

## **PENAL CODE ACT CHAPTER 53 LFN (ABUJA)**

### ARRANGEMENT OF SECTIONS<sup>1</sup> [\*]

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<sup>1</sup> [\*] The original numbering of the sections has been retained

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to Act (Cap. 345) Revised Laws of the Federation of Nigeria 1990.

CHAPTER 532

PENAL CODE ACT

An Act to establish a Penal Code for the Federal Capital Territory, Abuja.

[30th September, 1960]

1.† This Act may be cited as the Penal Code Act.

2. The provisions contained in the Schedule to this Act shall be the law of Federal Capital Territory, Abuja with respect to

the several matters therein dealt with and the said Schedule may be cited as, and is in this Act called, the Penal Code.

3. (1) A person shall be liable to punishment under the Penal Code for an act or omission contrary to the provision thereof of which he shall be guilty within the Federal Capital Territory, Abuja.

(2) After the commencement of this Act no person shall be liable to punishment under a customary law.

4. (1) Where by the provisions of any law of the Federation the doing of an act or the making of an omission is made an offence, those provisions shall apply to every person who is in the Federal Capital Territory, Abuja 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 Federal Capital Territory, Abuja would constitute an offence, and any of such acts, omissions or events occur in the Federal

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† The original numbering of the sections has been retained



Capital Territory, Abuja although the other acts, omissions or events, which if they occurred in the Federal Capital Territory, Abuja would be elements of the offence, occur elsewhere than in the Federal Capital Territory, Abuja, then-

(a) if the act or omission, which in the case of an offence committed wholly in the Federal Capital Territory, Abuja would be the initial element of the offence, occurs in the Federal Capital Territory, Abuja, 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 Federal Capital Territory, Abuja; and

(b) if that act or omission occurs elsewhere than in the Federal Capital Territory, Abuja, and the person who does that act or makes that omission afterwards enters the Federal Capital Territory, Abuja, 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 Federal Capital Territory, Abuja and he had been in the Federal Capital Territory, Abuja, when it occurred.

(3) Notwithstanding the provision of subsection (2) of this section 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 the Federal Capital Territory, Abuja.

(4) The provisions of subsection (2) of this section do not extend to a case in which the only material event that occurs in the Federal Capital Territory, Abuja 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 the Federal Capital Territory, Abuja.

5. (1) When by the Penal Code an act is declared to be lawful, no action shall be brought in respect thereof.

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

6. Nothing in this Act or in the Penal Code shall affect the court authority of courts of record to punish a person summarily for the offence commonly known as contempt of court; but a person cannot be so punished and also punished under the provisions of the Penal Code for the same act or omission.

SCHEDULE

THE PENAL CODE

CHAPTER I

GENERAL EXPLANATIONS AND INTERPRETATION

1. Every expression, which is explained in any part of this Penal Code, is used in every part of this Penal Code in conformity with the explanation,
2. The pronoun "he" and its derivatives are used of 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 the 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.
5. The word "person" includes a company or an association or a body of persons, whether incorporated or not.  
  
(2) A child becomes a person when it has been born alive whether it has breathed or not, and whether the umbilical cord is severed or not.
6. The words "the public" include; any class or section of the public.
7. The word "magistrate" denotes a magistrate under the Criminal Procedure Code Act.

8. "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 Federal Capital Territory, Abuja by virtue of any Act or Law and shall also include every court martial held in the Federal Capital Territory, Abuja under the military law in force in the Federal Capital Territory, Abuja.

9. "Judicial proceedings" includes any proceeding in the course, of which Judicial it is lawful to take evidence on oath.

10. The words "public officer" denote a person falling under any of the descriptions hereinafter following, that is to say-

(a) every person appointed by the Government of the Federation or of a State while serving the Federal Capital Territory, Abuja;

(b) every person not coming within the description set out in paragraph (a) of this section who is in the service of the Government or local authority in a judicial, or quasi-judicial, executive, administrative or clerical capacity;

(c) every commissioned officer of the Nigerian Armed Forces;

(d) every assessor or other person assisting a court of justice or a public officer exercising judicial or quasi-judicial functions, while acting in that capacity;

(e) every arbitrator or other person to whom a cause or matter has been referred for decision or report by a court of justice or by any other competent public authority, while acting in that capacity;

(f) every officer or other person not being a member who is appointed to perform a duty in connection with the discharge of its functions by a body forming part of the National Assembly.

(g) every person who is in the service of any public corporation established by any Act or Law.

EXPLANATION 1. In this section public duties include duties to be performed for the protection, preservation or promotion of the public health, order, safety or convenience and duties to be performed for the protection of the pecuniary interests of or for carrying on the work of the Federal Capital Territory, Abuja, municipal or other local authority.

EXPLANATION 2. The expression "public officer" applies to every person who is in actual occupation of the post of a public officer whatever legal defect there may be in his right to hold such post.

11. The term "armed forces" includes naval and air forces and the term "military affairs" includes affairs relating to naval and air forces and defences.

12. The words "movable property" include corporeal property of every property, description except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

13. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.

14. "Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

15. A person is said to gain wrongfully when the person retains wrongfully as well as when the person acquires wrongfully, and a person is said to lose wrongfully, wrongfully when the person is wrongfully kept out of any property as well as when the person is wrongfully deprived of property.

16. 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.

17. 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 the deceit to obtain some advantage for himself or another or to cause loss to any other person.

18. A person is said to have "reason to believe" a thing if he has sufficient cause to that thing but not otherwise.

19. (1) An act is said to be "likely" to have a certain consequence or to likely, cause a certain effect if the occurrence of that consequence or effect would probable 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.

20. 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 Penal Code.

EXPLANATION. A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this section.

21. 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.

EXPLANATION 1. It is not essential to counterfeiting that the resemblance should be exact.

EXPLANATION 2. When a person causes one thing to resemble another thing and the resemblance is such that a person might be deceived thereby, it shall be presumed until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.

22. The word "writing" denotes a mark made on 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 thereby expressed.

23. 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 or released, or whereby the existence or the extinction of a legal right is acknowledged or established.

24. In every part of this Penal Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

25. 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.

26. 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.

27. 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.

Illustration. A sets fire by night to an inhabited house for the purpose of facilitating a robbery and thus causes the death of a person in the house. Here, A may not have intended to cause death and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

28. Except where it otherwise appears from the context, the word "offence" includes an offence under a law for the time being in force.

29. Everything which is prohibited by law and which is an offence or which furnishes ground for a civil action is said to be "illegal".

30. A person is said to be "legally bound to do" not only whatever he is to do, 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.

31. The word "injury" denotes any harm whatever illegally caused to a person, in body, mind, reputation, or property.

32. The words "life" and "death" denote the life or death of a human being unless it otherwise appears from the context.

33. The word "animal" does not include a human being.

34. The word "vessel" denotes a thing made for the conveyance by water of human beings or of property.

35. 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 Gregorian calendar.

36. 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 officer or to be used for the purpose of proof, whether in a court of justice or not.

37. Nothing is said to be done or believed in good faith which is done or believed without due care and attention.

38. 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-

(a) provocation sought or voluntarily provoked by the offender as an excuse for committing an offence;

(b) provocation given by anything done in obedience to the law or by a public officer in the lawful exercise of the powers of such public officer;

(c) provocation given by anything done in the lawful exercise of the right of private defence.

Illustrations. (a) A is lawfully arrested by Z, a police officer. A excited to sudden and violent passion by the arrest kills Z. A is not protected by sub-section (1) of section 222.

(b) A appears as a witness before Z, a magistrate Z says that he does not believe a word of A's evidence. A provoked thereby causes hurt to Z. He is punishable under section 246 and not under section 244.

(c) A attempts to pull Z's nose. Z in self defence lays hold of A. A provoked thereby attacks Z and causes him grievous harm. A is punishable under section 247 and not under section 245.

39. A consent is not such a consent as is intended by any section of this Penal Code, if the consent is given-

(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 that fear or misconception; or

(b) by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

(c) by a person who is under fourteen years of age.

40. 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 person with shelter, food, drink, money, clothes, arms, ammunition, or means of conveyance, or assists that other in any way to evade arrest.

41. (Deleted.)

42. The words "foreign government" mean any government other than any government within the Federation of Nigeria, the government of the United Kingdom or of a commonwealth country or part thereof.

## CHAPTER II

### CRIMINAL RESPONSIBILITY

43. A person is presumed, unless the contrary is proved, to have knowledge of a material fact if that fact is a matter of common knowledge.



44. A person who does an act in a state of intoxication is presumed to have the same knowledge as he would have had if he had not been intoxicated.

45. Nothing is an offence which is done by a 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.

Illustrations. (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.

46. 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 a power which is or which in good faith he believes to be given to him by law.

47. 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 the jurisdiction.

48. 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.

49. (1) Nothing is an offence by reason of any 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

(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 66 of this Penal Code,

(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. (a) A passenger train traveling at a high speed is approaching a stationary passenger train upon the same line of rails. A railway employee, as the only means of preventing a collision which would probably involve the lives of many passengers, switches the moving train into a siding. The employee is not guilty of an offence if in all the circumstances his act was reasonable,

although a fatal though less serious accident will probably result and a fatal accident in fact occurs.

(b) 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.

1 (c) (i) A a surgeon knowing that a particular operation is likely to cause

r 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 is performed with reasonable care and skill, A has committed no offence.

(ii) If through drunkenness the operation is performed unskillfully. A is not protected by this section.

(iii) Whether Z (or some competent person on his behalf) has consented to the operation or not, is a material circumstance in judging whether it was reasonable to perform the operation.

(d) Z is seized by a crocodile. A fires at the crocodile not intending to kill Z and in good faith intending Z's benefit. In fact A kills Z. A has committed no offence.

50. No act is an offence which is done- Act of child.

(a) by a child under seven years of age; or .

(b) 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 that act.

51. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

52. 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.

53. (1) No act is an offence by reason of the injury it has caused to the person or property of a person who, being above the age of eighteen years, has voluntarily and with understanding given his consent express or implied to done by that act.

(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.

54. 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 a 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.

55. (1) Nothing is an offence which does not amount to the infliction of child, pupil, grievous hurt upon a person and which is done-

(a) by a parent or guardian for the purpose of correcting his child or ward that child or ward being under eighteen years of age; or

(b) by a schoolmaster for the purpose of correcting a child under eighteen years of age entrusted to his charge; or

(c) by a master for the purpose of correcting his servant or apprentice, the servant or apprentice being under eighteen years of age; or

(d) by a husband for the purpose of correcting his wife such husband and wife being subject to any customary law in which the correction is recognized as lawful.

(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.

56. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration. 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.

57. Except culpable homicide 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 threats which at the time of doing it reasonably cause 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 that compulsion.

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

#### The Right of Private Defence

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

60. 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 an 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, robbery, mischief, or criminal trespass or which is an attempt to commit theft, robbery mischief or criminal trespass.

61. 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 a misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were

that offence.

Illustrations. (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.

62. 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.

63. There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

64. 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 officer doing an act justifiable in law and in good faith; or

(b) by the direction of a public officer acting lawfully and in good faith.

EXPLANATION. A person is not deprived of the right of private defence against an act done or attempted to be done

(a) by a public officer as such unless he knows or has reason to believe that the person doing that act is a public officer, or

(b) by the direction of a public officer, unless he knows or has reason to believe that the person doing the act is acting by that direction or unless the person states the authority under which he acts or, if he has authority in writing, unless he produces that authority if demanded.

65. The right of private defence of the body extends, under the restrictions mentioned in sections 62 and 63 of this Penal Code, to the voluntary causing 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.

66. The right of private defence of property extends, under the restrictions mentioned in sections 62 and 63 of this Penal Code, to the voluntary causing of death only when the act to be repelled is of any of the following descriptions, namely-

(a) robbery; 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 causing 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.

67. 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.

Illustration. 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.

### CHAPTER III

#### PUNISHMENTS AND COMPENSATION

68: (1) The punishments to which offenders are liable under the provisions Punishments.

of this Penal Code are-

(a) death;

(b) forfeiture of property;

(c) imprisonment;

(d) detention in a reformatory;

(e) fine;

(f) caning.

(2) Offenders who are of the Muslim faith may in addition to the punishments specified in subsection (1) of this section be liable to the punishment of Haddi lashing as prescribed by Islamic law for offences contrary to sections 387, 388, 392, 393, 401, 402, 403 and 404 of this Penal Code.

69. No sentence of imprisonment shall be passed on a person who in the opinion of the court is under fourteen years of age.

70. In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years.

71. When an accused person who has completed his seventh but not completed his eighteenth year of age is convicted by a court of an offence, the court may, instead of passing the sentence prescribed by law, deal with such accused person in accordance with the provisions of the Children and Young Persons Act.

72. 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.

73. Whenever an offender is sentenced to a fine whether with or without imprisonment under this Penal Code, 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.

74. If an offence is punishable with fine or with imprisonment and fine the court may direct that in default of payment the offender be imprisoned for a term not exceeding the maximum following scale, that is to say-



Where the fine	- The period of imprisonment shall not exceed-
does not exceed one naira	seven days;
exceeds ten shillings and does not exceed two naira	fourteen days;
exceeds two naira and does not exceed twenty naira	one month
exceeds twenty naira and does not exceed sixty naira	two months;
exceeds sixty naira and does not exceed one hundred naira	four months;
exceeds one hundred naira and does exceed two hundred naira	six months
exceeds two hundred naira and does not exceed four hundred naira	one year
exceeds four hundred naira	two years.

75. Where a fine or a 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.

76. 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 anyone 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 anyone of those offences.

Illustrations. (a) 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.

(b) But if while A is beating Z, Y interferes and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z and to another for the blow given to Y.

77. A sentence of caning not exceeding twelve strokes may be passed by a court whether trying a case summarily or otherwise on any male offender in lieu of or in addition to any other punishment to which he might be sentenced for an offence not punishable with death.

78. A person who is convicted of an offence under this Penal Code may be adjudged to make compensation to a person injured by his offence and the compensation may be either in addition to or in substitution for any other punishment.

#### CHAPTER IV

#### JOINT ACTS

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

80. 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 those persons who joins in the act with that 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.

81. 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.

Illustrations. (a) A and B agree to kill Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to kill Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of culpable homicide and, as each of them does one or more of the several acts by which death is caused, they are both guilty of the offence, though their acts are separate and though the acts of one without the acts of the other would not have caused death.

(b) 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 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.

(c) A a jailor has the charge of Z a prisoner. A intending to cause Z's death illegally omits to supply Z with food; in consequence of which Z is much reduced in strength but the starving is not sufficient to cause his death. A is dismissed from his office and B succeeds him. B without collusion or co-operation with A illegally omits to supply Z with food, knowing that he will probably thereby cause Z's death. Z dies of hunger. B is guilty of culpable homicide; but as A did not co-operate with B, A is guilty only of an attempt to commit culpable homicide.

82. 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.

Illustration. A attacks Z in such circumstances of grave provocation that his killing of Z would be only culpable homicide not punishable with death. B having ill-will towards Z and intending to kill him and not having been subject to provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of culpable homicide punishable with death and A is guilty only of culpable homicide not punishable with death.

## CHAPTER V

### ABETMENT

83. A person abets the doing of a thing, who-

(a) instigates a person to do that thing; or

(b) engages with one or more other person or persons in a conspiracy for the doing of that thing; or

(c) intentionally aids or facilitates by an act or illegal omission the doing of that thing.

EXPLANATION. A person who by wilful misrepresentation or by wilful concealment of a material fact which he is bound to disclose voluntarily causes or procures or attempts to

cause or procure a thing to be done instigates the doing of that thing within the meaning of this chapter.

Illustrations. (a) A is authorized 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

84. 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.

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.

Illustrations. (a) A instigates B to 'kill C. B refuses to do so. A is guilty of abetting B to commit culpable homicide.

(b) A instigates B to kill D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit culpable homicide.

EXPLANATION 3. It is not necessary that the person abetted should be capable by law of committing an offence or that he should have the same guilty intention or knowledge as that of the abettor or any guilty intention or knowledge.

Illustrations. (a) A, with a guilty intention, abets a child or a lunatic in committing an act which would be an offence, if committed by a person capable by law of committing an

offence and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession in good faith believing it to be A's property. B acting under this misconception does not take dishonestly and therefore does not commit theft. But A is guilty of abetting theft and is liable to the same punishment as if B had committed theft.

EXPLANATION 4. The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration. A instigates B to instigate C to kill Z. B accordingly instigates C to kill Z and C kills Z in consequence of B's instigation. B is liable to be punished for his offence with the punishment for culpable homicide; and; as A instigated B to commit the offence, A is also liable to the same punishment.

EXPLANATION 5. It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it; it is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration. A consents with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison but without mentioning A's name. C agrees to procure the poison and provides and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been killed, C has therefore committed the offence defined in this section and is liable to the punishment for culpable homicide.

85. Whoever abets an offence shall, if the act abetted is committed in consequence of the abetment and no express provision is made by this Penal Code by any other law for the time being in force for the punishment of the abetment, be punished with the punishment provided for the offence.

EXPLANATION. An act or offence is said to be committed in consequence of abetment when it is committed in consequence of the instigation or in pursuance of the conspiracy or with the aid which constitutes the abetment.

Illustrations. (a) A instigates B to give false evidence. B in consequence of the instigation commits that offence. A is guilty of abetting that offence and liable to the same punishment as B.

(b) A and B conspire to poison Z. A in pursuance of the conspiracy procures the poison and delivers it to B in order that he may administer it to Z. B in pursuance of the conspiracy administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of culpable homicide. A is guilty of abetting that offence by conspiracy and is liable to the punishment for culpable homicide.

86. 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.

87. 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 constituted the abetment, the abettor is liable for the act done in the same manner and to the same extent as if he had directly abetted it.

Illustrations. (a) A instigates a child to put poison into the food of Z and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation and the act done was in the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates Band C to break into an inhabited house at midnight for the purpose of robbery and provides them with arms for that purpose. Band C break into the house and being resisted by Z, one of the inmates, kill Z. Here, if that killing was the probable consequence of the abetment, A is liable to the punishment provided for culpable homicide

88. If the act for which the abettor is liable under section 87 of this Penal Code is committed in addition to the act abetted and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

89. 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.

EXPLANATION. The abettor shall not be liable under this section to be sentenced to death, unless he knew that death would be the probable effect of the act abetted.

Illustration. A instigates B to cause grievous hurt to Z. B in consequence of the instigation causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for culpable homicide.

90. Whenever a 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 that act or offence.

91. (1) Whoever abets the commission of an offence punishable with death or imprisonment for life shall, if that offence is not committed in consequence of the abetment and no express provision is made by this Penal Code or by any other Act or Law for the time being in force for the punishment of that abetment, be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

(2) If the abettor is a public officer whose duty it is to prevent the commission of the offence, he shall be liable to imprisonment for a term which may extend to ten years and shall also be liable to fine.

Illustration. A instigates B to kill Z. The offence is not committed. If B had killed Z, B would have been liable to the punishment of death. Therefore A is liable to imprisonment for a term which may extend to seven years or, if he is a public officer whose duty it is to prevent the killing, to ten years and also in any event to a fine.

92. (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 Penal Code or by any other Act or Law for the time being in force for the punishment

of the 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.

(2) If the abettor is a public officer whose duty it is to prevent the commission of such offence, he shall 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.

Illustration. A, a policeman, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one half of the longest term of imprisonment provided for that offence and also to fine.

93. Whoever abets the commission of an offence by the public generally or by a member thereof or class of persons exceeding ten, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

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

(a) with imprisonment for a term which may extend to seven years or with fine or with both; and

(b) if the offence is an offence punishable with death, with imprisonment for life or for any less term or with fine or with both.

## CHAPTER VI

### ATTEMPTS TO COMMIT OFFENCES

95. Whoever attempts to commit an offence punishable with imprisonment or to cause such an offence to be committed and in the attempt does an act towards the commission of the offence shall, where no express provision is made by this Penal Code or by any other Act or Law for the time being in force for the punishment of the 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.

Illustrations. (a) A makes an attempt to steal some jewels by breaking open a box and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft and therefore is guilty under this section.

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.



## CHAPTER VII

### CRIMINAL CONSPIRACY

96. (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.

(2) Notwithstanding the provisions of subsection (1) of this section, 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 that 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.

EXPLANATION 3. Nothing in this section shall exempt from punishment any persons guilty of a conspiracy for which a punishment is provided by any Act or other Law.

97. (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 Penal Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted that 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.

97 A. A society is an unlawful society if declared by an order of the President to be a society dangerous to the good government of the Federation or any part thereof.

97B. Whoever manages or is a member of an unlawful society shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

## CHAPTER VIII

### BREACH OF OFFICIAL TRUST

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

99. Whoever commits a breach of official trust shall-

(0) 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 fourteen years and shall also be liable to fine; and

(b) in any other case shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

## CHAPTER IX

### OFFENCES AGAINST THE PUBLIC PEACE

100. An assembly of five or more persons 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 of the Federation or any Government in Nigeria or a public officer in the exercise of his lawful powers; or
- (b) to resist the execution of a law or of a legal process; or
- (c) to commit a mischief or criminal trespass or other offence of any kind whatsoever, or
- (d) by means of criminal force or show of criminal force to enforce a right or supposed right; or
- (e) by means of criminal force or show of criminal force to compel a person to do that he is not legally bound to do or to omit to do what he is legally entitled to do. .

EXPLANATION. An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

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

102. Whoever is a member of an unlawful assembly shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

103. Whoever being a member of an unlawful assembly is armed with any deadly weapon or with a thing which 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 or with fine or with both.

104. Whoever joins or continues in an unlawful assembly knowing that the unlawful assembly has been lawfully commanded to disperse shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

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

106. Whoever is guilty of rioting shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

107. Whoever is guilty of rioting being armed with a deadly weapon or with a thing which used as a weapon of offence is likely to cause death, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

108. If an offence is committed by a 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.

109. Whoever promotes or does an act with intent to assist the promotion

of an unlawful assembly; shall be punishable as a member of the unlawful:  
assembly and for an offence which may be committed by a member thereof in  
the same manner as if he had himself been a member of the unlawful  
assembly.

110. Whoever joins or continues in an assembly of five or more persons,  
likely to cause a disturbance of the public peace knowing that the assembly'  
has been lawfully commanded to disperse, shall be punished with imprisonment  
or a term which may extend to one year or with fine or with both. 1

EXPLANATION. If the assembly is an unlawful assembly within the meaning  
of section 100 of this Penal Code, the offender will be punishable under section  
104 of this Penal Code.

111. 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 Penal Code, or  
of any other subsisting Act or Law; or

(b) to cause or be likely to cause annoyance to the public or a section there-  
of, or a breach of the peace, or disturbance of the public peace, or the  
commission of an offence,

shall be punished with imprisonment for a term which may extend to six

months or with fine or with both, 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.

112. Whoever assaults or threatens to assault or obstructs or attempts to obstruct a public officer in the discharge of his duty as a public officer 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 the public officer, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

113. Whoever in a public place disturbs the public peace shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to six hundred naira or with both.

114. Whoever does an 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 which may extend to three years or with fine which may extend to six hundred naira or with both.

#### CHAPTER X .

#### OFFENCES BY OR RELATING TO PUBLIC OFFICERS

115. Whoever being or expecting to be a public officer 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 an official act, or

(b) for showing or forbearing to show in the exercise of his official functions  
favour or disfavour to a 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 a public  
officer as such,

shall be punished-

(i) with imprisonment for a term which may extend to seven years or with  
fine or with both;

(ii) if such public officer is a public officer in the service of the  
Government of the Federation acting in a judicial capacity or carrying  
out the duties of a police officer, with imprisonment for a term which  
may extend to fourteen years or with fine or with both. -"

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 officer 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.

Illustrations. (a) A an Alkali obtains from Z merchant a situation in Z's office for A's brother as a reward to A for deciding a suit in favour of Z. A has committed an offence under this section.

(b) A a District Head accepts a sum of money from a large land-owner. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act or for rendering or attempting to render any particular service to the landowner. But it does appear that A accepted the sum as a motive or reward for showing general favour in the exercise of his official functions to the land-owner. A has committed an offence under this section.

(c) A public officer induces Z erroneously to believe that A's influence with the Government has obtained for Z the position of messenger and thus induces Z to give A money as a reward for this service. A has committed an offence under this section.

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

(a) to do or forbear to do an official act; or

(b) in the exercise of the official functions of the public officer to show favour or disfavour to any person; or



(c) to render or attempt to render service or disservice to a person with a department of the public service or with a public officer as such, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

117. Whoever being a public officer, in respect of whom an offence under section 116 of this Penal Code is committed, abets the offence, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

118. 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 115 and 116 of this Penal Code shall be punished with imprisonment which may extend to three years or with fine or with both.

119. Whoever being a public officer 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 a proceeding or business transacted or about to be transacted by the public officer or having a connection with the official functions of himself or of a public officer to whom he is subordinate; or  
(b) from a 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 five

years or with fine or with both.

Illustrations. (a) A, a District Head hires a house of Z, who has a boundary case pending before him. It is agreed that A shall pay four naira a month the house being such that, if the bargain were made in good faith, A would be required to pay ten naira a month. A has obtained a valuable thing from Z without adequate consideration.

(b) Z's brother is arrested and taken before A an Area Court Judge on a charge of perjury. A sells to Z an old cow for twenty naira when its market value is only two naira. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

120. Whoever in any of the circumstances mentioned in section 119 of this Penal Code offers or gives or agrees to give to a public officer or to any person, in whom a public officer is interested or to whom he is related, a 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 two years or with fine or with both.

121. Whoever knowingly profits by a gratification or benefit obtained in any of the circumstances mentioned in section 115, 116 or 119 of this Penal Code but does not take an active part in obtaining the gratification or benefit, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

122. Whoever being a public officer in his capacity as such dishonestly receives from a 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 five years or with fine or with both.

123. Whoever being a public officer knowingly disobeys a direction of the law as to the way in which he is to conduct himself as such public officer intending thereby or knowing himself to be likely thereby-

(a) to cause injury to a person or to the public; or

(b) to save a 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 a legal punishment; or

(c) to save a property from forfeiture or from a 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 a charge on a property,

shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

124. Whoever, being a public officer, and being as such a public officer 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 a person, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

125. Whoever being a public officer knowing that he is likely to cause injury to a person or intending unlawfully to give a 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 seven years or with fine or with both.

126. Whoever, being a public officer authorised by law to commit persons' for trial or to confinement or to keep persons in confinement, commits a person for trial or to confinement or keeps a person in confinement-

(a) knowing that he is acting contrary to law; and a

(b) knowing that he is likely to cause injury to a person or intending unlawfully to give a person an advantage,

shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

127. Whoever, being a public officer whose duty it is as a public officer to arrest a person or to keep a person in confinement or custody, intentionally omits to arrest the person or intentionally suffers that person to escape or intentionally aids that person in escaping or attempting to escape from the confinement or custody, shall be punished as follows, that is to say-

(a) with imprisonment for a term which may extend to fourteen years with or without fine, if that person is under sentence of death; or

(b) with imprisonment for a term which may extend to seven years with or

without fine, if that person is under sentence of imprisonment for a term of ten years or upwards or is charged with or liable to be arrested for an offence punishable with death; or

(c) with imprisonment for a term which may extend to three years or with fine or with both, if that person is under sentence of imprisonment for a term not extending to ten years or is charged with or liable to be arrested for an offence punishable with imprisonment for a term which may extend to ten years; or

(d) with imprisonment for a term which may extend to two years or with fine or with both, in a case not above specified.

128. Whoever, being a public officer whose duty it is as a public officer to arrest a person or to keep a 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 imprisonment for a term which may extend to two years or with fine or with both.

129. Whoever being a public officer willfully omits to perform a duty pertaining to his office which he is legally bound to perform shall, if the 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 two years or with fine or with both.

130. Whoever being a public officer wrongfully abandons his duties in pre-arranged agreement with two or more other public officers shall, if the intention

or effect of the abandonment is to interfere with the performance of a

public officer to an extent which will cause injury or damage or grave inconvenience

to the community, be punished with imprisonment for a term which may extend to two years or with fine or with both.

131. Whoever, being a public officer and being legally bound: as such public officer not to purchase or bid for certain property, purchases or bids for that property in his own name or in the name of another or jointly or in shares with others, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

132. Whoever pretends to hold a particular office as a public officer knowing that he does not hold that office, or falsely personates any other person holding that office, and in that assumed character does or attempts to do an act under colour of such office, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

133. Whoever not belonging to a certain class of public officer wears any dress or carries a token resembling a dress or token used by that class of public officer with the intention that it may be believed that he belongs to that class of public officer, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to forty naira or with both.

## CHAPTER XI

### CONTEMPT OF THE LAWFUL AUTHORITY OF PUBLIC OFFICERS

134. Whoever absconds in order to avoid being served with a summons,

notice or order proceeding from a public officer legally competent as such public officer to issue the 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 twenty naira or with both; 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 forty naira or with both.

135. Whoever in any manner-

(a) intentionally prevents the serving on himself or on any other person of a summons, notice or order proceeding from a public officer legally competent as such public officer to issue the summons, notice or order; or

(b) intentionally prevents the lawful affixing to any place of the summons, notice or order; or

(c) intentionally removes the summons, notice or order from a place to which it is lawfully affixed; or

(d) intentionally prevents the lawful making of a proclamation under the authority of any public officer legally competent as such a public officer to direct that proclamation to be made, shall be punished-

(i) with imprisonment for a term which may extend to one month or with fine which may extend to twenty naira or with both; 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

fine which may extend to forty naira or with both.

136. Whoever, having been required by a summons, notice, order or proclamation proceeding from any public officer legally competent as such a public officer 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-

(a) with imprisonment for a term which may extend to one month or with fine which may extend to twenty naira or with both; 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 fine which may extend to forty naira or with both.

137. Whoever, having been required by a summons, notice, order or proclamation proceeding from a public officer legally competent as a public officer to

issue the same to produce or deliver up a document or other thing, intentionally omits so to produce or deliver up the same, shall be punished-

(a) with imprisonment for a term which may extend to one month or with fine which may extend to twenty naira or with both; 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 fine which may extend to forty naira or with both.

138. Whoever, being legally bound to give a notice or to furnish information



on a subject to a public officer as such, intentionally omits to give that notice or to furnish that information in the manner and at the time required by law, shall be punished-

(a) with imprisonment for a term which may extend to one month or with fine which may extend to twenty naira or with both; or

(b) if the notice or information required to be given 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 term which may extend to six months or with fine which may extend to forty naira or with both.

139. Whoever, being legally bound to furnish information on a subject to a public officer as such, furnishes as true information on the subject which he knows or has reason to believe to be false, shall be punished-

(a) with imprisonment for a term which may extend to six months or with fine which may extend to forty naira or with both; 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 for a term which may extend to two years or with fine or with both.

140. Whoever gives to a public officer an information which he knows or believes to be false, intending thereby to cause or knowing it to be likely that he will thereby cause the public officer-

(a) to do or to omit anything which the public officer 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 the public officer to the injury or annoyance of a person,

shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to forty naira or with both.

Illustrations. (a) A informs a police officer that Z a policemen subordinate to such police officer has been guilty of neglect of duty or misconduct knowing such information to be false and knowing it to be likely that the information will cause the police officer to dismiss Z. A has committed an offence under this section.

(b) A falsely informs a public officer 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.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.

141. (1) Whoever refuses to bind himself by an oath or affirmation to state

the truth when required so to bind himself by a public officer 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 forty naira 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 Criminal Procedure Code, refuses to take the oath or make the affirmation under the provisions of section 230 of the Criminal Procedure Code.

142. Whoever, being legally bound to answer questions put to him on a subject by a public officer in the exercise of the lawful powers of the public officer, refuses to answer a question, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to forty naira or with both.

143. Whoever refuses to sign a statement made by him when required to sign that statement by a public officer legally competent to require that he shall sign that statement, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to twenty naira or with both.

144. Whoever offers a resistance to the taking of a property by the lawful authority of a public officer knowing or having reason to believe that he is a public officer, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to forty naira or with both.

145. Whoever intentionally obstructs the sale of property offered for sale by the lawful authority of a public officer as such shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to twenty naira or with both.

146. Whoever, when a property has been attached or taken by the lawful authority of a public officer, knowingly and with intent to hinder or defeat the attachment or process receives, removes, retains, conceals, or disposes of the property, shall be punished with imprisonment for three years or with fine or with both.

147. Whoever at the sale of property held by the lawful authority of a public officer as such purchases or bids for the property on account of a person whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for that property not intending to perform the obligations under which he lays himself by that bidding, shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to twenty naira or with both.

148. Whoever voluntarily obstructs a public officer in the discharge of his public functions shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to forty naira or with both.

149. Whoever voluntarily obstructs a public officer in the discharge of his public functions under an Imperial law or written law or voluntarily obstructs a person engaged in the discharge of a duty imposed on him by an Imperial law or written law shall be punished with imprisonment which may extend

two years or with fine or with both.

150. Whoever, being legally bound to render or furnish assistance to a public officer 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 fine which may extend to forty naira or with both.

151. Whoever being legally prohibited from residing in a district, or being legally ordered to reside in any district, intentionally disobeys the prohibition or order shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one hundred naira or with both.

152. Whoever, knowing that by an order promulgated by a public officer legally empowered to promulgate that 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 the direction, shall-

(a) if the 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 fine which may extend to forty naira or with both;

(b) if the disobedience causes or tends to cause danger to human life, health or safety or causes or tends to cause a riot or affray, shall be punished with imprisonment for a term which may extend to six months or with

fine which may extend to one hundred naira or with both.

153. Whoever holds out a threat of injury to a public officer or to a person in whom he believes that public officer to be interested, for the purpose of inducing that public officer to do an act or to forbear or delay to do an act connected with the exercise of the public functions of that public officer, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

154. Whoever holds out a threat of injury to a person for the purpose of inducing that person to refrain or desist from applying for protection against an injury to a public officer legally empowered as such to give that protection or to cause that protection to be given, shall be punished with imprisonment for term which may extend to one year or with fine or with both.

155. Whoever intentionally offers an insult or causes an interruption to a public officer while the public officer 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 fine which may extend to forty naira or with both.

## CHAPTER XII

### FALSE EVIDENCE AND OFFENCES RELATING TO THE

#### ADMINISTRATION OF JUSTICE

##### Offences relating to Evidence

156. Whoever, being legally bound by an oath or by an express provision of

law to state the truth or being bound by law to make a declaration upon a subject, makes a 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.

EXPLANATION 1. A false statement as to the belief of the person attesting is within the meaning of this section and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

EXPLANATION 2. 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.

Illustrations. (a) A, in support of a just claim which B has against Z for ten pounds, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting states that he believes a certain signature to be the hand writing of Z; A in good faith believing

it to be so. Here A's statement is merely as to his belief and is true as to his belief and therefore although the signature may not be the hand writing of Z, A has not given false evidence.

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.

157. Whoever causes a circumstance to exist or makes a false entry in a book or record or makes a document containing a false statement intending that the 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 officer as such or before an arbitrator and that the circumstance, false entry or false statement so appearing in evidence or so used may cause a person, who in that proceeding is to form an opinion upon the circumstance, entry or statement, to entertain an erroneous opinion touching a point material to the result of the proceeding, is said to fabricate false evidence.

Illustrations. (a) A puts jewels into a box belonging to Z with the intention that they may be found in that box and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a court of justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting purporting to be addressed to an



accomplice in such criminal conspiracy and puts the letter in a place which he knows that the police are likely to search. A has fabricated false evidence.

158. (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 fourteen years and shall also be liable to fine.

(2) Whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Illustration. A, in an inquiry before a magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this inquiry is a stage of a judicial proceeding. A has given false evidence.

159. (1) Whoever gives or fabricates false evidence intending thereby to cause or knowing it to be likely that he will thereby cause a person to be convicted of an offence which is punishable with death shall be punished with imprisonment for a term which may extend to imprisonment for life and shall also be liable to fine.

(2) If an innocent person is convicted and executed in consequence of that false evidence, the person who gave or fabricated the false evidence shall be punished with death.

160. Whoever gives or fabricates false evidence intending thereby to cause

or knowing it to be likely that he will thereby cause a person to be convicted of an offence which is not punishable with death but is punishable with imprisonment for a term of seven years or upwards shall be punished as a person convicted of that offence would be liable to be punished.

161. Whoever uses or attempts to use as true or genuine evidence an Us evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

162. Whoever issues or signs a certificate required by law to be given or signed or relating to a fact of which the certificate is legally admissible in evidence knowing or believing that the certificate is false in a material point, shall be punished in the same manner as if he gave false evidence.

163. Whoever uses or attempts to use a certificate mentioned in section 162 of this Penal Code as a true certificate knowing the same to be false material point, shall be punished in the same manner as if he gave false evidence

164. (1) Whoever in a declaration made or subscribed by him, which declaration a court of justice or a public officer or other person is bound or authorised by law to receive as evidence of a fact, makes a statement, which is false and which he either knows or believes to be false or does not believe to be true, touching a 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 a declaration knowing the same

to be false in a 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.

165. 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 a document with the intention that the translation or copy shall be used in a manner in a judicial proceeding or knowing that it is likely to be so used, and whoever knowingly uses the translation or copy in a manner in a judicial proceeding, shall be punished in the same manner as if he gave false evidence.

166. Whoever secretes or destroys a document, which he may be lawfully compelled to produce as evidence in a court of justice or in a proceeding do lawfully held before a public officer as such, or obliterates or renders illegible the whole or a part of the document with the intention of preventing the same from being produced or used as evidence before that court or public officer 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 two years or with fine or with both.

167. 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 an 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 with imprisonment for a term which may extend to five years and shall also be liable to fine.

EXPLANATION. In this section the word "offence" includes an act done outside the Federal Capital Territory, Abuja, which if done in the Federal Capital Territory, Abuja would be an offence and the punishment for the offence shall be deemed to be the same as the punishment would be if the act were done in the Federal Capital Territory, Abuja.

Illustration. A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment for five years and also to fine.

168. (1) Whoever accepts or attempts to obtain or agrees to accept a gratification for himself or any other person or a restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening a person from legal punishment for an offence or of his not proceeding against any person for the purpose of bringing him to legal punishment,

shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

(2) This section shall not extend to a case in which the offence may lawfully be compounded.

EXPLANATION. In this section the word "offence" includes an act done outside the Federal Capital Territory, Abuja, which if done in the Federal Capital

Territory, Abuja, would be an offence and the punishment for the offence

shall be deemed to be the same as the punishment would be if the act were

done in the Federal Capital Territory, Abuja.

169. (1) Whoever gives or causes or offers or agrees to give a cause a gratification to any other person or to restore or cause the restoration of a property to any other person, in consideration of that other person's conceding an offence or of his screening a person from legal punishment for an offence or of his not proceeding against a person for the purpose of bringing him to legal punishment, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

(2) This section shall not extend to a case in which the offence may lawfully be compounded.

EXPLANATION. In this section the word offence includes an act done outside the Federal Capital Territory, Abuja, which if done in the Federal Capital Territory, Abuja, would be an offence and the punishment for the offence shall be deemed to be the same as the punishment would be if the act were done in the Federal Capital Territory, Abuja.

170. Whoever, knowing or having reason to believe that some persons are about to commit or have recently committed robbery a brigandage, harbours them or any of them with the intention of facilitating the commission of that robbery or brigandage or of screening them or any of them from punishment, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

EXPLANATION. For the purposes of this section it is immaterial whether the robbery or brigandage is intended to be committed or has been committed within the Federal Capital Territory, Abuja or elsewhere.

#### Resistance to Arrest, and Escape

171. Whoever intentionally offers any resistance or illegal obstruction to the lawful arrest of any other person or rescues or attempts to rescue any other person from any confinement or custody in which that person is lawfully detained, shall be punished-

(a) with imprisonment for a term which may extend to seven years or with fine or with both; and

(b) if such other person is under sentence of death, shall be punished with imprisonment which may extend to imprisonment for life and shall also be liable to fine.

172. Whoever intentionally offers any resistance or illegal obstruction to the lawful arrest of himself for an offence with which he is charged or of which he has been convicted or escapes or attempts to escape from any custody in which he is lawfully detained for an offence, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

173. Whoever in a case not provided for in section 172 of this Penal Code

intentionally offers any resistance or illegal obstruction to the lawful arrest of

himself or escapes or attempts to escape from any custody in which he is lawfully detained, shall be punished with imprisonment for a term which may

extend to two years or with fine or with both.

#### Fraudulent Dealings with Property

174. Whoever, with intent to prevent any property of himself or any other person or any interest therein-

(a) from being taken as a forfeiture or in satisfaction of a fine under a sentence which has been pronounced or which he knows to be likely to be pronounced by a court of justice or other competent authority; or

(b) from being taken in execution of a decree or order, which has been made or which he knows to be likely to be made by a court of justice; or

(c) from being distributed according to law amongst the creditors of himself or that other person; or

(d) from being available according to law for payment of the debts of himself or that other person,

dishonestly or fraudulently removes or conceals or assists in removing or concealing that property or dishonestly or fraudulently transfers, delivers or

releases such property or any interest therein to any person or practises a

deception touching the same or accepts or dishonestly or fraudulently accepts,

receives or claims that property or any interest therein, knowing that he has no

right or rightful claim thereto, shall be punished with imprisonment for a term

which may extend to two years or with fine or with both.

EXPLANATION. In this section "property" includes rights of action and property of every other description whether movable or immovable and whether

corporeal or incorporeal.

175. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of a person for a sum not due or for a larger sum than is due to that person or for any property or interest in property to which that person is not entitled or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied or for anything in respect of which it has been satisfied, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Illustration. A institutes a suit against Z. Z knowing that A is likely to obtain a decree against him fraudulently suffers a judgment to pass against him for a large amount at the suit of B, who has no just claim against him. In order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

176. Whoever fraudulently obtains a decree or order against a person for a sum not due or for a larger sum than is due or for any property or interest in property to which he is not entitled or fraudulently causes a decree or order to be executed against a person after it has been satisfied or for anything in respect of which it has been satisfied or fraudulently suffers or permits any act to be done in his name, shall be punished with imprisonment for a term which



may extend to two years or with fine or with both.

177. Whoever dishonestly or fraudulently signs, executes or becomes a party to a deed or an instrument, which purports to transfer or subject to a charge any property or any interest therein and which contains a false statement relating to the consideration for that transfer or charge or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

#### Miscellaneous

178. Whoever, knowing or having reason to believe that an offence has been committed, gives an information respecting that offence which he knows or believes to be false, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

179. Whoever falsely personates another, whether that other is an actual or fictitious person, and in that assumed character makes an admission or statement, or causes a process to be issued or becomes bail or security, or does any other act in a suit or criminal prosecution, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

180. Whoever with intent to cause injury to a person institutes or cause to be instituted a criminal proceeding against that person or falsely charges a person with having committed an offence knowing that there is no just or lawful

ground for that proceeding or charge against that person, shall be punished-

(a) with imprisonment for a term which may extend to two years or with fine or with both; and

(b) where such criminal proceeding is instituted on a false charge of an offence punishable with death or imprisonment for seven years or upwards, with imprisonment for a term which may extend to seven years or with fine or with both.

181. Whoever takes or agrees or consents to take a gratification under pretence or on account of helping any person to recover a movable property of which he shall have been deprived by any offence, shall, unless he uses means in his power to cause the offender to be brought to justice, be punished with imprisonment for a term which may extend to seven years or with fine or with both.

EXPLANATION. In this section the word "offence" includes an act done outside the Federal Capital Territory, Abuja, which if done in the Federal Capital Territory, Abuja, would be an offence.

182. Whoever with intent to influence the course of justice in a civil or criminal proceeding does an act whereby the fair hearing, trial or decision of a matter in that proceeding may be prejudiced shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

## CHAPTER XIII

### PUBLIC NUISANCE

183. (1) A person is guilty of a public nuisance who does an act or is guilty of an illegal omission which causes a common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use a public right.

(2) Where premises on which a public nuisance has occurred are occupied by two or more persons in common each of those persons shall be liable to conviction on account of the nuisance in the absence of sufficient evidence that he has not been guilty of the offence.

EXPLANATION 1. A public nuisance does not cease to be an offence because it causes some convenience or advantage.

EXPLANATION 2. Whether an act or omission is a public nuisance is a matter of fact, which may depend on the character of the neighbourhood.

Illustration. A powerful steam whistle sounded at intervals during the day, which might be a public nuisance in a residential quarter, may not be a public nuisance in a manufacturing quarter.

184. Whoever adulterates an article of food or drink or abstracts from an article of food or drink a part thereof so as to affect injuriously the quality, substance or nature, intending to sell that article as food or drink without

notice to the purchaser or knowing that it is likely that the same will be sold as food or drink without notice to the purchaser, shall be punished with imprisonment for a term which may extend to one year or with fine not exceeding two hundred naira.

185. Whoever sells an article of food or drink which is not of the nature, substance and quality demanded by the purchaser or the article which the seller represents it to be, shall be punished with fine which may extend to twenty naira.

186. Whoever sells or offers or exposes for sale an article of food or drink, or any article of food or drink, with which an admixture has been fraudulently made to increase the bulk, weight or measure of such article or to conceal the inferior quality thereof, or any article of food or drink, from which any part has been intentionally abstracted so as to affect injuriously its quality, substance or nature, without notice to the purchaser, shall be punished with imprisonment for a term which may extend to six months or with fine not exceeding one hundred naira or with both.

187. Whoever sells or offers or exposes for sale as food or drink an article which has been rendered or has become noxious or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as or unfit for food or drink, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

188. Whoever adulterates a drug or medical preparation in such a manner as to lessen the efficacy or change the operation of that drug or medical preparation

or to make it noxious, intending that it shall be sold or used for or knowing it to be likely that it will be sold or used for a medicinal purpose as if it had not undergone that adulteration, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one hundred naira or with both.

189. Whoever, knowing a drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy or change its operation or render it noxious, sells the same or offers or exposes it for sale or issues it from a dispensary for medicinal purposes as unadulterated or causes it to be used for medicinal purposes by a person not knowing of the adulteration, shall

be punished with imprisonment for a term which may extend to six months or with fine which may extend to one hundred naira or with both.

190. Whoever knowingly sells or offers or exposes for sale or issues from a dispensary for medicinal purposes a drug or medical preparation as a different drug or medical preparation; shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one hundred naira or with both.

191. Whoever voluntarily corrupts or fouls the water of a public well or reservoir or other public water supply so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

192. Whoever voluntarily vitiates the atmosphere in a place so as to make it noxious to the health of persons in general dwelling or carrying on business in the

neighbourhood or passing along a public way, shall be punished with imprisonment for a term which may extend to six months or with fine or with both.

193. Whoever exhibits a false light, mark or buoy intending or knowing it to be likely that the exhibition will mislead a navigator, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

194. Whoever by doing an act or by omitting to keep in order any property in his possession or under his charge causes obstruction to a person in a public way or public line of navigation, shall be punished with imprisonment which may extend to two years or with fine or with both.

195. Whoever being an employee engaged in a work connected with the public health or safety or with a service of public utility ceases from that work in pre-arranged agreement with two or more other such employees without giving to his employer fifteen days notice of his intention so to do, shall, if the intention or effect of that cessation is to interfere with the performance of a general service connected with public health, safety or utility to an extent which will cause injury or damage or grave inconvenience to the community, be punished with imprisonment which may extend to six months or with fine or with both.

196. Whoever does an act in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to a person or property, or knowingly or negligently omits to take such order with any property or substance in his possession or under his control or with any operation under his control as is sufficient to guard against probable danger to human life from such property, substance or operations, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one hundred naira or with both.

213. Whoever, with the intention of wounding the feelings of a person or of insulting the religion of a person or with the knowledge that the feelings of a person are likely to be wounded or that the religion of a person is likely to be insulted thereby, commits a trespass in a place of worship or in any place of burial or offers an indignity to a human corpse or causes disturbance to persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

## CHAPTER XVII

### OFFENCES RELATING TO ORDEAL, WITCHCRAFT AND JUJU

214. Whoever presides or is present at an unlawful trial by ordeal shall be punished-

(a) with imprisonment which may extend to ten years or with fine or with

both; and

(b) if such trial results in the death of any party to the proceeding shall be punished with death.

EXPLANATION. The trial by any ordeal which is likely to result in the death of or bodily injury to any party to the proceeding is unlawful.

215. The Minister may by order declare the worship or invocation of any juju to be unlawful.

216. Whoever-

(a) by his statements or actions represents himself to be a witch or to have the power of witchcraft; or

(b) accuses or threatens to accuse a person with being a witch or with having the power of witchcraft; or

(c) makes or sells or uses, or has in his possession or represents himself to be in possession of any juju, drug or charm which is intended to be used or reported to possess the power to prevent or delay a person from doing an act which that person has a legal right to do, or to compel a person to do an act which that person has a legal right to refrain from

doing, or which is alleged or reported to possess the power of causing a natural phenomenon or a disease or an epidemic; or

(d) presides at or is present at or takes part in the worship or invocation of any juju which has been declared unlawful under the provisions of section 215

of this Penal Code; or

(e) is in possession of or has control over any human remains which are used or are intended to be used in connection with the worship or invocation of any juju; or

(f) makes or uses or assists in making or using, or has in his possession anything whatsoever the making, use or possession of which has been declared unlawful under the provisions of section 215 of this Penal Code, shall be punished with imprisonment which may extend to two years or with fine or with both.

217. Whoever knowingly has in his possession a fetish or charm which is pretended or reputed to possess power to protect a person in the committing of any offence shall be punished with imprisonment which may extend to five years or with fine or with both.

218. Whoever knowingly eats or receives for the purpose of eating a part of a human corpse shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

219. Whoever receives or has in his possession a human head or skull within six months of the same having been separated from the body or skeleton



with the intention that the head or skull shall be possessed by any person as a trophy, juju or charm shall be punished with imprisonment which may extend to five years or with fine or with both.

EXPLANATION. Where it is proved that a person received or had in his possession such human head or skull proof that he received or had such human head or skull in his possession for a lawful purpose shall lie on that person.

## CHAPTER XVIII

### OFFENCES AFFECTING THE HUMAN BODY

#### Offences affecting Life

220. 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.

Illustrations. (a) A lays sticks and turf over a pit with the intention of thereby causing death or with the knowledge that death is likely to be thereby caused. Z believing the ground to be firm treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(b) A knows Z to be behind a bush. B does not know it. A intending to cause or knowing it to be likely to cause Z's death induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence.. but A has committed the offence of culpable homicide.

(c) A by shooting at a fowl with intent to kill and steal it kills B, who is behind a bush, A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide as he did not intend to kill B or cause death by doing an act

that he knew was likely to cause death, but he may be guilty of culpable homicide not punishable with death if, in shooting at the fowl, he acted rashly or negligently.

EXPLANATION 1. A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity and thereby accelerates the death of that other, shall be deemed to have caused his death.

EXPLANATION 2. Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

EXPLANATION 3. The causing of the death of a child in the mother's womb is not homicide; but it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, although the child may not have breathed or been completely born.

221. Except in the circumstances mentioned in section 222 of this Penal Code, 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.

EXPLANATION. Whether death was the probable or only a likely consequence of an act or of any bodily injury, is a question of fact.

Illustrations.

(a) In illustrations (a) and (b) to section 20, if A's act is done with the intention of causing death the offence is culpable homicide punishable with death. If it is done with the knowledge that death is likely to be thereby caused, the offence may or may not be punishable with death according to whether death was the probable consequence or only a likely consequence of A's act.

(b) A, knowing that Z is labouring under such a disease that a blow would probably cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of culpable homicide punishable with death, although the blow might not have been sufficient to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not ordinarily kill a person in a sound state of health, here A is not guilty of culpable homicide punishable with death unless he intended to cause death or such bodily injury as would probably cause death.

(c) A fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of culpable homicide punishable with death, although he may not have had a premeditated design to kill any particular individual.

222. (1) Culpable homicide is not punishable with death if the offender whilst deprived of the power of self control by grave and sudden provocation causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

EXPLANATION. Whether the provocation was grave and sudden enough to prevent the offence from amounting to culpable homicide punishable with death is a question of fact.

Illustrations. (a) A, under the influence of passion excited by grave and sudden provocation given by Z, intentionally kills the child of Z. This is culpable homicide punishable with death, inasmuch as the provocation was not given by the child.

(b) Y gives grave and sudden provocation to A. A on this provocation fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him but out of sight. A kills Z. Here A has committed culpable homicide not punishable with death.

(c) Z gives grave and sudden provocation to B who is thereby excited to violent rage. A a bystander intending to take advantage of B's rage and to cause hurt to kill Z, puts a knife into B's hand for that purpose. B kills Z with his knife. Here B has committed culpable homicide not punishable with death but A is guilty of culpable homicide punishable with death.

(2) Culpable homicide is not punishable with death if 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 that defence.

(3) Culpable homicide is not punishable with death if the offender, being a public officer acting for the advancement of public justice or being a person aiding a public officer so acting exceeds the powers given to him by law and causes death by doing an act which he in good faith believes to be lawful and necessary for the due discharge of his duty as a public officer or for assisting that public officer in the due discharge of such duty and without ill will towards the person whose death is caused.

(4) Culpable homicide is not punishable with death if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

EXPLANATION. It is immaterial in such cases which party first provokes the other or commits the first assault.

(5) Culpable homicide is not punishable with death when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

(6) Culpable homicide is not punishable with: death where a woman intentionally causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child.

(7) Culpable homicide is not punishable with death when a person causes the death of another by doing a rash or negligent act.

223. If a person by doing anything which he intends or knows to be likely to cause death commits culpable homicide by causing the death of a person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

224. Whoever commits culpable homicide not punishable with death, shall be punished with imprisonment for life or for any less term or with fine or with both.

225. Whoever causes the death of a person by doing an act not amounting to culpable homicide but done with the intention of causing hurt or grievous hurt, shall be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

226. Whoever causes the death of a person by doing an act not amounting to culpable homicide which constitutes an offence punishable with imprisonment for one year or with any greater punishment or by any act done in committing such an offence, shall be punished with imprisonment for a term which may extend to ten years or with fine or with both.

227. If a person under eighteen years of age, an insane person, a delirious person, an idiot or a person in a state of intoxication commits suicide, whoever abets the commission of that suicide shall be punished with death.

228. If a person commits suicide, whoever abets the commission of that suicide shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

229. (1) Whoever does an 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 culpable homicide punishable with death shall be punished with imprisonment for life or for any less term or with fine or with both.

(2) When a person being under sentence of imprisonment for life commits an offence under this section, he shall, if hurt is caused, be punished with death.

Illustrations. (a) A shoots at Z with intention to kill him, in such circumstances that, if death ensued, A would be guilty of culpable homicide punishable with death. A is liable to punishment under this section.

(b) A with the intention of causing the death of a child of tender years exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(c) A, intending to kill Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section.

(d) A intending to kill Z by poison, purchases poison and mixes it with food which remains in A's keeping.. A has not yet committed the offence in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

230. Whoever does an act with such intention or knowledge and in such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not punishable with death, shall be punished-

(a) with imprisonment for a term which may extend to three years or with fine or with both; or

(b) if hurt is caused to any person by such act with imprisonment which may extend to seven years or with fine or with both.

231. Whoever attempts to commit suicide and does an act towards the commission of that offence, shall be punished with imprisonment for a term which may extend to one year or with fine or with both. Causing Miscarriage, Injuries to Unborn Children, Exposure of Infants, Cruelty to Children and Concealment of Births.

232. Whoever voluntarily causes a woman with child to miscarry shall, if the miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

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

233. Whoever with intent to cause the miscarriage of a woman whether with child or not does an act which causes the death of that woman, shall be punished-

(a) with imprisonment for a term which may extend to fourteen years and shall also be liable to fine; and

(b) if the act is done without the consent of the woman, with imprisonment for life or for any less term and shall also be liable to fine.

EXPLANATION. It is not essential for an offence under this section that the offender should know that the act is likely to cause death.

234. Whoever uses force to a woman and thereby unintentionally causes her to miscarry, shall be punished-

(a) with imprisonment for a term which may extend to three years or with fine or with both; and (b) if the offender knew that the woman was with child, he shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

235. Whoever before the birth of a child does an act with the intention of Act thereby preventing that child from being born alive or causing it to die after its birth and does by such act prevent that child from being born alive or causes it to die after its birth, shall, if the act be not caused in good faith for the purpose bar of saving the life of the mother, be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

236. Whoever does an act in such circumstances that, if he thereby caused death he would be guilty of culpable homicide, and does by that act cause the death of a quick unborn child, shall be punished with imprisonment for life or for any less term and shall also be liable to fine.

Illustration. A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is uninjured but does not die; but the death of a quick unborn child with which she is pregnant is thereby caused. A is guilty of an offence under this section.

237. Whoever being the father or mother or having the care of a child under the age of twelve years exposes or leaves that child in a place with the intention of wholly abandoning the child, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

EXPLANATION. This section does not prevent the trial of the offender for culpable homicide if the child dies in consequence of the exposure or abandonment.

238. Whoever having the charge or care of a child under the age of fifteen years or being in a position of authority over him willfully ill-treats or neglects him in such a way as to cause him unnecessary suffering, shall be punished-

(a) with imprisonment for a term which may extend to two years or with fine or with both; 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 or with fine or with both.

239. Whoever, by secretly burying or otherwise disposing of the dead body of a child whether the child dies before or after or during its birth, intentionally conceals or endeavours to conceal the birth of that child, shall be punished, with imprisonment for a term which may extend to two years or with fine or with both.

240. Whoever causes bodily pain, disease or infirmity to a person is said to cause hurt.

241. The following kinds of hurt only are designated as grievous-

(a) emasculation;

(b) permanent deprivation of the sight of an eye, of the hearing of an ear or the power of speech;

(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 during the space of twenty days in severe bodily pain or unable to follow his

ordinary pursuits.

242. Whoever does an act with the intention of thereby causing hurt to a person or with the knowledge that he is likely thereby to cause hurt to a person and does thereby cause hurt to a person is said voluntarily to cause hurt.

243. 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.

EXPLANATION. A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if intending or knowing himself to be likely to cause grievous hurt of one kind he actually causes grievous hurt of another kind.

Illustrations. A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's

face but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

244. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to a person other than the person who gave the provocation, shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to twenty naira or with both.

245. Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to a person other than the person who gave the provocation, shall be punished with imprisonment for a term which may extend to four years or with fine which may extend to one hundred naira or with both.



246. Whoever, except in the case provided for by section 244 of this Penal Code, voluntarily causes hurt, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to forty naira or with both.

247. Whoever, except in the case provided for by section 245 of this Penal Code, voluntarily causes grievous hurt, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

248. (1) Whoever, except in the case provided for by section 244 of this Penal Code, voluntarily causes hurt by means of an instrument for shooting, stabbing or cutting or any instrument, which used as a weapon of offence is likely to cause death, or by means of fire or any heated substance or by means of electricity or by means of a corrosive or explosive substance or by the administration of a poisonous or deleterious substance or by means of an animal, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

(2) Whoever, except in the case provided for by section 245 of this Penal Code, voluntarily causes grievous hurt by any of the means mentioned in sub-section (1) of this section shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

249. Whoever administers to or causes to be taken by a person a poison or any stupefying, intoxicating or unwholesome drug or thing with intent to cause hurt to that person or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

250. (1) Whoever voluntarily causes hurt for the purpose of extorting from the person hurt or from a person interested in the person hurt any property or document of title or of constraining the person hurt or a person interested in the person hurt to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

(2) Whoever for the like purpose voluntarily causes grievous hurt, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

251. (1) Whoever voluntarily causes hurt for the purpose of extorting from the person hurt or any person interested in the person hurt a confession or an information which may lead to the detection of an offence or misconduct or for the purpose of constraining the person hurt or a person interested in the person hurt to restore or to cause the restoration of any property or document of title or to satisfy a claim or demand or to give information which may lead to the restoration of any property or document of title, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

(2) Whoever for the like purpose voluntarily causes grievous hurt, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

252. (1) Whoever voluntarily causes hurt to a person being a public officer in the discharge of his duty as a public officer or with intent to prevent or deter that person or any other public officer from discharging his duty as a public officer or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as a public officer, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

(2) Whoever in the like circumstances with the like intent or for like reason voluntarily causes grievous hurt to any person being a public officer, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

253. (1) Whoever causes hurt to a person by doing an 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 a person, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

#### Wrongful Restraint and Wrongful Confinement

254. (1) Whoever voluntarily obstructs a person so as to prevent that person from proceeding in a 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.

Illustration. A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

255. Whoever wrongfully restrains a person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said to confine that person wrongfully.

Illustrations. (a) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(b) A places men with firearms at the outlets of a building and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

256. Whoever wrongfully restrains a person, shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to sixty naira or with both.

257. Whoever wrongfully confines a person, shall be punished-

(a) with imprisonment for a term which may extend to one year or with fine which may extend to one hundred naira or with both;

(b) if the wrongful confinement continues for three days or more with imprisonment for a term which may extend to three years or with fine or with both.

258. Whoever keeps a 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 two years in addition to any term of imprisonment to which he may be liable under any other section of this chapter.

259. Whoever wrongfully confines a person in such manner as to indicate an intention that the confinement of that person may not be known to a person interested in the person so confined or to a public officer or that the place of the confinement may not be known to or discovered by any such person or public officer as hereinbefore mentioned, shall be punished with imprisonment for a term which may extend to two

years in addition to any other punishment to which he may be liable for such wrongful confinement.

260. Whoever wrongfully confines a person for the purpose of extorting from the person confined or from a person interested in the person confined any property or document of title or of constraining the person confined or a person interested in such person to do anything illegal or to give an information which may facilitate the commission of an offence, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

261. Whoever wrongfully confines a person for the purpose of extorting from the person confined or a person interested in the person confined a 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 a person interested in the person confined to restore or to cause the restoration of any property or document of title or to satisfy a claim or demand or to give information which may lead to the restoration of any property or document of title, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

#### Criminal Force and Assault

262. 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 a substance to come into contact with a part of that other's body or with anything which that other is wearing or carrying or with anything so situated that the contact affects that other's sense of feeling where the person causing any effect above-mentioned, causes it-

(a) by his own bodily 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.

Illustrations. (a) A unfastens the moorings of a boat in which Z is sitting so that the boat drifts down the river. A has caused motion to Z.

(b) A lashes the horse on which Z is riding so that the horse quickens his pace. A has caused change of motion to Z.

(c) A seizes the rein of Z's horse and stops the horse. A has caused cessation of motion to Z.

(d) A pushes against Z in the street. A has caused his own body to come into contact with Z.

(e) A throws a stone at Z and hits him.

(f) A rides past Z on a muddy road and splashes him.

(g) A pulls up the veil of Z, a woman.

(h) A pours boiling water into the bath in which Z is bathing. A has caused the boiling water to come into contact with the water in the bath, so as to affect Z's sense of feeling.

In all the above cases, A has used force to Z.

263. Whoever intentionally uses force to any person without that person's consent-

(a) while preparing to commit an offence; or

(b) in the course of committing an offence; or

(c) intending by the use of the force to cause or knowing it to be likely that by the use of the 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.

264. Whoever makes a gesture or a preparation intending or knowing it to be likely that the 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.

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 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 begins 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 dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick saying to Z "[ will give you a beating". Here, though the words used by A could in no case amount to assault and though the mere gesture unaccompanied by any other circumstances might not amount to an assault, the gesture explained by the words may amount to an assault.

265. Whoever assaults or uses criminal force to a person otherwise than on grave and sudden provocation given by that person, shall be punished-

(a) with imprisonment for a term which may extend to one year or with fine or with both; and

(b) if grievous hurt is caused to any person by such assault or criminal force with imprisonment which may extend to three years or with fine or with both.

266. Whoever assaults or uses criminal force to a 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 forty naira or with both.

267. Whoever assaults or uses criminal force to a person being a public officer in the execution of his duty as a public officer or with intent to prevent or deter that person from discharging his duty as a public officer or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public officer shall be punished with imprisonment

for a term which may extend to three years or with fine or with both.

268. Whoever assaults or uses criminal force to a 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 three years or with fine or with both.

269. Whoever assaults or uses criminal force to a 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 three years or with fine or with both.

270. Whoever assaults or uses criminal force for a person in attempting wrongfully to confine that person, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Kidnapping, Abduction and Forced Labour

271. Whoever takes or entices a person, under fourteen years of age if a male or under sixteen years of age if a female, 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 that person beyond the limits of the Federal Capital Territory, Abuja, without the consent of someone legally authorized to consent to such removal is said to kidnap such person.

EXPLANATION. The words "lawful guardian" in this section include a person lawfully entrusted with the care or custody of such person and authorized to consent to the taking.

272. Whoever by force compels or by a deceitful means induces a person to go from a place, is said to abduct that person.

273. Whoever kidnaps or abducts a person shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

274. Whoever kidnaps or abducts a person in order that the 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 fourteen years and shall also be liable to fine.

275. Whoever, by any means whatsoever, induces a girl under the age of eighteen years to go from any place or to do an act with intent that the girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punished with imprisonment which may extend to ten years and shall also be liable to fine.

276. Whoever imports into the Federal Capital Territory, Abuja from a country outside Nigeria a girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person shall be punished with imprisonment which may extend to ten years and shall also be liable to fine.

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

278. Whoever buys, sells, hires, lets to hire or otherwise obtains possession or disposes of a person under the age of eighteen years with intent that the person shall be employed or used for the purpose of prostitution or for an unlawful or immoral purpose or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment

for a term which may extend to ten years and shall also be liable to fine.

279. Whoever imports, exports, removes, buys, sells, disposes, traffics or deals in a person as a slave, or accepts, receives or detains against his will a 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.

280. Whoever unlawfully compels a 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.

281. Whoever, in order to gratify the passions of another person, procures, entices or leads away, even with her consent, a woman or girl for immoral purposes shall be punished with imprisonment which may extend to seven years and shall also be liable to fine.

#### Rape and Unnatural and Indecent Offences against the Person

282. (1) A man is said to commit rape who, except in the case referred to in subsection (2) of this section, 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;

(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 fourteen years of age or of unsound mind.

(2) Sexual intercourse by a man with his own wife is not rape, if she has attained to puberty.

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

283. Whoever commits rape shall be punished with imprisonment for life or for any less term and shall also be liable to fine.

284. Whoever has carnal intercourse against the order of nature with a man, woman or an animal, shall be punished with imprisonment for a term of 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.

285. Whoever commits an act of gross indecency upon the person of another without his consent or by the use of force or threats compels a person to join with him in the commission of that act, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine:

Provided that a consent given by a person below the age of sixteen years to such an act when done by his teacher, guardian or a person entrusted with his care or education shall not be deemed to be a consent within the meaning of this section.

## CHAPTER XIX

### OFFENCES AGAINST PROPERTY

#### Theft

286. (1) Whoever, intending to take dishonestly any movable property out of the possession of a 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.

EXPLANATION 1. A thing so long as it is attached to the earth, not being movable properly, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

EXPLANATION 2. A moving effected by the same act which effects the severance may be a theft.

EXPLANATION 3. A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing as well as by actually moving it.

EXPLANATION 4. A person, who by any means causes an animal to move, is said to move that animal and to move everything which in consequence of the motion so caused is moved by that animal.

EXPLANATION 5. The consent mentioned in the definition may be express or implied and may be given either by the person in possession or by any person having for that purpose authority either express or implied.

Illustrations. (a) A cuts down a tree on Z's ground with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here as soon as A has severed the tree in order to take it, he has committed theft.

(b) A puts a bait for dogs in his pocket and thus induces Z's dog to follow him. Here, if A's intention is dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a camel carrying a box of treasure. He drives the camel in a certain direction in order that he may dishonestly take the treasure. As soon as the camel begins to move, A has committed theft of the treasure.

(d) Z going on a journey entrusts jewellery to A till Z shall return. A carries the jewellery to the market and sells it. Here the jewellery was not in Z's possession. It could not therefore be taken out of Z's possession and A has not committed theft, though he may have committed criminal breach of trust.

(e) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession and if A dishonestly removes it A commits theft.

(f) A finds a ring lying on the road not in the possession of any person. A by taking it commits no theft, though he may commit criminal misappropriation of property.

(g) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A at the time of first moving the ring commits theft.

(h) A delivers a jewel to Z a jeweller to be re-set. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the jewel as a security, enters the shop openly, takes his jewel by force out of Z's hand and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft inasmuch as what he did was not done dishonestly.

(i) If A owes money to Z for re-setting the jewel and if Z retains the jewel lawfully as a security for the debt and A takes the jewel out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft inasmuch as he takes it dishonestly.

(j) A takes an article belonging to Z out of Z's possession without Z's consent with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(k) A, being on friendly terms with Z, goes into Z's house in Z's absence and takes away a cooking pot without Z's express consent with the intention of returning it after use. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's cooking pot. If this was A's impression, A has not committed theft.

(l) A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(m) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(n) A in good faith, believing property belonging to Z to be A's own property, takes that property out of Z's possession. Here, as A does not take dishonestly, he does not commit theft.

287. Whoever commits theft shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

288. Whoever commits theft in or from a building, tent or vessel, which building, tent or vessel is used as a human dwelling or used for the custody of property, or in or from any railway carriage, lorry, omnibus or aircraft used for the conveyance of passengers or

goods, shall be punished with imprisonment for a term which may extend to seven or with fine or with both.

289. Whoever, being a clerk or servant or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

290. Whoever commits theft having made preparation for causing death or hurt or restraint or fear of death or of hurt or of restraint to a person in order to commit such theft or in order to effect his escape after the committing of such theft or in order to retain property taken by such theft, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

Illustrations. (a) A commits theft on property in Z's possession; while committing this theft he has a loaded pistol under his garment having provided this pistol for the purposes of hurting Z in case Z should resist. A has committed an offence under this section.

(b) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist or should attempt to arrest A. A has committed an offence under this section.

#### Extortion

291. 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 a person any property or document of title or anything signed or sealed which may be converted into a valuable security, commits extortion. Illustrations. (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 threatens Z that he will keep Z's child in wrongful confinement unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send men to pull up Z's crops unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A by putting Z in fear of grievous hurt dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

(e) 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.

292. Whoever commits extortion shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

293. Whoever in order to commit extortion puts a person in fear or attempts to put a 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 or with fine or with both.

294. Whoever commits extortion by putting a 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 fourteen years and shall also be liable to fine.

295. Whoever commits extortion by putting a person in fear of an accusation against that person or any other of having committed or attempted to commit an 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 fourteen years and shall also be liable to fine.

Robbery and Brigandage.

296. (1) In all robbery there is either theft or extortion.

(2) Theft is robbery if, in order to commit the theft or in committing the theft or in carrying away or attempting to carry away property obtained by the theft, the offender for that end 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 instant wrongful restraint.

(3) Extortion is robbery, if the offender at the time of committing the extortion is in the presence of the person put in fear and commits the extortion by putting that person in fear of instant death, of instant hurt or of instant wrongful restraint to that person or to some other person and by so putting in fear induces the person so put in fear then and there to deliver up the thing extorted.

EXPLANATION. The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt or of instant wrongful restraint.

Illustrations. (a) A holds Z down and takes Z's money and jewels from Z's clothes without Z's consent. Here A has committed theft and in order to commit that theft has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the road, shows a pistol and demands Z's purse. Z in consequence surrenders his purse. Here A has extorted the purse from Z by

putting him in fear of instant hurt and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the river bank. A takes the child and threatens to fling it into the river, unless Z delivers his purse. Z in consequence delivers his purse. Here A has extorted the purse from Z by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying- "Your child is in the hands of my gang and will be put to death unless you send us fifty pounds". This is extortion and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

297. When five or more persons conjointly commit or attempt to commit a robbery or where the whole number of persons conjointly committing or attempting to commit a robbery and persons present and aiding the commission or attempt amount to five or more, every person so committing, attempting or aiding is said to commit brigandage.

298. Whoever commits robbery shall be punished-

(a) with imprisonment for a term which may extend to ten years and shall also be liable to fine; and

(b) if the robbery is committed-

(i) between sunset and sunrise on the highway, or

(ii) between sunset and sunrise from a person sleeping or having lain down to sleep in the open air,

with imprisonment for a term which may extend to fourteen years and shall also be liable to fine; and

(c) if the robbery is committed by a person armed with a dangerous or an offensive weapon or instrument, to imprisonment for life or a less term and shall also be liable to fine.

299. Whoever attempts to commit robbery shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine

300. If a person in committing or in attempting to commit robbery voluntarily causes hurt, such person and any other person jointly concerned in--committing or attempting to commit that robbery, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

301. Whoever commits brigandage shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

302. If anyone of five or more persons, who are conjointly committing brigandage, commits culpable homicide punishable with death in so committing brigandage, every one of these persons shall be punished with death.

303. If, at the time of committing or attempting to commit robbery or brigandage, the offender uses a deadly weapon or causes grievous hurt to a person or attempts to cause death or grievous hurt to a person, the imprisonment with which such offender shall be punished shall not be less than seven, years.

304. Whoever makes a preparation for committing brigandage, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

305. Whoever belongs to a gang of persons associated for the purpose of habitually committing brigandage, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

306. Whoever belongs to a wandering or other gang of persons associated for the purpose of habitually committing theft or robbery and not being a gang of brigands, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

307. Whoever is one of five or more persons assembled for the purpose of committing brigandage, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Criminal Misappropriation.

308. Whoever dishonestly misappropriates or converts to his own use any movable property, commits criminal misappropriation.

Illustrations. (a) A takes property belonging to Z out of Z's possession, in good faith believing at the time when he takes it that the property belongs to himself A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of criminal misappropriation.

(b) A being on friendly terms with Z goes into Z's house in Z's absence and takes away a cooking pot without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the cooking pot for the purpose of using it, A has not committed theft. But, if A afterwards sells the cooking pot for his own benefit he is guilty of criminal misappropriation.

(c) A and B being joint owners of a horse, A takes the horse out of B's possession intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of criminal misappropriation.

EXPLANATION. A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Illustration. A having borrowed Z's property pledges it as a security for a loan intending at a future time to restore it to Z. A has committed criminal misappropriation.

EXPLANATION. A person, who finds property not in the possession of any other person and takes such property for the purpose of protecting it for or of restoring it to the owner, does not take or misappropriate it dishonestly and is not guilty of an offence; but he is guilty of criminal misappropriation if he appropriates it to his own use, when he knows or has the means of discovering the owner or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner



to claim it.

What are reasonable means or what is a reasonable time in such a case is a question of fact.

It is not necessary that the finder should know who is the owner of the property or that any particular person is the owner of it; it is sufficient if, at the time of appropriating it, he does not believe it to be his own property or does not believe in good faith that the real owner cannot be found.

Illustrations. (a) A finds a coin on the road, not knowing to whom the coin belongs. A picks up the coin. Here A has not committed criminal misappropriation.

(b) A finds a letter on the road containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of criminal misappropriation.

(c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of criminal misappropriation.

(d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z but afterwards appropriates it to his own use. A has committed criminal misappropriation.

(e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z and appropriates it to his own use. A is guilty of criminal misappropriation.

(f) A finds a valuable ring not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of criminal misappropriation.

309. Whoever commits criminal misappropriation shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

310. 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 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 fine; and

(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 seven years and shall also be liable to fine.

Criminal Breach of Trust.

311. Whoever, being in any manner entrusted with property or with a 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 that trust is to be discharged or of a legal contract express or implied, which he has made touching the discharge of the trust, or wilfully suffers any other person so to do, commits criminal breach of trust.

Illustrations. (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.

(c) A residing in Kaduna is agent for Z residing at Zaria. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a sum of money to A with directions to A to invest the same in Government securities. A dishonestly disobeys the direction and employs the money in his own business. A has committed criminal breach of trust.

(d) But if A, in the last illustration, not dishonestly but in good faith believing that it will be more for Z's advantage to hold Bank shares, disobeys Z's direction and buys Bank shares for Z instead of buying Government securities here, though Z should suffer loss and should be entitled to bring a civil action against A on account of that loss, yet A not having acted dishonestly has not

committed criminal breach of trust.

(e) A, a pay mallam, is entrusted with public money and is either directed by law or bound by a contract express or implied with the Government to pay into a certain treasury all the public money which he holds. A dishonestly misappropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

312. Whoever commits criminal breach of trust shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

313. Whoever, being entrusted with property as a carrier, wharfinger or warehouse keeper, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

314. Whoever, being a clerk or servant or employed as a clerk or servant and being in any manner entrusted in that 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

ten years and shall also be liable to fine.

315. Whoever, being in any manner entrusted with property or with a dominion over property in his capacity as a public officer 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 fourteen years and shall also be liable to fine.

#### Receiving Stolen Property

316. Property, the possession whereof has been transferred by theft or by extortion or by robbery, 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 Federal Capital Territory, Abuja or elsewhere, but if the property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

317. Whoever dishonestly receives or retains a 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 fourteen years or with fine or with both.

318. Whoever dishonestly receives or retains a 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 to 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.

319. 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 or with fine or with both.

319A. Whoever knowingly has in his possession or under his control a thing 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 which may extend to six months or with fine or with both.

#### Cheating

320. Whoever by deceiving a person-

- (a) fraudulently or dishonestly induces the person so deceived to deliver any property to a person or to consent that any person shall retain any property; or
- (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, mind, reputation or property, is said to cheat.

EXPLANATION. A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations. (a) 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.

(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer and thus dishonestly induces Z to buy and pay for the article. A cheats.

(c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(d) A, by tendering in payment for an article a cheque on a bank with which A keeps no money and by which A expects that the cheque will be dishonored, intentionally deceives Z and thereby dishonestly induces Z to deliver the article intending not to pay for it. A cheats.

(e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z and thereby dishonestly induces Z to lend money. A cheats.

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of cotton which A does not intend to deliver and thereby dishonestly induces Z to advance money upon the faith of such delivery. A

cheats; but if A at the time of obtaining the money intends to deliver the cotton and afterwards breaks his contract and does not deliver it, he does not cheat

but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys a house to B. A knowing that in consequence of such sale he has no right to the property then sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

321. 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.

EXPLANATION. The offence is committed whether the individual personated is a real or imaginary person.

Illustrations. (a) A cheats by pretending to be a certain rich merchant of the same name. A cheats by personation.

(b) A cheats by pretending to be B a person who is deceased. A cheats by personation.

322. Whoever cheats shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

323. 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 five years or with fine or with both.

324. Whoever cheats by personation shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

325. Whoever cheats and thereby fraudulently or dishonestly induces the person deceived to deliver any property to a person or to make, alter or destroy the whole or a 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 seven years and shall also be liable to fine.

#### Mischief

326. Whoever, with intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or to a person causes the destruction of any property or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits mischief.

EXPLANATION 1. It is not essential to the offence of mischief that the offend-



er should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause or knows that he is likely to cause wrongful loss or damage to any person by injuring any property whether it belongs to that person or not.

EXPLANATION 2. Mischief may be committed by an act affecting property belonging to the person who commits the act or to that person and other jointly.

Illustrations. (a) A voluntarily burns a document of title belonging to Z intending to cause wrongful loss to Z. A has committed mischief

(b) A voluntarily throws into a river a ring belonging to Z with the intention of thereby causing wrongful loss to Z. A has committed mischief

(c) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects with the intention of thereby preventing Z from obtaining satisfaction of the debt and of thus causing damage to Z. A has committed mischief

(d) A, having joint property with Z in a horse, shoots the horse intending thereby to cause wrongful loss to Z. A has committed mischief

(e) A causes cattle to enter upon a field belonging to Z intending to cause or knowing that he is likely to cause damage to Z's crop. A has committed mischief

327. Whoever commits mischief shall be punished with imprisonment for Pt a term which may extend to two years or with fine or with both.

328. (Repealed by N.R. 19 of 1960.)

329. Whoever commits mischief by killing, poisoning, maiming or rendering useless an animal or animals shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

330. Whoever commits mischief by killing, poisoning, maiming or rendering useless a camel, horse, donkey, mule, bull, cow, or an ox whatever may be the value thereof shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

331. Whoever commits mischief by doing an act which renders or which he knows to be likely to render an installation for the supply or distribution of water less efficient for its intended purpose or which causes or which he knows to be likely to cause a diminution of the supply of water for animals which are the subject of ownership or for a domestic, an agricultural or a commercial purpose, shall be punished with imprisonment which may extend to five years or with fine or with both.

332. Whoever commits mischief by doing an act which renders or which he knows to be likely to render a public road, bridge, navigable river or In navigable channel natural or artificial impassable or less safe for traveling or conveying property, shall be punished with imprisonment for life or any less or term or with fine or with both.

333. Whoever commits mischief by doing an act which causes or which he knows to be likely to cause an inundation or an obstruction to a public drainage system attended with injury or damage, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

334. Whoever commits mischief by doing an act which renders or which he knows to be likely to render an installation for generating, storing, transmitting or distributing electricity or a telegraph or telephone installation less efficient for its intended purpose or which causes or which he knows to be likely to cause a diminution of any supply of electricity, shall be punished

with imprisonment for a term which may extend to five years or with fine or with both.

335. Whoever commits mischief by destroying or moving any land mark fixed by the authority of a public officer or by an act which renders the land mark less useful as such, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

336. Whoever commits mischief by fire or an explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

337. Whoever commits mischief by fire or an explosive substance intending to cause or knowing it to be likely that he will thereby cause the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with imprisonment for life or for any less term and shall also be liable to fine.

338. Whoever commits mischief to a decked vessel or a vessel of a burden of twenty tons or upwards intending to destroy or render unsafe or knowing it to be likely that he will thereby destroy or render unsafe that vessel, shall be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

339. Whoever commits or attempts to commit by fire or an explosive substance such mischief as is described in section 338 of this Penal Code shall be punished with imprisonment for life or for a less term and shall also be liable to fine.

340. Whoever intentionally runs any vessel aground or ashore intending to commit theft of any property contained therein or to misappropriate any such property dishonestly or with intent that the theft or misappropriation of property may be committed shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

341. Whoever commits mischief having made preparation for causing to a person death or hurt or wrongful restraint or fear of death or of hurt or of wrongful restraint, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

#### Criminal Trespass

342. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy a person in possession of that property, or, having lawfully entered into or upon that property, unlawfully remains there

with intent thereby to intimidate, insult or annoy such person or with intent to commit an offence, is said to commit criminal trespass.

343. Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or a building used as a place of worship or as a place for the custody of property or a railway carriage

used for the conveyance of passengers or goods, is said to commit house trespass.

EXPLANATION. The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house trespass.

344. Whoever commits house trespass, having taken precautions to conceal the house trespass from some person who has a right to exclude or eject the trespasser from the building, tent, vessel or railway carriage which is the subject of the trespass, is said to commit lurking house trespass.

345. Whoever commits lurking house trespass between sunset and sunrise, is said to commit lurking house trespass by night.

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34. A person is said to commit house breaking, who commits house trespass, if he effects his entrance into the house or a part of it in any of the six ways hereinafter described; or if being in the house or a part of it for the purpose of committing an offence or having committed an offence therein, he quits the house or a part of it in any of those 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 a 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 a 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 a 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 a passage which he knows to have been fastened against the entrance or departure and to have been unfastened by himself or by an abettor of the house trespass.

EXPLANATION 1. The word 'house' in this section includes any place which may be the subject of house trespass.

EXPLANATION 2. Any out-house or building occupied with a house between which and such house there is an immediate internal communication is part of the house within the meaning of this section.

Illustrations. (a) A commits house trespass by making a hole through the wall of Z's house, or by 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 creeping into a ship at a port-hole between decks. This is house breaking.

(c) A commits house trespass by entering Z's house through a window; This is house breaking. .

(d) A commits house trespass by entering Z's house through the door having opened a door which was fastened. This is house breaking.

(e) A commits house trespass by entering Z's house through the door having lifted a latch by putting a wire through a hole in the door. This is house breaking.

(f) A finds the key of Z's house door which Z had lost and commits house trespass by entering Z's house having opened the door with that key. This is house breaking.

(g) Z is standing in his doorway. A forces a passage by knocking Z down and commits house trespass by entering the house. This is house breaking.

(h) Z, the doorkeeper of Y, is standing in Y's doorway. A commits house trespass by entering the house having deterred Z from opposing him by threatening to beat him. This is house breaking.

347. Whoever commits house breaking between sunset and sunrise, is said to commit house breaking by night.

348. Whoever commits criminal trespass shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to one hundred naira or with both.

349. Whoever commits house trespass shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to one hundred naira or with both.

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350. Whoever commits house trespass in order to commit an offence punishable with death, shall be punished with imprisonment for a term not exceeding fourteen years and shall also be liable to fine.

351. Whoever commits house trespass in order to commit an offence pun-

ishable with fourteen years imprisonment, shall be punished with imprisonment for a term not exceeding ten years and shall also be liable to fine.

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352. Whoever commits house trespass in order to commit an offence punishable with imprisonment, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine. ;

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353. 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 fine. :

354. Whoever commits lurking house trespass or house breaking in order to commit an offence punishable with imprisonment, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

355. Whoever commits lurking house trespass by night or house breaking by night, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

356. 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 life or any less term and shall also be liable to fine.

357. If at the time of the committing of lurking house trespass by night or

house breaking by night a person guilty of that offence voluntarily causes or attempts to cause death or grievous hurt to a person, every person jointly concerned in committing that lurking house trespass by night or house breaking by night shall be punished with imprisonment for life or a less term and shall also be liable to fine.

358. Whoever dishonestly or with intent to commit mischief breaks open or unfastens a closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

359. Whoever, being entrusted with a 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 three years or with fine or with both.

360. Whoever is discovered between sunset and sunrise 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 three years and shall also be liable to fine.

361. Whoever imitates or alters a key or fabricates an instrument intending that the 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 also be liable to fine.

CHAPTER XX

FORGERY



362. 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 a mark denoting the execution of

a document with the intention of causing it to be believed that the

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 or at a time at

which he knows that it was not made, signed, sealed or executed; or

(b) who without lawful authority dishonestly or fraudulently by cancellation or otherwise alters a document in a 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 that alteration; or

(c) who dishonestly or fraudulently causes a person to sign, seal, execute or

alter a document knowing that the 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.

363. Whoever makes a false document or part of a document, with intent to

cause damage or injury to the public or to a person or to support a claim or

title or to cause any person to part with property or to enter into an 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.

Illustrations. (a) A has a letter of credit upon B for two hundred naira

written by Z. A in order to defraud B adds a cipher to the two hundred naira

and makes the sum two thousand naira, intending that it may be believed by B

that Z so wrote the letter. A has committed forgery.

(b) A without Z's authority affixes Z's seal to a document purporting to be a conveyance of a plot from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase money. A has committed forgery.

(c) A picks up a cheque on a banker signed by B payable to bearer but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of two hundred naira. A commits forgery.

(d) A leaves with B his agent a cheque on a bank signed by A without inserting the sum payable and authorises B to fill up the cheque by inserting a sum not exceeding two hundred naira for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of six hundred naira. B commits forgery.

(e) A draws a bill of exchange on himself in the name of B without B's authority intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B and thereby to discount the bill, A is guilty of forgery.

(f) Z's will contains these words-- "I direct that all my remaining property be equally divided between A, B and C". A dishonestly scratches out B's name intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A sells and conveys a plot to Z. A afterwards, in order to defraud Z of the plot, executes a conveyance of the same plot to B dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had

conveyed the plot to B before he conveyed it to Z. A has committed forgery.

(h) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z and by representing to Z that he has prepared the will according to his instructions induces Z to sign the will. A has committed forgery.

(i) A writes a letter and signs it with B's name without B's authority certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(l) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery inasmuch as he intended to deceive Z by the forged certificate and thereby to induce Z to enter into an express or implied contract for service.

EXPLANATION 1. A man's signature of his own name may amount to forgery.

366. 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 .

367. Whoever makes or counterfeits a 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 such a seal, plate or other instrument knowing the same to be counterfeit, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

368. Whoever has in his possession a 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 re

extend to fourteen years and shall also be liable to fine.

369. Whoever counterfeits upon or in the substance of a material a device or mark used for the purpose of authenticating any document intending that the 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 a 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 fourteen years and

shall also be liable to fine.

370. Whoever fraudulently or dishonestly or with intent to cause damage or injury to the public or to a person cancels, destroys or defaces or attempts to

cancel, destroy or deface or secretes or commits theft in respect of a 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 fourteen years and shall also be liable to fine.

371. 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 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 a false entry in or omits or

alters or abets the omission or alteration of a material particular from or in the

book, paper, writing, document of title or account, shall be punished with

imprisonment for a term which may extend to seven years or with fine or with

both.

#### Property and Other Marks

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

373. Whoever marks any movable property or goods or 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.

374. Whoever uses a 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 one year or with fine or with both.

375. Whoever counterfeits a property mark used by any other person, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

376. Whoever counterfeits any property mark used by a public officer or any mark used by a public officer to denote that any property has been manufactured by a particular person or at a particular time or place or 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 three years and shall also be liable to fine.

377. Whoever makes or has in his possession a die, plate or any 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 three years or with fine or with both.

378. Whoever makes any false mark upon a case, package or any other receptacle containing goods in a manner reasonably calculated to cause a public officer or any other person to believe that the 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 or quality different

from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three years or with fine or with both.

379. Whoever makes use of any such false mark in any manner prohibited by section 378 of this Penal Code shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

380. 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 or with fine or with both.

#### CRIMINAL BREACH OF CONTRACTS OF SERVICE

381. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting a person or any property from one place to :

another place or to act as servant to a person during a voyage or journey or to ;

guard a 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 month or with fine which may extend to ten naira or with both.

Illustrations. (a) A a porter, being bound by a lawful contract to carry Z's baggage from one place to another, throws the baggage away. A has committed an offence under this section.

(b) A, by unlawful means, compels B a porter to carry his baggage. B in the course of the journey puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

EXPLANATION. It is not essential to this offence that the contract should be

made with the person for whom the service is to be performed. It is sufficient, if the contract is lawfully made with any person either expressly or impliedly by the person who is to perform the service.

Illustration. A contracts with a village head to provide horses for a journey. The village head sub-contracts for the performance of the contract with B, a member of his village, who starts in charge of some of the horses and in the course of the journey voluntarily leaves the horses, B is guilty of an offence under this section.

382. Whoever, being bound by a lawful contract to attend on or to supply the wants of a 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 three months or with fine which may extend to twenty naira or with both.

## CHAPTER XXII

### OFFENCES RELATING TO MARRIAGE AND INCEST

383. Every man who by deceit causes a woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

384. (1) Whoever having a husband or wife living marries in a case in which that marriage is void by reason of its taking place during the life of that husband or wife, shall be punished with imprisonment for a term which may

(2) This section shall not extend-

(a) to a person whose marriage with the husband or wife has been legally dissolved; nor

(b) to a person who contracts a marriage during the life of a former husband or wife, if the husband or wife at the time of the subsequent marriage shall have been continually absent from the person for the space of seven years and shall not have been heard of by the person as being alive within that time, provided the person contracting the subsequent marriage shall, before that marriage takes place, inform the person with whom the marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

385. Whoever commits the offence defined in section 384 of this Penal Code having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

386. Whoever dishonestly or with a fraudulent intention goes through the ceremony of being married knowing that he is not thereby lawfully married, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

387. Whoever, being a man subject to any customary law in which extra-marital sexual intercourse is recognized as a criminal offence, has sexual intercourse with a person who is not and whom he knows or has reason to believe is not his wife, 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.

388. Whoever, being a woman subject to any customary law in which extra-marital sexual intercourse is recognized as a criminal offence, has sexual intercourse with a person who is not and whom she knows or has reason to believe is not her husband 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.

389. Whoever takes or entices away a woman, who is and whom he knows or has reason to believe to be the wife of any other man, from that man or from a person having the care of her on behalf of that man with intent that she may have illicit intercourse with a person or conceals or detains with that intent any such woman, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

390. 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 granddaughter, his mother or any other of his female ascendants or descendants, his sister or the daughter of his brother or sister or his paternal or maternal aunt and 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, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

EXPLANATION. In this section words expressing relation include relatives of the half blood and relatives whose relation is not traced through a lawful marriage.

## CHAPTER XXIII

### DEFAMATION

391. (1) Whoever by words either spoken or reproduced by mechanical means or intended to be read or by signs or by visible representations makes de

or publishes any imputation concerning any person, intending to harm or knowing or having reason to believe that the imputation will harm the reputation of that person, is said, except in the cases hereinafter excepted, to defame that person.

EXPLANATION 1. It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living and is intended to be hurtful to the feelings of his family or other near relatives.

EXPLANATION 2. It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

EXPLANATION 3. An imputation in the form of an alternative or expressed ironically may amount to defamation.

EXPLANATION 4. No imputation is said to harm a person's reputation, unless that imputation directly or indirectly in the estimation of others lowers the moral or intellectual character of that person or lowers the character of that person in respect of his calling or lowers the credit of that person or causes it; to be believed that the body of that person is in a loathsome state or in a state generally considered as disgraceful.

Illustrations. (a) A says-- "Z is an honest man, he never stole B' s watch", intending to cause it to be believed that Z did steal B' s watch. This is defamation, unless it falls within one of the exceptions.

(b) A is asked who stole B' s watch. A points to Z, intending to cause it to be believed that Z stole B' s watch. This is defamation unless it falls within one of the exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B' s watch. This is defamation, unless it falls within one of

the exceptions.

(2) It is not defamation-

(i) 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;

Illustrations. (a) Z opens a school at Kaduna, The fact is that Z has fled from Europe to escape punishment for gross acts of swindling, A is protected by this exception if he publishes that fact.

(b) But if the swindling had occurred twenty years ago and in the meantime Z had been carrying on a school in Zaria and had been living an upright life, A would not be protected by this exception if he raked up the facts and published them,

(ii) to express in good faith an opinion whatever respecting the conduct of a public officer in the discharge of his public functions or respecting his character so far as his character appears in that conduct and

no further;

(iii) to express in good faith an 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;

Illustration. It is not defamation in A to express in good faith any opinion

whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding

or attending at such a meeting or in forming or joining any society which invites the public support.

(iv) to publish a substantially true report of the proceedings of a court of justice or of the result of those proceedings;

(v) to express in good faith an opinion whatever respecting the merits of

a case civil or criminal which has been decided by a court of justice or respecting the conduct of a person as a party, witness or agent in the case or respecting the character of that person as far as his character appears in that conduct and no further,

Illustrations. (a) A says-" I think Z's evidence at that trial is so contradictory that he must be stupid or dishonest". A is within this exception if he

says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness and no further.

(b) But if A says-"I do not believe what Z asserted at the trial, because I know him to be a man without veracity", A is not within this exception, inasmuch as the opinion which he expresses of Z' s character is an opinion not

founded on Z's conduct as a witness.

(vi) to express in good faith an opinion respecting the merits of a 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 that performance and no further;

EXPLANATION. A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations. (a) A person who publishes a book submits that book to the judgment of the public.

(b) A person who makes a speech in public submits that speech to the judgment of the public.

(c) An actor or singer who appears on a public stage submits his acting or singing to the judgment of the public.

(d) A says of a book published by Z- "Z' s book is foolish, Z must be a weak man. Z's book is indecent Z must be a man of impure mind" . A is within

this exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book and no further.

(e) But if A says-" I am not surprised that Z's book is foolish and indecent for he is a weak man and a libertine", A is not within this exception, inasmuch as the opinion which he expresses of Z' s character is an opinion not founded on Z's book.

(vii) 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 a censure on the conduct of that other in matters to which lawful authority relates; I

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Illustration. An alkali censuring in good faith the conduct of a witness or of an officer of the court, a head of a department censuring in good faith those who: are under his orders; a parent censuring in good faith a child in the presence of other children, a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for inefficiency in service, a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier-are within his exception.

(viii) 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;

Illustration. If A in good faith accuses Z before a magistrate, if A in good faith complains of the conduct of Z a servant to Z's master; if A in good faith complains of the conduct of Z' s child to Z' s father-A is within this exception.

(ix) 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;

Illustrations. (a) A shopkeeper says to B, who manages his business- "Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty". A is within the exception if he has made this imputation on Z in good faith for the protection of his own interests.

(b) A District Officer in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith and for the public good, A is within the exception.

(c) A in giving evidence before a court of justice identifies Z as the person he saw committing a robbery. Although Z proves that A is mistaken, A is protected by this exception. If he is giving false evidence he can be proceeded against under section 158 of this Penal Code.

(x) to convey a caution in good faith to one person against another, provided that the 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.

392. Whoever defames another shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

393. (1) Whoever, except as hereinafter excepted, by words either spoken or reproduced by mechanical means or intended to be read or by signs or by visible representations makes or publishes any false statement of fact, intending to harm or knowing or having reason to believe that such false statement of fact will harm the reputation of any person or class of persons or of the Government of the Federation or of any local authority in the Federal Capital

Territory, Abuja shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

EXPLANATION 1. A statement is false unless it is substantially true and proof that a statement is substantially true shall lie on the accused.

EXPLANATION 2. Whether a statement is a statement of fact or a mere expression of opinion is a matter for the decision of the court.

(2) It is not an offence under this section to make or publish in good faith a false statement of fact which the accused had reasonable grounds for believing to be substantially true and proof that he had such reasonable grounds shall lie on the accused.

Illustrations. (a) A newspaper publishes a false statement that the proceeds of a recent increase in a tax were shared amongst the Ministers of the state personally. This is a false statement of fact.

(b) A says that Z's bakery is unhygienic. This is a statement of opinion; but if A says that he saw Z take a dead mouse out of the dough before baking this is a statement of fact.

394. Whoever prints or engraves a matter or prepares or causes to be prepared a record for the purpose of mechanical reproduction of any matter, knowing or having good reason to believe that the matter is defamatory of a person, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

395. Whoever sells or offers for sale a printed or an engraved substance containing defamatory matter or a record prepared for the purpose of the mechanical reproduction of defamatory matter, knowing that the substance or record contains that matter, shall be punished with imprisonment for a term

which may extend to two years or with fine or with both.

## CHAPTER XXIV

### CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE AND

#### DRUNKENNESS

396. Whoever threatens another with an 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 alarm to that person or to cause that person to do any act which he is not legally bound to do or to omit to do an act

which that person is legally entitled to do as the means of avoiding the execution of that threat, commits criminal intimidation.

EXPLANATION. A threat to injure the reputation of any deceased person in whom the person threatened is interested is within this section.

Illustration. A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

397. Whoever commits the offence of criminal intimidation shall be punished -

(a) with imprisonment for a term which may extend to two years or with fine or with both; 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 unchastely to a woman, with imprisonment for a term which may extend to seven years or with fine or with both.

398. 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 397 of this Penal Code.

399. Whoever uses insulting or abusive language concerning, or otherwise conducts himself towards, a person or class or group of persons, whether the person or any member of that class or group is present or not, in a manner

likely to give the provocation to a person present as to cause the last mentioned person to break the public peace or to commit any other offence shall

be punished with imprisonment for a term which may extend to two years or with fine or with both.

Illustrations. (a) A In the presence of B, uses insulting or abusive language concerning B or otherwise conducts himself towards B in a manner

likely to provoke B and cause him to break the public peace or to commit any other offence. A is guilty of an offence under this section.

(b) A, in the presence of B but whether or not in the presence of B uses insulting or abusive language concerning C or otherwise conducts himself towards C in a manner likely to provoke B and cause him to break the public peace or to commit any other offence. A is guilty of an offence under this section.

400. Whoever intending to insult the modesty of a woman utters a word, makes a sound or gesture or exhibits an object, intending that the word or sound shall be heard or that the 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 or with fine or with both.

401. Whoever is found drunk in a public place or in any place by entering which he committed a trespass, shall be punished-

(a) with imprisonment for a term which may extend to three months or with fine which may extend to one hundred naira or with 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 imprisonment for a term of six months or with fine of two hundred naira or with 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 imprisonment for a term which may extend to six months or with fine which may extend to two hundred naira or with both.

403. Whoever being of the Moslem faith drinks anything containing alcohol other than for a medicinal purpose shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to ten naira or with both.

404. Whoever is convicted of an offence under section 401,402 or 403 of this Penal Code shall, if he is shown to have been convicted of an offence under any of those sections within the previous six months, be punished-

(a) with imprisonment or fine which may extend to twice the maximum imprisonment or maximum fine prescribed for the offence of which he is convicted; and

(b) if he is shown to have been convicted of two or more such offences within the like period, then with imprisonment or fine which may extend to three times the maximum imprisonment or maximum fine aforesaid or with both.

#### VAGABONDS

405. In this Chapter- In

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(1) The term "idle person" shall include-

(a) A person who being able wholly or in part to maintain himself or his family wilfully neglects or refuses to do so;

(aa) a person who having been convicted under section 249 or 250 of the Criminal Code commits an offence which would render him liable to be convicted as an idle person;

(b) a person who wanders abroad or places himself in a street or public place to get or gather alms or causes or encourages children to do so unless from age or infirmity he is unable to earn his living;

(c) a person who has no settled home and has no ostensible means of subsistence and cannot give a satisfactory account of himself;

(d) a common prostitute behaving in a disorderly or indecent manner in a public place or persistently importuning or soliciting persons for the purpose of prostitution;

(e) a person playing at a game of chance for money or money's worth in any public place;

(f) a person who in a street or place of public resort or within sight or hearing of any person therein disturbs the peace by quarrelling or attempting to quarrel or by using any insolent, scurrilous or abusive tenor of reproach;

(g) a person who in a street or place of public resort or within sight or hearing of any person therein with the intention of annoying or irritating any person, sings or otherwise utters any scurrilous or abusive songs or words whether any person be particularly addressed therein or not;

(h) a person who in a street or place of public resort is guilty of any riotous, disorderly or insulting behaviour to the obstruction or annoy-

ance of any person lawfully using such street or place or any place in the neighbourhood thereof; and

(i) a person who in a private or enclosed place is guilty of any riotous, disorderly or insulting behaviour to the annoyance of any person lawfully using any place in the neighbourhood thereof.

EXPLANATION. A nomad cannot be convicted because he has no settled home if he has either apparent means of subsistence or gives a satisfactory account of himself.

(2) The term "vagabond" shall include-

(a) a person who after being convicted as an idle person commits any of the offences which would render him liable to be convicted as such; again;

(b) any person who is found in possession of housebreaking implements with intent to commit any of the offences defined in sections 343 to 347 inclusive of this Penal Code;

(c) any suspected person or reputed thief who by night frequents or loiters about any shop, warehouse, dwelling-house, dock or wharf with intent to commit any offence under Chapters XVIII or XIX of this Penal Code;

(d) any male person who knowingly lives wholly or in part on the earning of a prostitute or in any public place solicits or importunes for immoral purposes; and

(e) any male person who dresses or is attired in the fashion of a woman in a public place or who practices sodomy as a means of livelihood or as a profession. ""

(3) An "incorrigible vagabond" shall mean any person who after being convicted as a vagabond commits any of the offences which would render him liable to be convicted as such again.

406. Whoever is convicted as being an idle person shall be punished with imprisonment for a term which may extend to one month or with fine or with both.

407. Whoever is convicted as being a vagabond shall be punished with imprisonment which may extend to two years or with fine which may extend to four hundred and fifty naira or both.

408. Whoever is convicted as being an incorrigible vagabond shall be punished with imprisonment which may extend to three years or with fine which may extend to six hundred naira or with both.

409. For the purposes of this Chapter in proving the intent to commit an offence it shall not be necessary to show that the person suspected was guilty of any particular act tending to show this purpose or intent and he may be convicted if from the circumstances of the case and from his known character as proved to the court before which he is brought it appears to the court that his intent was to commit that offence.

Illustration. A man who has been convicted of theft is found by night crouching in the shadow of a locked shop and seeing a policeman at once runs away. He is arrested in possession of a large bundle of keys. It need not be shown that he was trying the keys or attempting to enter the shop.

Note.-For sections 410 to 477 of this Penal Code, see The Penal Code Northern States) Federal Provisions Act (Cap. 345) of the Revised Laws of

the Federation of Nigeria 1990 where they have been published as a Schedule to that Act.

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J.E.W.