 30 lashes. Kaduna: *ta’azir*.

<sup>406</sup> There is much variation in the breakdown of the punishments here. PC: (a) if the person is under sentence of death: up to 14 years with or without fine. (b) if the person is under sentence of imprisonment for 10 years or more or is charged with or liable to arrest for an offence punishable with death: up to 7 years with or without fine. (c) if the person is under sentence of imprisonment for less than 10 years or is charged with or liable to arrest for an offence punishable with imprisonment for up

CHAPTER 4: THE SHARIA PENAL CODES

- (a) where the person allowed to escape is to serve a term of imprisonment, with the same penalty that the person allowed to escape or attempt to escape from lawful custody is liable to, such public servant being deemed an accomplice;
- (b) where the person allowed to escape is awaiting death penalty the public servant shall be subject to a term of imprisonment which may extend to five years;
- (c) in any other case, with a term of imprisonment which shall extend to any such time that the person who was allowed to escape from lawful custody is re-apprehended;
- (d) nothing in this section shall prevent the additional punishment of caning which may extend to fifty lashes.

302. Whoever, being a public servant whose duty it is as such public servant to arrest any person or to keep any person in confinement or custody, negligently omits to arrest that person or negligently suffers that person to escape from confinement or custody, shall be punished with a term of imprisonment which may extend to one year and shall be liable to caning which may extend to twenty lashes.<sup>407</sup>

303. Whoever, being a public servant wilfully omits to perform any duty pertaining to his office which he is legally bound to perform, shall if such omission causes or tends to cause danger to human life, health or safety or causes or tends to cause a riot, be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to forty lashes.<sup>408</sup>

304. Whoever, being a public servant, abandons<sup>409</sup> his duties in prearranged agreement with two or more other such public servants<sup>410</sup> shall, if the intention or effect of such abandonment is to interfere with the performance of public service to an extent that will cause an injury or damage or grave inconvenience to the community,<sup>411</sup> be punished with a

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to 10 years: 3 years or fine or both. (d) other cases: 2 years or fine or both. Gombe, Jigawa, Kano, Katsina, Kebbi, Sokoto, Yobe, Zamfara: “(a) with the same penalty that the person allowed to escape or attempt to escape from lawful custody is liable to, such public servant being deemed an accomplice; (b) where the person allowed to escape is awaiting death penalty the public servant shall be subject to a term of imprisonment which may extend to life [except that Gombe omits the last 5 words]; (c) with a term of imprisonment which shall extend to any such time that the person who was allowed to escape from lawful custody is reapprehended. (d) Nothing in this section shall prevent the additional punishment of caning which may extend to 50 lashes [but Sokoto and Kebbi omit (d).” Bauchi: does not have subsections, saying only: “shall be punished with a term of imprisonment which shall extend to any such time that the person who was allowed to escape from lawful custody is reapprehended: provided the aggregate term of imprisonment where appropriate shall not be higher than the term of the original, actual offender shall have served”; and Bauchi allows a further 40 lashes. Kaduna: *ta’azir*.

<sup>407</sup> PC: 2 years or fine or both. Bauchi: 2 years/20 lashes. Gombe: 1 year/30 lashes. Kaduna: *ta’azir*.

<sup>408</sup> All SPCs except Kaduna and Yobe omit this section. Yobe makes this section a subsection of what is here §302. Yobe punishes with 1 year/20 lashes, Kaduna with *ta’azir*. PC: 2 years or fine or both.

<sup>409</sup> PC: “wrongfully abandons”. All SPCs except Kaduna and Yobe: “wilfully abandons”.

<sup>410</sup> All SPCs except Kaduna and Yobe: “whether acting alone or in prearranged agreement with two or more other such public servants”.

<sup>411</sup> All SPCs except Kaduna and Yobe: “if the intention is to cause danger to human life, health or safety, or tends to cause a riot or any injury or damage or grave inconvenience to the community”.

term of imprisonment which shall not be less than one year and shall also be liable to caning which shall extend to fifty lashes.<sup>412</sup>

305. Whoever, being a public servant and being legally bound as such public servant not to purchase or bid for certain property, purchases or bids for that property in his own name or in the name of another jointly or in shares with others, shall be punished:<sup>413</sup>

- (a) with imprisonment for a term which may extend to two years;<sup>414</sup> and
- (b) with caning which may extend to forty lashes;<sup>415</sup> and
- (c) with forfeiture of all property unlawfully purchased or bade.

306. Whoever pretends to hold any particular office as a public servant knowing that he does not hold such office, or falsely personates any other person holding such office, or wears any dress or carries any token resembling any dress or token used by that class of public servant with the intention that it may be believed that he belongs to that class of public servant, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to thirty lashes.<sup>416</sup>

*Contempts of the Lawful Authority of Public Servants*

\*\* [Absconding to avoid service of summons, notice or order.]<sup>417</sup>

307. Whoever in any manner:

- (a) absconds from, or intentionally, prevents the serving on himself or on any other person of any summons, notice or order proceeding from any public servant legally competent as such public servant to issue such summons, notice or order or other legal process;<sup>418</sup> or
- (b) intentionally prevents the lawful affixing to any place of any such summons, notice or order; or

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<sup>412</sup> Bauchi, probably in error, puts this section as a subsection of what is here §302. As to punishment: PC: up to 2 years or fine or both. Bauchi: not less than 5 years and exactly 40 lashes. Gombe: up to 1 year and up to 50 lashes. Jigawa: up to 3 years and exactly 50 lashes. Kano, Katsina: not less than 1 year and up to 50 lashes. Kebbi: not less than 1 year or fine or both and exactly 50 lashes. Kaduna: *ta'azir*.

<sup>413</sup> PC and Kaduna do not split the punishments into subsections. PC: 2 years or fine or both. Kaduna: *ta'azir*.

<sup>414</sup> Sokoto: 1 year.

<sup>415</sup> Sokoto omits this subsection.

<sup>416</sup> PC splits this section into two: personating a public servant "and in such assumed character does or attempts to do any act under colour of such office", punished with up to 3 years or fine or both; and wearing dress or carrying token used by public servant with intent as here, punished with up to 6 months or up to £20 fine or both. All SPCs join the two offences in one as here. Punishments: Bauchi: 3 years/40 lashes. Kebbi: 3 years or fine or both and up to 30 lashes. Kaduna: *ta'azir*.

<sup>417</sup> PC, Gombe and Sokoto have here the following section: "Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent as such public servant to issue such summons, notice or order, shall be punished – (a) with imprisonment for a term which may extend to one month or with fine which may extend to ten pounds or both [Gombe, Sokoto: up to 1 month and up to 20 lashes]; or (b) if the summons or notice or order is to attend in person or by agent or to produce a document in a court of justice, with imprisonment for a term which may extend to six months or with fine which may extend to twenty pounds or both [Gombe, Sokoto: up to 6 months and up to 40 lashes]."

<sup>418</sup> Only Kano and Katsina include the last phrase, "or other legal process".

(c) intentionally removes any such summons, notice or order from any place to which it is lawfully affixed; or

(d) intentionally prevents the lawful making of any proclamation under the authority of any public servant legally competent as such public servant to direct such proclamation to be made,

shall be punished:<sup>419</sup>

(i) with imprisonment for a term which may extend to one month or with caning which may extend to twenty lashes;<sup>420</sup> or

(ii) if the summons, notice, order or proclamation is to attend in person or by agent or to produce a document in a court of justice, with imprisonment for a term which may extend to six months or with caning which may extend to forty lashes.<sup>421</sup>

308. Whoever, having been required by a summons, notice, order or proclamation proceeding from any public servant<sup>422</sup> legally competent as such public servant to issue the same to attend in person or by agent at a certain time and place, intentionally and without reasonable cause refuses or omits to attend at the place and time or departs from that place before the time at which it is lawful for him to depart, shall be punished with:<sup>423</sup>

(a) a term of imprisonment which may extend to one month, or with caning which may extend to twenty lashes; <sup>424</sup>or

(b) if the summons, notice, order or proclamation is to attend in person or by agent in a court of justice, with imprisonment for a term which may extend to six months or with caning which may extend to thirty lashes.<sup>425</sup>

309. Whoever, having been required by a summons, notice, order or proclamation proceeding from a public servant<sup>426</sup> legally competent as such public servant to issue the same to produce or deliver up any document or other thing, intentionally omits so to produce or deliver up the same, shall be punished:<sup>427</sup>

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<sup>419</sup> Kaduna does not divide the punishments into two sections, punishing all these offences with *ta'azir*.

<sup>420</sup> PC: up to 1 month or up to ₦10 fine or both. Bauchi: up to 6 months and up to 20 lashes. Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: up to 1 month and up to 20 lashes. Kano, Katsina: up to 6 months and up to 40 lashes.

<sup>421</sup> PC: up to 6 months up to ₦20 fine or both. Bauchi: up to 6 months and up to 20 lashes. Gombe, Jigawa, Kebbi, Sokoto, Yobe, Zamfara: up to 6 months and up to 40 lashes. Kano, Katsina: up to 1 month and up to 20 lashes.

<sup>422</sup> Kano, Katsina: "Whoever is required by a summons, notice, order or other legal process from any public servant . . .".

<sup>423</sup> Kaduna does not divide the punishments into two sections, punishing all these offences with *ta'azir*.

<sup>424</sup> PC: up to 1 month or up to ₦10 fine or both. Bauchi: up to 6 months and up to 10 lashes. Gombe, Jigawa, Kano, Katsina, Yobe, Zamfara: up to 1 month and up to 20 lashes. Kebbi: 1 month/fine/both and up to 20 lashes. Sokoto: up to 3 months.

<sup>425</sup> PC: up to 6 months or up to ₦20 fine or both. Bauchi: up to 6 months and up to 20 lashes. Gombe, Jigawa, Kano, Katsina, Yobe, Zamfara: up to 6 months and up to 30 lashes. Sokoto: up to 6 months. Kebbi: up to 6 months or fine or both and up to 30 lashes.

<sup>426</sup> Kano, Katsina: "Whoever is required by a summons, notice, order or other legal process from any public servant . . .".

<sup>427</sup> Kaduna does not divide the punishments into two sections, punishing all these offences with *ta'azir*.

(a) with imprisonment for a term which may extend to one month or with caning which may extend to twenty lashes;<sup>428</sup> or

(b) if the document is to be produced or delivered up to a court of justice, with imprisonment for a term which may extend to six months or with caning which may extend to thirty lashes or with fine.<sup>429</sup>

310. Whoever, being legally bound<sup>430</sup> to give any notice or to furnish information on any subject to any public servant as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law shall be punished:<sup>431</sup>

(a) with imprisonment for a term which may extend to one month or with caning which may extend to twenty lashes or with fine;<sup>432</sup> or

(b) if the information which he is legally bound to give is in respect of the commission of an offence or is required for the purpose of preventing the commission of an offence or in order to arrest an offender, with imprisonment which may extend to six months or with caning which may extend to thirty lashes or with fine.<sup>433</sup>

311. Whoever, being legally bound<sup>434</sup> to furnish information on any subject to any public servant as such, furnishes as true information on the subject which he knows or has reason to believe to be false, shall be punished:<sup>435</sup>

(a) with imprisonment for a term which may extend to six months or with caning which may extend to thirty lashes or with fine;<sup>436</sup>

(b) if the information which he is legally bound to give is in respect of the commission of an offence or is required for the purpose of preventing the commission of an offence or in order to arrest an offender, with imprisonment for a

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<sup>428</sup> PC: up to 1 month or up to ₦10 fine or both. Bauchi: up to 6 months and up to 10 lashes. Gombe, Jigawa, Kano, Katsina, Yobe, Zamfara: up to 1 month and up to 20 lashes. Sokoto: up to 1 month and fine. Kebbi: up to 1 month or fine or both and up to 20 lashes.

<sup>429</sup> PC: up to 6 months or up to ₦20 fine or both. Bauchi: up to 6 months and up to 20 lashes. Gombe, Jigawa, Kano, Katsina, Yobe, Zamfara: up to 6 months and up to 30 lashes. Sokoto: up to 6 months and fine. Kebbi: up to 6 months or fine or both and up to 30 lashes.

<sup>430</sup> Kano, Katsina: "Whoever is legally bound . . .".

<sup>431</sup> Kaduna does not divide the punishments into two sections, punishing all these offences with *ta'azir*.

<sup>432</sup> PC: up to 1 month or up to ₦10 fine or both. Bauchi: up to 6 months and up to 10 lashes. Gombe, Jigawa, Katsina, Yobe, Zamfara: up to 1 month and up to 20 lashes. Kano: up to 6 months and up to 30 lashes. Sokoto: up to 3 months. Kebbi: up to 1 month or fine or both and up to 20 lashes.

<sup>433</sup> PC: up to 6 months or up to ₦20 fine or both. Bauchi: up to 6 months and up to 20 lashes. Gombe, Jigawa, Yobe, Zamfara: up to 6 months and up to 30 lashes. Kano, Katsina: up to 1 year and up to 40 lashes. Sokoto: up to 6 months or fine or both. Kebbi: up to 6 months or fine or both and up to 30 lashes.

<sup>434</sup> Kano, Katsina: "Whoever is legally bound . . .".

<sup>435</sup> Kaduna does not divide the punishments into two sections, punishing all these offences with *ta'azir*.

<sup>436</sup> PC: up to 6 months or up to ₦20 fine or both. Bauchi: up to 6 months and up to 20 lashes. Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe, Zamfara: up to 6 months and up to 30 lashes. Kebbi: 6 months or fine or both and up to 30 lashes.

term which may extend to one year or with caning which may extend to forty lashes or with fine.<sup>437</sup>

312. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause or knowing it to be likely that he will thereby cause such public servant:

- (a) to do or to omit anything which such public servant ought not to do or omit if the true state of facts respecting such information is given were known by him; or
- (b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with a term of imprisonment which may extend to one year, or with caning which may extend to thirty lashes or with fine.<sup>438</sup>

\*\* [Refusing oath or affirmation when duly required by public servant to make it.]<sup>439</sup>

313. Whoever being legally bound<sup>440</sup> to answer questions put to him on any subject by any public servant in the exercise of the lawful powers of such public servant, refuses to answer any such question, shall be punished with imprisonment for a term which may extend to six months or with caning which may extend to twenty lashes or with fine.<sup>441</sup>

314. Whoever refuses to sign any statement made by him when required to sign that statement by a public servant legally competent to require that he shall sign that statement,

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<sup>437</sup> PC: up to 2 years or fine or both. Bauchi: up to 2 years and up to 40 lashes. Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe, Zamfara: up to 1 year and up to 40 lashes. Kebbi: up to 1 year or fine or both and up to 40 lashes.

<sup>438</sup> PC: up to 1 year or up to ₦20 fine or both. Bauchi: up to 1 year and up to 40 lashes. Gombe, Jigawa, Kano, Sokoto, Yobe, Zamfara: up to 1 year and up to 30 lashes. Kebbi: up to 1 year or fine or both and up to 30 lashes. Kaduna: *ta'azir*. Katsina appears to have omitted some words from the published version of its statute, saying: "such person shall also be liable to caning which may extend to thirty lashes." PC has 3 illustrations following this section, of which Sokoto includes the second: "A falsely informs a public servant that Z has contraband goods in a secret place knowing such information to be false and knowing that it is likely that the consequence of the information will be a search of Z's premises attended with annoyance to Z. A has committed an offence under this section."

<sup>439</sup> PC has here a section, omitted in all SPCs, that reads as follows: "(1) Whoever refuses to bind himself by an oath or affirmation to state the truth when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to twenty pounds or with both. (2) The provisions of this section shall not apply to a witness in a judicial proceeding who, having been called upon to take an oath or make a solemn affirmation that he will speak the truth under subsection (1) of section 229 of the Schedule to the Criminal Procedure Code Law, refuses to take such oath or make such affirmation under the provisions of section 230 of the Schedule to the Criminal Procedure Code Law."

<sup>440</sup> Kano, Katsina: "Whoever is legally bound . . .".

<sup>441</sup> PC: up to 6 months or up to ₦20 fine or both. Bauchi: up to 3 months and up to 10 lashes. Gombe, Jigawa, Katsina, Sokoto, Yobe, Zamfara: up to 6 months and up to 20 lashes. Kebbi: up to 6 months or fine or both and up to 20 lashes. Kaduna: *ta'azir*. Kano: up to 6 months and up to 30 lashes; and Kano adds a second subsection as follows: "(b) If the information which he is legally bound to give [is] in respect of the commission of an offence or is required for the purpose of preventing the commission of an offence or in order to arrest an offender shall be punished with imprisonment for a term which may extend to one year and shall also be liable to caning which may extend to forty lashes."

shall be punished with imprisonment for a term which may extend to three months or with caning which may extend to twenty lashes or with fine.<sup>442</sup>

315. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment for a term which may extend to six months or with caning which may extend to thirty lashes or with fine.<sup>443</sup>

316. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant as such shall be punished with imprisonment for a term which may extend to one month or with caning which may extend to twenty lashes or with fine.<sup>444</sup>

317. Whoever, when any property has been attached or taken by the lawful authority of any public servant, knowingly and with intent to hinder or defeat the attachment or process receives, removes, retains, conceals, or disposes of such property, shall be punished with imprisonment for a term which may extend to two years or with caning which may extend to fifty lashes or with fine.<sup>445</sup>

318. Whoever at any sale of property held by the lawful authority of a public servant as such purchases or bids for any property on account of any person whether himself or any other, whom he knows to be under legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment for a term which may extend to six months, or with caning which may extend to thirty lashes or with fine.<sup>446</sup>

319. Whoever voluntarily obstructs any public servant in the discharge of his public functions shall be punished with imprisonment for a term which may extend to two years or with caning which may extend to forty lashes or with fine.<sup>447</sup>

320. Whoever voluntarily obstructs any public servant in the discharge of his public functions under any written law or voluntarily obstructs any person engaged in the discharge of any duty imposed on him by any written law shall be punished with imprisonment for a

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<sup>442</sup> PC: up to 3 months or up to ₦10 fine or both. Bauchi: up to 3 months and up to 10 lashes. Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe, Zamfara: up to 3 months and up to 20 lashes. Kebbi: up to 3 months or fine or both and up to 20 lashes. Kaduna: *ta'azir*.

<sup>443</sup> PC: up to 6 months or up to ₦20 fine or both. Bauchi: up to 6 months and up to 20 lashes. Gombe, Jigawa, Kano, Katsina, Yobe, Zamfara: up to 6 months and up to 30 lashes. Kebbi: up to 6 months or fine or both and up to 30 lashes. Sokoto: up to 6 months or up to 30 lashes. Kaduna: *ta'azir*.

<sup>444</sup> PC: up to 1 month or up to ₦10 fine or both. Bauchi: up to 2 months and up to 10 lashes. Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe, Zamfara: up to 1 month and up to 20 lashes. Kebbi: up to 1 month or fine or both and up to 20 lashes. Kaduna: *ta'azir*.

<sup>445</sup> PC: up to 3 years or fine or both. Bauchi: up to 1 year and up to 20 lashes. Gombe, Jigawa, Kano, Katsina, Yobe, Sokoto, Zamfara: up to 2 years and up to 50 lashes. Kebbi: up to 2 years or fine or both and up to 50 lashes. Kaduna: *ta'azir*.

<sup>446</sup> PC: up to 1 month or up to ₦10 fine or both. Bauchi: up to 6 months and up to 20 lashes. Gombe, Kano, Katsina, Sokoto, Yobe, Zamfara: up to 6 months and up to 30 lashes. Jigawa: up to 1 month and up to 30 lashes. Kebbi: up to 6 months or fine or both and up to 30 lashes. Kaduna: *ta'azir*.

<sup>447</sup> PC: up to 3 months or up to ₦20 fine or both. Bauchi, Sokoto: up to 1 year and up to 40 lashes. Gombe, Jigawa, Kano, Katsina, Yobe, Zamfara: up to 2 years and up to 40 lashes. Kebbi: up to 2 years or fine or both and up to 40 lashes. Kaduna: *ta'azir*.

term which may extend to two years or with caning which may extend to forty lashes or with fine.<sup>448</sup>

321. Whoever, being legally bound to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with imprisonment for a term which may extend to six months or with caning which may extend to thirty lashes or with fine.<sup>449</sup>

322. Whoever being legally prohibited from residing in any district, or being legally ordered to reside in any district, intentionally disobeys any such prohibition or order shall be punished with imprisonment for a term which may extend to six months or with caning which may extend to thirty lashes or with fine.<sup>450</sup>

323. Whoever, knowing that by an order promulgated by a public servant legally empowered to promulgate such order he is directed to abstain from a certain act, or to take certain action with respect to certain property in his possession or under his management, disobeys such direction, shall:<sup>451</sup>

(a) if such disobedience causes or tends to cause obstruction, annoyance or injury or risk of obstruction, annoyance or injury to any person lawfully employed, be punished with imprisonment for a term which may extend to three months or with caning which may extend to twenty lashes or with fine;<sup>452</sup>

(b) if such disobedience causes or tends to cause danger to human life, health or safety or causes or tends to cause riot or affray, shall be punished with imprisonment for a term which may extend to six months or with caning which may extend to thirty lashes or with fine;<sup>453</sup>

324. Whoever holds out any threat of injury to any public servant or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act or to forbear or delay to do any act connected with the exercise of the public functions of such public servant, shall be punished with imprisonment for a term which may extend to two years or with caning which may extend to forty lashes or with fine.<sup>454</sup>

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<sup>448</sup> PC: up to 2 years or fine or both. Bauchi: up to 1 year and up to 40 lashes. Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe, Zamfara: up to 2 years and up to 40 lashes. Kebbi: up to 2 years or fine or both and up to 40 lashes. Kaduna: *ta'azir*.

<sup>449</sup> PC: up to 6 months or up ₦20 fine or both. Bauchi: up to 3 months and up to 10 lashes. Gombe, Jigawa, Kano, Katsina, Yobe, Zamfara: up to 6 months and up to 30 lashes. Sokoto: up to 6 months or fine or both. Kebbi: up to 6 months or fine or both and up to 30 lashes. Kaduna: *ta'azir*.

<sup>450</sup> PC: up to 6 months or up ₦50 fine or both. Bauchi: up to 6 months and up to 20 lashes. Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe, Zamfara: up to 6 months and up to 30 lashes. Kebbi: up to 6 months or fine or both and up to 30 lashes. Kaduna: *ta'azir*.

<sup>451</sup> Kaduna does not divide the punishments into two sections, punishing all these offences with *ta'azir*.

<sup>452</sup> PC: up to 3 months or up ₦20 fine or both. Bauchi: up to 3 months and up to 10 lashes. Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe, Zamfara: up to 3 months and up to 20 lashes. Kebbi: up to 3 months or fine or both and up to 20 lashes.

<sup>453</sup> PC: up to 6 months or up ₦50 fine or both. Bauchi, Katsina: up to 6 months and up to 20 lashes. Gombe, Jigawa, Sokoto, Yobe, Zamfara: up to 6 months and up to 30 lashes. Kano: up to 6 months and up to 40 lashes. Kebbi: up to 6 months or fine or both and up to 30 lashes.

<sup>454</sup> PC: up to 2 years or fine or both. Bauchi, Jigawa, Kano, Katsina, Yobe, Zamfara: up to 2 years and up to 40 lashes. Gombe, Sokoto: up to 1 year and up to 40 lashes. Kebbi: up to 2 years or fine or both and up to 40 lashes. Kaduna: *ta'azir*.



325. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from applying for protection against any injury to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with imprisonment for a term which may extend to one year or with caning which may extend to forty lashes or with fine.<sup>455</sup>

326. Whoever intentionally offers any insult or causes any interruption to any public servant while such public servant is sitting in any stage of a judicial proceeding shall be punished with imprisonment for a term which may extend to six months or with caning which may extend to twenty lashes or with fine.<sup>456</sup>

*False Evidence and Offences Relating to the Administration of Justice*

327. Whoever makes any statement, verbally or otherwise, which is false in a material particular and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.<sup>457</sup>

Explanation:

*A material particular within the meaning of this section means a particular which is material to any question then in issue or intended to be raised in that proceeding.*<sup>458</sup>

328. Whoever causes any circumstance to exist or makes any false entry in any book or record or makes any document containing a false statement intending that such circumstance, false entry or false statement may appear in evidence or be used in a judicial proceeding or in a proceeding taken by law before a public servant as such or before an arbitrator and that such circumstance, false entry or false statement so appearing in evidence or so used may cause any person, who in such proceeding is to form an opinion upon the circumstance, entry or statement to entertain an erroneous opinion touching any point material to the result of such proceeding, is said to fabricate false evidence.<sup>459</sup>

329. (1) Whoever intentionally gives false evidence in any stage of a judicial proceeding or fabricates false evidence for the purpose of its being used in any stage of a judicial proceeding shall be punished with imprisonment for a term which may extend to five years and shall also be liable to caning of sixty lashes.<sup>460</sup>

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<sup>455</sup> PC: up to 1 year or fine or both. Bauchi, Jigawa: up to 2 years and up to 40 lashes. Gombe, Kano, Katsina, Sokoto, Yobe, Zamfara: up to 1 year and up to 40 lashes. Kebbi: up to 1 year or fine or both and up to 40 lashes. Kaduna: *ta'azir*.

<sup>456</sup> PC: up to 6 months or up to ₦20 fine or both. Bauchi, Gombe, Jigawa, Kano, Katsina, Sokoto, Yobe, Zamfara: up to 6 months and up to 20 lashes. Kebbi: up to 6 months or fine or both and up to 20 lashes. Kaduna: *ta'azir*.

<sup>457</sup> PC: "Whoever, being legally bound by an oath or by any express provision of law to state the truth or being bound by law to make a declaration upon any subject, makes any statement . . .".

<sup>458</sup> PC adds one other explanation and four illustrations, omitted here and in all SPCs.

<sup>459</sup> PC has three illustrations to this section, omitted here and in all SPCs.

<sup>460</sup> PC: 14 years/fine. Bauchi, Jigawa, Kano, Katsina, Yobe, Zamfara: 10 years/60 lashes. Gombe: 60 lashes. Sokoto: 5 years/30 lashes. Kebbi: up to 3 years or fine or both and up to 60 lashes. Kaduna: *ta'azir*.

(2) Whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to caning which may extend to forty lashes.<sup>461</sup>

\*\* [false evidence causing another to lose property]<sup>462</sup>

330. (1) Whoever gives or fabricates false evidence intending thereby to cause or knowing it to be likely that he will thereby cause any person to be convicted of an offence which is punishable with death shall be punished with imprisonment for a term which may extend to five years and shall also be liable to caning of sixty lashes.<sup>463</sup>

(2) If an innocent person is convicted and executed in consequence of such false evidence, the person who gave or fabricated such false evidence shall be punished with *qisas*.<sup>464</sup>

(3) If an innocent person is convicted and is caused to suffer the punishment of amputation in consequence of such false evidence, the person who gave or fabricated such false evidence shall be punished with *qisas*.<sup>465</sup>

331. Whoever gives or fabricates false evidence intending thereby to cause or knowing it to be likely that he will thereby cause any person to be convicted of an offence which is not punishable with death but is punishable with any term of imprisonment or caning<sup>466</sup> shall be punished as a person convicted of that offence would be liable to be punished.

332. Whoever uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

333. Whoever issues or signs any certificate required by law to be given or signed or relating to any fact of which such certificate is legally admissible in evidence knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

334. Whoever uses or attempts to use any certificate<sup>467</sup> as a true certificate knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

335. (1) Whoever in any declaration made or subscribed by him, which declaration any court of justice or any public servant or other person is bound or authorised by law to receive as evidence of any fact, makes any statement which is false and which he

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<sup>461</sup> PC: 7 years/fine. Bauchi, Gombe, Jigawa, Kano, Yobe, Zamfara: 5 years/40 lashes. Katsina: 10 years/60 lashes. Sokoto: 2 years/20 lashes. Kebbi: 2 years or fine or both and up to 40 lashes. Kaduna omits this subsection altogether. Gombe, no doubt in error, puts it as a separate section.

<sup>462</sup> Kebbi adds a third subsection here, as follows: "(3) Whoever intentionally gives or fabricates false evidence and cause another person to lose his property shall pay an amount equal to the lost property." PC adds an illustration omitted here and in all SPCs.

<sup>463</sup> PC: life/fine. Bauchi: 15 years/40 lashes. Jigawa, Kano, Kebbi, Sokoto, Yobe, Zamfara: 10 years/60 lashes. Katsina: 6 months/60 lashes. Kaduna: *ta'azir*. Gombe, no doubt in error, has what is subsection (2) of the previous section here and in all other codes, as the first unnumbered section of this one.

<sup>464</sup> PC: death.

<sup>465</sup> PC omits this subsection.

<sup>466</sup> PC: "punishable with any term of imprisonment for a term of seven years or upwards".

<sup>467</sup> PC and all SPCs except Kano and Katsina: "any certificate mentioned in [the previous section]".

neither knows nor believes to be false or does not believe to be true,<sup>468</sup> touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

(2) Whoever uses or attempts to use as true any such declaration knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation:

*A declaration, which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of this section.*

336. Whoever knowingly makes a false translation of the evidence of a witness or of the statement of an accused person or of a party to a civil suit or makes a false translation or copy of any document with the intention that such translation or copy shall be used in any manner in any judicial proceeding or knowing that it is likely to be so used, and whoever knowingly uses such translation or copy in any manner in any judicial proceeding, shall be punished in the same manner as if he gave false evidence.

337. Whoever secretes or destroys any document, which he may be lawfully compelled to produce as evidence in a court of justice or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such court or public servant as aforesaid or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to caning which may extend to fifty lashes.<sup>469</sup>

*Screening of Offenders*

338. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of the offence to disappear with the intention of screening the offender from legal punishment, or with a like intention of intending to prevent his arrest gives any information respecting the offence which he knows or believes to be false or harbours or conceals a person whom he knows or has reason to believe to be the offender shall be punished:

(a) with imprisonment for a term which may extend to five years and shall also be liable to caning which may extend to forty lashes;<sup>470</sup> and

(b) in addition where the offender causes evidence to disappear the offender shall be caused to remit the evidence so caused to disappear or be punished with an additional term of imprisonment which may extend to one year.<sup>471</sup>

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<sup>468</sup> PC: “which is false and which he either knows or believes to be false or does not believe to be true”. But all SPCs except Katsina, Kebbi, Sokoto, and Yobe are as here. Katsina: “which is false or does not believe to be true”. Kebbi, Sokoto, Yobe: “which is false and which he neither knows or believes to be false or does not believe to be true”.

<sup>469</sup> PC: 2 years or fine or both. Bauchi: 7 years/40 lashes. Kebbi: up to 5 years or fine or both and up to 50 lashes. Kaduna: *ta’azīr*. Katsina’s code probably intends 5 years/50 lashes but the words “shall also be liable to caning which may extend to fifty lashes” are missing.

<sup>470</sup> PC: 5 years/fine. Kano: 2 years/20 lashes. Kebbi: up to 5 years or fine or both and up to 40 lashes. Kaduna with *ta’azīr*.





















































