

STUDY GUIDE FOR WEEK 7 (SI students)

COJ02 Courts & their Processes

Week 7 Sentencing

Adapted from - Colvin, *Criminal Law of Solomon Islands, Kiribati & Tuvalu*

CHAPTER 21

Sentencing: Process, Purposes, Principles and Methodology

21.1 Sentencing in Solomon Islands is governed by several sources: the provisions setting penal liability in the legislation creating each offence; some general provisions of the Penal Code (mainly dealing with non-custodial options); some provisions of the Criminal Procedure Code (dealing mainly with the sentencing powers of Magistrates Courts); and in certain important respects by common law. This chapter outlines the general process of sentencing and the general principles and methodology that shape sentencing in particular cases: these are matters governed mainly by common law. The chapter focuses on sentencing for the more serious offences that commonly lead to sentences of imprisonment.

The sentencing process and options

21.2 Following a conviction, a court must determine a sentence. This involves a separate proceeding from that of the trial:

- new arguments are made by counsel;
- the range of matters in issue is broader than for a trial;
- allegations of fact by the prosecution must be proved if not agreed but need not necessarily meet the test of 'beyond reasonable doubt';
- the rules for the admissibility of evidence are much looser.

The Criminal Procedure Code SI s 282 provides: 'The court may, before passing sentence, receive such evidence as it thinks fit, in order to inform itself as to the sentence proper to be passed.'

21.3 The purposes for which a sentence may be imposed are generally understood to be:

- just punishment;
- protection of the community;
- general and specific deterrence;
- rehabilitation of the offender;
- denunciation of the conduct;
- or a combination of these.

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