CHAPTER 28

Crimes of Sexual Assault

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This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Rape (Criminal Act, Article 297), Imitative Rape (Criminal Act, Article 297-2), Indecent Acts by Compulsion (Criminal Act, Article 298), *Quasi*-Rape, *Quasi*-Indecent Acts by Compulsion (Criminal Act, Article 299), Rape with Injury (Criminal Act, Article 301), Rape Resulting in Death (Criminal Act, Article 301-2), Illicit Sex with the Person Under Protection or Supervision (Criminal Act, Article 303, paragraph 1) Statutory Rape, Imitative Rape or Indecent Acts against Minor (Criminal Act, Article 305), Habitual Offense (Criminal Act, Article 305-2), Robbery and Rape (Criminal Act, Article 339), Rape/Sexual Penetration/Indecent Acts by Compulsion Accompanied by Intrusion upon Habitation, etc. (Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 3, paragraph 1), Rape/Indecent Acts by Compulsion Accompanied by Special Robbery, etc. (Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 3, paragraph 2), Special Rape/Sexual Penetration/Indecent Acts by Compulsion, etc. (Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 4), Rape/Indecent Acts by Compulsion, etc. by Relative (Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 5), Rape/Sexual

Penetration/Indecent Acts by Compulsion of Disabled Person (Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 6), Rape/Sexual Penetration/Indecent Acts by Compulsion, etc. of Minors under Thirteen Years of Age (Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 7), Rape Resulting in Injury, etc. (Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 8), Rape and so forth Resulting in Death (Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 9, Paragraph 2, 3), Indecent Acts on Another Person Under Guardianship or Supervision (Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 10, Paragraph 1), Indecent Acts in Crowded Public Places (Sexual Crime Act, Article 11). Rape/Sexual Penetration/Indecent Acts by Compulsion, and others offenses Against Juveniles (Act on the Protection of Children and Youth Against Sex Offenses, hereinafter, 'Children-Juvenile Sexual Crime Act', Article 7), Sexual Intercourse of Disabled Juvenile (Children-Juvenile Sexual Crime Act, Article 8), Illicit Sex With Children or Juvenile Aged Thirteen to Under Sixteen Years (Children-Juvenile Sexual Crime Act, Article 8-2) Rape with Injury (Children-Juvenile Sexual Crime Act, Article 9), Rape, etc. Resulting in Death (Children-Juvenile Sexual Crime Act, Article 10, paragraph 2), Sexual Offense by the Offender with Obligation to Report (Children-Juvenile Sexual Crime Act, Article 18), Second Offense of Rape by a Robbery under the Aggravated Punishment Act (Act on the Aggravated Punishment of Specific Crimes, Article 5-5), Rape Against Military Personnel, etc. (Military Criminal Act, Article 92), Imitative Rape Against Military Personnel, etc. (Military Criminal Act, Article 92-2), Indecent Acts by Compulsion Against Military Personnel, etc. (Military Criminal Act, Article 92-3), *Quasi*-Rape, *Quasi*-Imitative Rape, *Quasi* Indecent Acts by Compulsion Against Military Personnel, etc. (Military Criminal Act, Article 92-4), Rape and others Against Military Personnel, etc. Resulting in Bodily Injuries or Harm (Military Criminal Act, Article 92-7), Rape and Others Against Military Personnel, etc. Resulting in Death (military criminal act, article 92-8), Child Abuse By the Person With the Duty to Report Child Abuse (Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 7, paragraph 2, subparagraph 4, item 6).

※ Note that the underlined provisions applied to certain crimes were deleted or amended following the statutory revisions made after the sentencing guidelines were established. The sentencing guidelines on those crimes will be revised later. For this reason, all or part of the current standards of sentencing would not be applied.

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 GENERAL APPLICABLE PRINCIPLES

1. RAPE (MINOR AGED THIRTEEN OR OLDER)

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	General Rape	1 yr. 6 mos. – 3 yrs.	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.
2	Rape of a Minor	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.
3	Rape by Relative/ Rape After Intrusion Upon Habitation, etc. / Special Rape	3 yrs. 6 mos. – 6 yrs.	5 yrs. – 8 yrs.	7 yrs. – 10 yrs.
4	Rape After Robbery	5 yrs. – 9 yrs.	8 yrs. – 12 yrs.	10 yrs. – 15 yrs.

▷ Sexual abuse involving non-penile penetration[1] against an adult falls within Type 1. However, reduce the maximum and the minimum sentencing range to 2/3.

▷ Sexual intercourse involving non-penile penetration[2] against a minor, or intercourse with a minor by a deceptive scheme or by force falls within Type 2.

1) The statutory titles for '*yusa-ganggan*' used in this chapter refer to the English translations by the Korea Legislation Research Institute (KLRI). Consequently, varying terms are used to denote the identical legal concept—for example, 'Imitative Rape' under Article 297-2 of the Criminal Act, and '*Quasi*-Rape' or 'Sexual Penetration' under Article 92-2 of the Military Criminal Act. Under the Korean statutory framework, this offense is structurally distinct from traditional rape; therefore, the term "sexual abuse involving non-penile penetration" is used in the 'Types of Offenses and Sentencing Ranges' table of these Sentencing Guidelines. However, for the convenience of users' reference, the KLRI's translations have been adopted verbatim for the titles of the statutory provisions.

2) The statutory titles for '*yusa-seonggyo*' used in this chapter refer to the English translations by the Korea Legislation Research Institute (KLRI). Consequently, varying terms are used to denote the identical legal concept—for example, 'pseudo-sexual intercourse with a youth' under Article 7(5) of the Act on the Protection of Children and Youth against Sex Offenses, and '*quasi*-sexual intercourse' under Article 6(5) of the Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes. Under the Korean legal framework, 'yusa-seonggyo' is a constituent element that forms the crime of 'yusa-ganggan' (sexual abuse involving non-penile penetration), which is distinct from traditional rape. Therefore, in these Sentencing Guidelines, it is referred to as "sexual intercourse involving non-penile penetration." However, for the convenience of users' reference, the KLRI's translations have been adopted verbatim for the titles of the statutory provisions.

▷ In cases where the offense constitutes recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

▷ When the offense falls under Recidivism Offense of Rape after Robbery set forth in the Act on the Aggravated Punishment of Specific Crimes increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on the Aggravated Punishment of Specific Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct		• Sadistic and perverse conduct or offense with an extreme level of sexual humiliation • Constant and repeated offense against multiple victims • Vulnerable victims • Special robbery and rape under Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 3, paragraph 2 (Type 4) • Intrusion into the residence and rape committed by a relative of the victim, special rape by a relative • Gang-rape (Type 3 and 4) • The victim's pregnancy • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses the intent of non-punishment	• Same-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes, or the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) • Offense by a mandatory reporter or a child welfare facility employee, or child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Minor participation • Participation in the offense by duress or threat of another	• Planned crime • Multiple acts of rape in the commission of the same offense • Morally reprehensible motives • Offense committed by causing diminished physical or mental capacity of the victim • Offense by a relative (Type 2, Type 4) • Offense against a minor (Type 3, Type 4)
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Considerable restitution	• Abuse of trust in relationships of trust • Different-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes, or the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for the same-offenses which do not constitute a repeat offense within the statutory recidivism period, or a crime of violence that do not constitute a repeated offense within recidivism period resulting in imprisonment (within ten years after the completion of the sentence) • Causing secondary harm (excepting cases where the act constitutes a crime of coercion)

▷ Apply the following classification in cases where sexual offenses were committed while severely intoxicated by alcohol or drugs [including cases of indecent acts by compulsion and indecent acts in a crowded public place, sexual offense against those with disability, minor in a state of destitution, or a person under his or her protection or supervision (those over 19 years old of age), sexual crimes against a victim under 13 years of age (including statutory rape against those under 16 years old), sexual crimes under the military criminal act, offenses that resulted in bodily injuries or death of the victim]

❶ Cases in which the offender voluntarily induced intoxication by taking alcohol or drugs and where the offender intended or foresaw the crime or attempted to use the condition as a ground for exemption, intoxication is considered as a general aggravating factor regardless of the fact that the offender was in a state of diminished mental capacity at the time of the crime.

❷ Cases in which the offender had no intent of committing the offense or could not foresee the commission of such offense, but past behavior reveals the possibility of harm caused to others while under the influence of high levels of alcohol or drugs, intoxication shall not be considered as a mitigating factor regardless of whether the offender was in a state of diminished mental capacity at the time of the crime.

❸ Even if the cases do not fall within ❶, ❷, intoxication should not be taken into account as a mitigating factor unless the offender was in a state of diminished mental capacity at the time of the crime.

2. FORCIBLE INDECENT ACTS (AGAINST MINOR AGED THIRTEEN OR OLDER) AND INDECENT ACTS IN CROWDED PLACES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Indecent Acts in Crowded Public Places	– 8 mos.	6 mos. – 1 yr.	10 mos. – 2 yrs.
2	Forcible Indecent Acts (General)	– 1 yr.	6 mos. – 2 yrs.	1 yr. 6 mos. – 3 yrs.
3	Forcible Indecent Acts Against Minor	1 yr. – 2 yrs.	1 yr. 8 mos. – 3 yrs. 4 mos.	2 yrs. 8 mos.– 4 yrs. 8 mos.
4	Forcible Indecent Acts by Relative/ Aggravated Indecent Acts by Compulsion	2 yrs. 6 mos. – 4 yrs.	3 yrs. – 6 yrs.	5 yrs. – 8 yrs.
5	Forcible Indecent Acts After Intrusion Into a Residence etc.	3 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.
6	Aggravated Robbery and Indecent Acts By Compulsion	5 yrs. – 8 yrs.	7 yrs. – 11 yrs.	9 yrs. – 13 yrs.

▷ Indecent Acts Against a Minor by Deceptive Schemes or by the Use of Force falls within Type 3.

▷ In cases where the offense constitutes recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• In cases where the degree of force used is minimal • Cases where the degree of indecent acts is minor	• Sadistic and perverse conduct or offense with an extreme level of sexual humiliation • Constant and repeated offense against multiple victims • Vulnerable victims • Forcible indecent act or aggravated forcible indecent acts by the relatives of the victim after intrusion upon habitation or other similar settings • Instigating the subordinate to commit the offense

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses the intent of non-punishment	• Same-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) • Offense by a mandatory reporter or a child welfare facility employee, or Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders
General Sentencing Factor	Conduct	• Minor participation • Participation in the offense by duress or threat of another	• Planned crime • Morally reprehensible motives • Offense committed by causing diminished physical or mental capacity to the victim • Offense committed by a relative (Type 3, Type 6) • Offense against a minor (Type 1, Type 4, Type 5, Type 6)
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Considerable restitution	• Abuse of position of trust • Different-offense recidivism within the statutory recidivism period which does not constitute a recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (a repeat offense within the statutory recidivism period). Prior convictions resulting in imprisonment for the same-offense or violence crimes resulting in imprisonment which do not constitute repeat offenses under the Criminal Act • Causing secondary harm (excepting cases where the act constitutes a crime of coercion)

3. SEXUAL CRIMES AGAINST DISABLED VICTIM (MINOR 13 OR OLDER), MINOR IN DESTITUTE CONDITIONS, AND PERSON UNDER PROTECTION · UNDER SUPERVISION (AGED 19 OR OLDER)

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Indecent Act against a Person Under Protection · Supervision	– 8 mos.	6 mos. – 1 yr.	10 mos. – 2 yrs.
2	Illicit Sex with a Person Under Protection · Supervision	– 10 mos.	8 mos. – 1 yr. 6 mos.	1 yr. – 2 yrs. 6 mos.
3	Statutory Indecent Acts	– 10 mos.	8 mos. – 2 yrs.	1 yr. 6 mos. – 3 yrs.
4	Statutory Rape/Indecent Acts by Compulsion	1 yr. 6 mos. – 3 yrs.	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 6 yrs.
5	Sexual Abuse Involving Non-penile Penetration	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.
6	Rape	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.	8 yrs. – 12 yrs.

▷ Indecent act against a victim aged 13 to under 16 by exploiting his or her destitute conditions falls within Type 3, while illicit sex with a youth (aged 13 to under 16) by taking advantage of his or her destitute conditions falls within Type 4.

▷ Indecent acts by deceptive scheme or by the use of force against a person with with disability (aged 13 or older) falls within Type 4 (however, reduce the maximum and the minimum sentencing range to $\frac{1}{2}$). Sexual intercourse involving non-penile penetration by deceptive scheme or by the use of force against a person with disability (aged 13 or older) falls within Type 5. Having sex with a person with disability (aged 13 or older) by deceptive scheme or by the use of force falls within Type 6.

▷ In cases of rape after robbery (including special rape after robbery), special indecent acts by compulsion after robbery (including special imitative rape after robbery), apply the sentencing guidelines set forth in rape (against a victim aged 13 or older), indecent acts by compulsion (against the victim of aged 13 or older) or indecent act in a crowded place [Use the Sentencing Factor Table for offense against the victim with physical or mental incapacity and aged 13 or older, or sexual offenses against a youth under destitute conditions or those under protection or supervision (against the victim aged 19 or older)].

▷ In cases where the offense constitutes recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases where the degree of indecent acts is minor (Type 1, Type 3, Type 4)	• Sadistic and perverse conduct or offense with an extreme level of sexual humiliation • Constant and repeated offense against multiple victims • Offense committed with special robbery prescribed in the Special Sexual Crime Act, Article 3, paragraph 2 (Type 6) • Gang-rape (Type 2, Type 4, Type 6) • Victim's pregnancy (Type 2, Type 4, Type 6) • Instigating the subordinate person to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative agencies • Victim expresses the intent of non-punishment	• Same-offense recidivism within the statutory recidivism period which does not constitute recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). • Offense by a mandatory reporter or a child welfare facility employee, or Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders
General Sentencing Factor	Conduct	• Minor participation • Participation in the offense by duress or threat of another	• Planned crime • Multiple acts of rape in the commission of the offense (Type 2, Type 4, Type 6) • Morally reprehensible motives • Falls within offense prescribed in the Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 3, paragraph 1, Article 4, Article 5 • Offense resulting in diminished physical or mental capacity of the victim
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Considerable restitution	• Abuse of position of trust (Type 3 through Type 6) • Different-offense recidivism within the statutory recidivism period which does not constitute recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for same-offense or violence crimes resulting in imprisonment which do not constitute repeat offenses under the Criminal Act (within ten years after the completion of the sentence) • Causing secondary harm (excepting cases where the act constitutes a crime of coercion)

4. SEXUAL CRIMES AGAINST A MINOR UNDER 13 OF AGE (INCLUDING STATUTORY RAPE AGAINST A MINOR UNDER 16)

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Statutory Indecent Acts by Compulsion	– 10 mos.	8 mos. – 2 yrs.	1 yr. 6 mos. – 3 yrs.
2	Statutory Rape	1 yr. 6 mos. – 3 yrs.	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 6 yrs.
3	Forcible Indecent Acts	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.
4	Sexual Abuse Involving Non-penile Penetration	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.	8 yrs. – 12 yrs.
5	Rape	6 yrs. – 9 yrs.	8 yrs. – 12 yrs.	11 yrs. – 15 yrs.

▷ Statutory indecent acts against a victim aged 13 to under 16 fall within Type 1, statutory rape against the victim aged 13 to under 16 falls within Type 2.

▷ Statutory sexual abuse involving non-penile penetration falls within Type 2 (including the same kind of crime against the victim aged 13 to under 16). However, reduce the maximum and the minimum sentencing range to 2/3.

▷ Indecent acts by deceptive scheme or by the use of force falls within Type 3, *quasi*-sexual intercourse by deceptive scheme or by the use of force falls within Type 4, and sexual intercourse by deceptive scheme or by the use of force falls within Type 5.

▷ In cases of special indecent acts by compulsion after robbery (including special sexual abuse involving non-penile penetration after robbery), apply the sentencing guidelines set forth in indecent acts by compulsion (against a victim aged 13 or older), Indecent act in crowded public places (Use the Sentencing Factor Table for offense of sexual crimes against a victim under thirteen years of age, including statutory rape against a victim under 16).

▷ In cases where the offense constitutes recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

▷ When the offense falls under Recidivism Offense of Rape after Robbery set forth in the Act on the Aggravated Punishment of Specific Crimes increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on the Aggravated Punishment of Specific Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases where the degree of indecent acts is minor (Type 1, 3)	• Sadistic and perverse conduct or offense with an extreme level of sexual humiliation • Constant and repeated offense against multiple victims • Offense was committed in a specially protected area • Offense committed with special robbery prescribed in the Special Sexual Crime Act, Article 3, paragraph 2 (Type 5) • Gang-rape (Type 2, 5) • Pregnancy (Type 2, 5) • Instigating the subordinate person to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses the intent of non-punishment	• Same-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes, or the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) • Offense by a mandatory reporter or a child welfare facility employee, or Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenses.
General Sentencing Factor	Conduct	• Minor participation • Participation in the offense by duress or threat of another	• Planned crime • Multiple acts of rape in commission of the offense (Type 2, 5) • Morally reprehensible motives • Falls within offense prescribed in the Sexual Crime Act, Article 3, paragraph 1, Article 4, 5 • Offense committed by causing diminished physical or mental capacity to the victim
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Considerable restitution	• Abuse of relationships of trust • Different-offense recidivism within the statutory recidivism period which does not constitute a recidivism offense under the Act on the Aggravated Punishment of Specific Crimes or recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years), Prior convictions for the same- offense or violence crimes resulting in imprisonment which do not constitute repeat offenses under the Criminal Act (within 10 years of completion of the sentence) • Causing secondary harm (excepting cases where the act constitutes a crime of coercion)

5. SEXUAL CRIMES UNDER THE MILITARY CRIMINAL ACT

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Forcible Indecent Acts Committed Against Military Personnel	6 mos. – 1 yr. 4 mos.	10 mos. – 2 yrs. 6 mos.	2 yrs. – 4 yrs.
2	Sexual Abuse Involving Non-penile Penetration Committed Against Military Personnel	1 yr. 6 mos. – 3 yrs.	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.
3	Rape Against Military Personnel	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.

▷ In cases where the offense constitutes recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases where the degree of the physical act is extremely minor (Type 1) • Cases where the degree of the indecent act is minor (Type 1)	• Sadistic, perverse conduct or offense with an extreme level of sexual humiliation • Constant and repeated offense committed against multiple victims • Active use of the offender's superior position or offense committed against a vulnerable victim • Victim's pregnancy (Type 3) • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative agencies • Victim expresses the intent of non-punishment	• Same-offense recidivism within the statutory recidivism period that does not constitute a recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) • Habitual offenders

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Minor participation • Participation by coercion or threat of another	• Planned crime • Multiple acts of rape in the commission of the offense (Type 3) • Morally reprehensible motives • Offense committed by causing diminished physical or mental capacity of the victim
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Considerable restitution	• Abuse of relationships of trust • Different-offense recidivism within the statutory recidivism period which does not constitute recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for same-offense or violence crimes resulting in imprisonment which do not constitute repeat offenses under the Criminal Act (within ten years after the completion of the sentence) • Causing secondary harm (excepting cases where the act constitutes a crime of coercion)

2 CASES RESULTING IN BODILY INJURY

1. BODILY INJURY/ RESULTING IN BODILY INJURY ON A MINOR AGED 13 OR OLDER

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Forcible Indecent Acts	2 yrs. 6 mos. – 4 yrs.	3 yrs. – 5 yrs.	4 yrs. – 6 yrs.
2	Rape	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.
3	Forcible Indecent Acts by the Relative of the Victim	3 yrs. 6 mos. – 6 yrs.	5 yrs. – 8 yrs.	7 yrs. – 10 yrs.
4	Rape by the Relative of the Victim	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.	8 yrs. – 12 yrs.
5	Forcible Indecent Acts after Intrusion Into a Residence, etc./Aggravated Forcible Indecent Acts	5 yrs. – 8 yrs.	7 yrs. – 11 yrs.	10 yrs. – 14 yrs.
6	Rape after Intrusion Into a Residence, etc./Aggravated Rape	6 yrs. – 9 yrs.	8 yrs. – 13 yrs.	12 yrs. – 16 yrs.

▷ Indecent acts by compulsion (including indecent acts by deceptive scheme or by the use of force) against a juvenile and sexual abuse involving non-penile penetration against an adult fall within Type 2.

▷ Rape (including sexual intercourse by deceptive scheme or by the use of force) against a juvenile and sexual abuse involving non-penile penetration (including sexual penetration by deceptive scheme or by the use of force) against a minor fall within Type 3.

▷ In cases where the offense constitutes recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

▷ In these categories of crimes, apply sentencing factors set forth in rape (against a victim of thirteen years of age or older), indecent acts by compulsion (against a victim of thirteen years of age or older), and indecent acts in crowded places. Add special mitigating factors of "cases when injury results, but the base offense is an attempt", and "minor injury resulted". Also, add special aggravating factors when serious bodily injuries resulted.
In cases where "minor bodily injuries" is recognized, the sentencing range shall be determined by comparing the maximum and minimum limits of the recommended sentencing range for the same base offense, excluding the factor of "minor bodily injuries", and applying the greater range.

▷ Cases in which the bodily injury results from rape after robbery (including the case of special robbery and sexual abuse involving non-penile penetration), this falls within Type 6. For cases where the bodily injury results by indecent acts by compulsion after special robbery, this falls within Type 5.
In such cases, add "serious bodily injuries" to special aggravating factors and "non-serious bodily injuries" to general aggravating factors to the relevant sentencing factors (rape or indecent acts by compulsion against a victim of thirteen years of age or older, and indecent acts in crowded public places) and add "cases of Special Robbery and Rape under Article 3, paragraph 2, Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes" to special aggravating factors of indecent acts by compulsion.

2. BODILY INJURY/RESULTING IN BODILY INJURY ON A PERSON WITH DISABILITY (AGED 13 OR OVER) OR A CHILD UNDER 13 (INCLUDING STATUTORY RAPE AGAINST A MINOR UNDER 16)

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Statutory Forcible Indecent Acts	2 yrs. 6 mos. – 4 yrs.	3 yrs. – 5 yrs. 6 mos.	5 yrs. – 8 yrs.
2	Statutory Rape	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.
3	Forcible Indecent Acts	5 yrs. – 8 yrs.	7 yrs. – 11 yrs.	10 yrs. – 14 yrs.
4	Sexual Abuse Involving Non-penile Penetration	5 yrs. – 9 yrs.	8 yrs. – 12 yrs.	11 yrs. – 15 yrs.
5	Rape	6 yrs. – 10 yrs.	9 yrs. – 14 yrs.	13 yrs. or more, life imprisonment

▷ Statutory indecent acts against a victim aged 13 to under 16 fall within Type 1, statutory rape against the victim aged 13 to under 16 falls within Type 2.

▷ Statutory sexual abuse involving non-penile penetration (including the offense of sexual abuse involving non-penile penetration against a victim aged 13 to under 16) falls within Type 2, indecent acts by deceptive scheme or by the use of force falls within Type 3, sexual acts involving non-penile penetration by deceptive schemes or by the use of force falls within Type 4, and sexual intercourse by deceptive scheme or by the use of force falls within Type 5.

▷ In cases where the offense constitutes recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

▷ Apply sentencing factors set forth in the sexual crimes against disabled victims (that are thirteen years of age or older), the sexual crimes against a youth in destitute conditions or the person under protection or supervision (the victim aged 19 or over), or the sexual crimes against a victim under thirteen years of age (including statutory rape against a victim aged under 16). For cases where injury results but the base offense is an attempt and only minor injuries resulted, add to the special mitigating factors; in cases in which serious bodily injuries resulted, add to the special aggravating factors.
In cases where "minor bodily injuries" is recognized, the sentencing range shall be determined by comparing the maximum and minimum limits of the recommended sentencing range for the same offense, excluding the factor of "minor bodily injuries" and applying the greater range.

▷ Cases where the bodily injury results from rape after robbery (including the cases of special robbery), this falls within Type 5. Indecent acts by compulsion after special robbery results in bodily injury falls within Type 3 and imitative rape after special robbery resulting in bodily injury falls in Type 4.
In such cases, add serious bodily injuries to the special aggravating factors, and non-serious bodily injuries to the general aggravating factors respectively in the above sentencing factor table (the sexual crimes against disabled victims (that are thirteen years of age or older), the sexual crimes against a youth in destitute conditions or the person under protection or supervision (the victim aged 19 or over), or sexual crimes against a victim under thirteen years of age (including statutory rape against a victim under 16 years of age).

3. SEXUAL CRIMES UNDER THE MILITARY CRIMINAL ACT

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Forcible Indecent Acts Committed Against Military Personnel, etc.	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.
2	Sexual Abuse Involving Non-penile Penetration/ Rape Committed Against Military Personnel, etc.	3 yrs. 6 mos. – 6 yrs.	5 yrs. – 8 yrs.	7 yrs. – 10 yrs.

▷ In cases where the offense constitutes recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

▷ In these categories of crimes set forth in Sexual Crimes under the Military Criminal Act, add special mitigating factors of "cases when injury results, but the base offense is an attempt", and "minor bodily injuries" with special aggravating factors of "serious bodily injuries" and apply these factors accordingly. However, in cases where "minor bodily injuries" is recognized, the sentencing range shall be determined by comparing the maximum and minimum limits of the recommended sentencing range for the same base offense, excluding the factor of "minor bodily injuries", and applying the greater range.

3 CASES RESULTING IN DEATH OF THE VICTIM

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Rape Resulting in Death/Sexual Abuse Involving Non-penile Penetration Resulting in Death/Forcible Indecent Acts Resulting in Death	9 yrs. – 12 yrs.	11 yrs. – 14 yrs.	13 yrs. or more, life imprisonment

▷ In cases where the offense constitutes recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5. However, that range and the sentencing range applicable to same-offense recidivism not falling under Recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) shall be compared as to their respective upper and lower limits, and the heavier sentencing range shall apply.

▷ When the sentencing factor of "offender's conduct was not the direct cause of death" is recognized, the calculated sentencing range shall be compared with the maximum and minimum limits of the sentencing range for the same basic offense, excluding the sentencing factor of "direct cause of death".

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Offender's conduct was not a direct cause of death	• Vulnerable victim • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses the intent of non-punishment	• Absence of remorse (excluding cases where the offender merely denies offense) • Same-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes (Repeat offense within the statutory recidivism period of three years)
General Sentencing Factor	Conduct	• Where the underlying offense is indecent acts • Minor participation	
	Offender /Etc.	• Post-offense aid/medical transport • Sincere remorse • Considerable restitution	• Different-offense recidivism within the statutory recidivism period which does not constitute recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for same-offense or violence crimes resulting in imprisonment which do not constitute repeat offenses under the Criminal Act (within ten years after the completion of the sentence) • Causing secondary harm (excepting cases where the act constitutes a crime of coercion)

DEFINITION OF OFFENSES

1 GENERAL APPLICABLE PRINCIPLES

1. RAPE (MINOR AGED THIRTEEN OR OLDER)

(1) TYPE 1 — GENERAL RAPE

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

ELEMENTS OF OFFENSE	APPLICABLE LAW
Rape with victim by force or threat	Criminal Act, Article 297
Imitative rape by force or threat	Criminal Act, Article 297-2
Quasi-Rape, *Quasi*-imitative rape (*i.e.*, sexual intercourse with a female by taking advantage of her unconscious condition or inability to resist)	Criminal Act, Article 299

(2) TYPE 2 - RAPE OF A MINOR

ELEMENTS OF OFFENSE	APPLICABLE LAW
Rape/*quasi*-rape/imitative rape/*quasi* imitative rape of a youth (aged under 19)	Act on the Protection of Children and Youth Against Sex Offenses, Article 7, paragraph 1, paragraph 2, paragraph 4
Having sexual intercourse or imitative rape against a child or youth(aged under 19) by a deceptive scheme or by force	Act on the Protection of Children and Youth Against Sex Offenses, Article 7, paragraph 5

(3) TYPE 3 — RAPE BY A RELATIVE/ RAPE AFTER INTRUSION UPON HABITATION, ETC./ AGGRAVATED RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Rape/*Quasi*-Rape/Imitative Rape/*Quasi*-Imitative Rape after committing an intrusion upon habitation, larceny accompanied by an intrusion into habitation at nighttime (including attempts thereof), special larceny (including attempts thereof)	Sexual Crime Act, Article 3, paragraph 1
Rape or *Quasi*-Rape committed while carrying a dangerous weapon or two or more persons involved in the offense	Sexual Crime Act, Article 4, paragraph 1, paragraph 3
Rape/*Quasi*-Rape by a relative	Sexual Crime Act, Article 5 paragraph 1, paragraph 3

(4) TYPE 4 — RAPE AFTER ROBBERY

ELEMENTS OF OFFENSE	APPLICABLE LAW
Rape against a victim 13 years of age or older by the offender of a robbery	Criminal Act, Article 339
Rape/*Quasi*-Rape/Imitative Rape/*Quasi*-Imitative Rape by Compulsion against a victim 13 years of age or older by the offender of special robbery (including attempts thereof)	Sexual Crime Act, Article 3, paragraph 2

2. FORCIBLE INDECENT ACTS (AGAINST MINOR AGED THIRTEEN OR OLDER) AND INDECENT ACTS IN CROWDED PLACES

(1) TYPE 1 — INDECENT ACTS IN CROWDED PUBLIC PLACES

ELEMENTS OF OFFENSE	APPLICABLE LAW
Indecent Acts in any public transportation vehicle, place of public performance or assembly, or other crowded public place	Sexual Crime Act, Article 11

(2) TYPE 2 — GENERAL FORCIBLE INDECENT ACTS

ELEMENTS OF OFFENSE	APPLICABLE LAW
Indecent Acts by Compulsion by force or threat	Criminal Act, Article 298
Quasi-Indecent Acts by Compulsion (i.e., Indecent Acts by Compulsion by taking advantage of the victim's unconscious condition or inability to resist)	Criminal Act, Article 299

(3) TYPE 3 — FORCIBLE INDECENT ACTS AGAINST A MINOR

ELEMENTS OF OFFENSE	APPLICABLE LAW
Indecent Acts/*Quasi*-Indecent Acts by Compulsion on youth (Under the age of 19)	Act on the Protection of Children and Youth Against Sex Offenses, Article 7, paragraph 3, paragraph 4
Indecent Acts by a deceptive scheme or by force on youth (Under the Age of 19)	Act on the Protection of Children and Youth Against Sex Offenses, Article 7, paragraph 5

(4) TYPE 4 — FORCIBLE INDECENT ACTS BY A RELATIVE/AGGRAVATED FORCIBLE INDECENT ACTS

ELEMENTS OF OFFENSE	APPLICABLE LAW
Indecent Acts by Compulsion/*Quasi*-Indecent Acts committed while carrying a dangerous weapon or two or more persons involved in the offense	Sexual Crime Act, Article 4, paragraph 2 and paragraph 3
Indecent Acts by Compulsion/*Quasi*-Indecent Acts by Compulsion by a relative	Sexual Crime Act, Article 5, paragraph 2, and paragraph 3

(5) TYPE 5 — FORCIBLE INDECENT ACTS AFTER INTRUSION UPON HABITATION, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Indecent Acts/*Quasi*-Indecent Acts by Compulsion against a victim by the offender of intrusion upon habitation, trespassing upon residence at night (including attempted crimes), special larceny (including attempted crimes)	Sexual Crime Act, Article 3, paragraph 1

(6) TYPE 6 — FORCIBLE INDECENT ACTS AFTER SPECIAL ROBBERY

ELEMENTS OF OFFENSE	APPLICABLE LAW
Indecent Acts by Compulsion/*Quasi*-Indecent Acts by Compulsion by an offender committing special robbery (including attempts thereof)	Sexual Crime Act, Article 3, paragraph 2

3. SEXUAL CRIMES AGAINST DISABLED VICTIM (MINOR 13 OR OLDER), MINOR IN DESTITUTE CONDITIONS, AND PERSON UNDER PROTECTION · UNDER SUPERVISION (AGED 19 OR OLDER)

(1) TYPE 1 — INDECENT ACTS ON A PERSON UNDER HIS/HER PROTECTION OR SUPERVISION

ELEMENTS OF OFFENSE	APPLICABLE LAW
Indecent act on another person who is under his/her guardianship or supervision by reason of his/her business, employment, or other relationship by a deceptive scheme or by force	Sexual Crime Act, Article 10, paragraph 1

(2) TYPE 2 — ILLICIT SEX WITH A PERSON UNDER PROTECTION OR SUPERVISION

ELEMENTS OF OFFENSE	APPLICABLE LAW
Having sexual intercourse with another who is under his or her protection or supervision for his or her business, employment or other relationship	Criminal Act, Article 303, paragraph 1

(3) TYPE 3 — STATUTORY INDECENT ACTS

ELEMENTS OF OFFENSE	APPLICABLE LAW
Indecent Acts by an offender, nineteen years of age or older, against a disabled child or a disabled juvenile victim aged 13 or older, or instigates a disabled child or disabled juvenile aged 13 or older to commit indecent acts against a third person	Children-Juvenile Sexual Crime Act, Article 8, paragraph 2
Indecent Acts by an offender, nineteen years of age or older, against a victim of aged 13 to under 16, by exploiting his/her destitute conditions, or instigates a youth aged 13 to under 16 to commit indecent acts against a third person	Children-Juvenile Sexual Crime Act, Article 8-2, paragraph 2

(4) TYPE 4 — STATUTORY RAPE/FORCIBLE INDECENT ACTS

ELEMENTS OF OFFENSE	APPLICABLE LAW
Sexual Intercourse by an offender, nineteen years of age or older, against a disabled child or a disabled juvenile victim aged 13 or older or instigates a disabled child or a disabled juvenile victim aged 13 or older to have sexual intercourse with a third person	Children–Juvenile Sexual Crime Act, Article 8, paragraph 1
An offender of nineteen years of age or older having a sexual intercourse with a victim of aged 13 to under 16, by exploiting his/her destitute conditions, or instigates a youth aged 13 to under 16 to have a sexual intercourse with a third person	Children–Juvenile Sexual Crime Act, Article 8–2, paragraph 1
Indecent Acts by Compulsion/*Quasi*–Indecent Acts committed against physically or mentally disabled victim	Sexual Crime Act, Article 6, paragraph 3, paragraph 4
Indecent Acts by Deceptive Schemes or by Use of Force against a physically or mentally disabled victim	Sexual Crime Act, Article 6, paragraph 6

(5) TYPE 5 — SEXUAL ABUSE INVOLVING NON–PENILE PENETRATION

ELEMENTS OF OFFENSE	APPLICABLE LAW
Imitative Rape/*Quasi*–Imitative Rape against a physically or mentally disabled victim	Sexual Crime Act, Article 6, paragraph 2, paragraph 4
Indecent Act by Deceptive Schemes or by the Use of Force against a physically or mentally disabled victim, when the extent of the indecent act is comparable to *quasi*–sexual intercourse	Sexual Crime Act, Article 6, paragraph 6

(6) TYPE 6 — RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Rape/*Quasi*–Rape against a physically or mentally disabled victim	Sexual Crime Act, Article 6, paragraph 1, paragraph 4
Indecent Act by Deceptive Schemes or by the use of Force against a physically or mentally disabled victim	Sexual Crime Act, Article 6, paragraph 5

4. SEXUAL CRIMES AGAINST A MINOR UNDER 13 OF AGE (INCLUDING STATUTORY RAPE AGAINST A MINOR UNDER 16)

(1) TYPE 1 — STATUTORY INDECENT ACTS BY COMPULSION

ELEMENTS OF OFFENSE	APPLICABLE LAW
Statutory Indecent Acts by Compulsion (indecent acts against a victim under thirteen years of age)	Criminal Act, Article 305, paragraph 1 (Article 298)
Statutory Indecent Acts by Compulsion (indecent acts by an offender of nineteen years of age or older against a victim thirteen years of age to under 16)	Criminal Act, Article 305, paragraph 2 (Article 298)

(2) TYPE 2 — STATUTORY RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Statutory Rape (sexual intercourse with victim under thirteen years of age)	Criminal Act, Article 305, paragraph 1 (Article 297)
Statutory *quasi*–Rape (*quasi*–sexual intercourse with victim under thirteen years of age)	Criminal Act, Article 305, paragraph 1 (Article 297–2)
Statutory rape (an offender of nineteen years of age or older having a sexual intercourse with a person thirteen years of age to under 16)	Criminal Act, Article 305, paragraph 2 (Article 297)
Statutory *quasi*–rape (an offender of nineteen years of age or older having a *quasi*– sexual intercourse with a person thirteen years of age to under 16)	Criminal Act, Article 305, paragraph 2 (Article 297–2)

(3) TYPE 3 — INDECENT ACT BY COMPULSION

ELEMENTS OF OFFENSE	APPLICABLE LAW
Indecent Acts by Compulsion/*Quasi*–Indecent Acts by Compulsion against a victim under thirteen years of age	Sexual Crime Act, Article 7, paragraph 3, paragraph 4
Indecent Acts with victim under thirteen years of age by deceptive schemes or use of force	Sexual Crime Act, Article 7, paragraph 5

(4) TYPE 4 — IMITATIVE RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Imitative Rape/*Quasi*–Imitative Rape against a victim under thirteen years of age	Sexual Crime Act, Article 7, paragraph 2, paragraph 4
Quasi–sexual intercourse by deceptive schemes or by the use of force against a victim under thirteen years of age	Sexual Crime Act, Article 7, paragraph 2, paragraph 5

(5) TYPE 5 — RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Rape/*Quasi*-Rape against a victim under thirteen years of age	Sexual Crime Act, Article 7, paragraph 1, paragraph 4
Sexual intercourse by Deceptive Schemes or by the use of Force against a victim under thirteen years of age	Sexual Crime Act, Article 7, paragraph 5
Rape against a victim under thirteen years of age by the robbery offender	Criminal Act, Article 339
Rape/*Quasi*-Rape against a victim under thirteen years of age by an offender who committed special robbery (including attempt offenses)	Sexual Crime Act, Article 3, paragraph 2

5. SEXUAL CRIMES UNDER THE MILITARY CRIMINAL ACT

(1) TYPE 1 — FORCIBLE INDECENT ACTS AGAINST MILITARY PERSONNEL, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Indecent acts by force or threat committed against military personnel and others	Military Criminal Act, Article 92-3
Quasi-Indecent Acts by Compulsion (i.e., Indecent Acts by Compulsion by taking advantage of the victim's unconscious condition or inability to resist)	Military Criminal Act, Article 92-4

(2) TYPE 2 — SEXUAL ABUSE INVOLVING NON-PENILE PENETRATION AGAINST MILITARY PERSONNEL, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Imitative rape against military personnel by the use of threat or force	Military Criminal Act, Article 92-2
Quasi-imitative rape (imitative rape by taking advantage of the victim's unconscious condition or inability to resist)	Military Criminal Act, Article 92-4

(3) TYPE 3 — RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Rape committed against military personnel and others by the use of force or threat	Military Criminal Act, Article 92
Quasi-Rape (Sexual intercourse committed by taking advantage of the victim's unconscious condition or inability to resist)	Military Criminal Act, Article 92-4

2 CASES RESULTING IN BODILY INJURY

1. BODILY INJURY/ RESULTING IN BODILY INJURY ON A MINOR AGED 13 OR OLDER

(1) TYPE 1 — GENERAL FORCIBLE INDECENT ACTS

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injuries are caused as a result of Indecent Acts by Compulsion/*Quasi*-Indecent Acts by Compulsion (including attempts thereof)	Criminal Act, Article 301 (Article 298, Article 299)

(2) TYPE 2 — GENERAL RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury caused as a result of Rape/*Quasi*-rape/Imitative Rape/*Quasi*-Imitative Rape (including attempts thereof)	Criminal Act, Article 301 (Criminal Act, Article 297, Article 297-2, Article 299)
Bodily injury is caused to a juvenile victim as a result of Indecent Acts by Compulsion/*Quasi*-Indecent Acts by Compulsion/Indecent Acts by Deceptive Schemes or by the Use of Force (including attempts thereof)	Children-Juvenile Sexual Crime Act, Article 9 (Article 7, paragraph 3 to paragraph 5)

(3) TYPE 3 — FORCIBLE INDECENT ACTS BY THE RELATIVE OF THE VICTIM

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury caused as a result of Indecent Acts by Compulsion/*Quasi*-Indecent Acts by Compulsion as prescribed in the Sexual Crime Act, Article 5 (including attempts thereof)	Sexual Crime Act, Article 8, paragraph 2 (Sexual Crime Act, Article 5, paragraph 2, paragraph 3)
Bodily injury is caused to a juvenile victim as a result of Rape/*Quasi*-Rape/Imitative Rape/*Quasi*-Imitative Rape/Sexual Intercourse by Deceptive Schemes or by the Use of Force (including attempts thereof)	Children-Juvenile Sexual Crime Act, Article 9 (Article 7, paragraph 1, 2, 4, and 5)

(4) TYPE 4 — RAPE BY THE RELATIVE OF THE VICTIM

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury caused as a result of Rape/*Quasi*-Rape as prescribed in Sexual Crime Act, Article 5	Sexual Crime Act, Article 8, paragraph 2 (Article 5, paragraph 1, paragraph 3)

(5) TYPE 5 — FORCIBLE INDECENT ACTS AFTER INTRUSION INTO A RESIDENCE, ETC./AGGRAVATED FORCIBLE INDECENT ACTS

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury caused as a result of Rape/*Quasi*-Rape as prescribed in the Sexual Crime Act, Article 3, paragraph 1, and Article 4 (including attempts thereof)	Sexual Crime Act, Article 8, paragraph 1 (Article 3, paragraph 1, Article 4, paragraph 2, paragraph 3)

(6) TYPE 6 — RAPE AFTER INTRUSION INTO A RESIDENCE, ETC./AGGRAVATED RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury caused as a result of Rape/*Quasi*-Rape/ Imitative Rape/*Quasi*-Imitative Rape as prescribed in Sexual Crime Act, Article 3, paragraph 1, Article 4 (including attempts thereof)	Sexual Crime Act, Article 8, paragraph 1 (Article 3, paragraph 1, Article 4, paragraph 1, paragraph 3)

2. BODILY INJURY OR RESULTING IN BODILY INJURY ON A PERSON WITH DISABILITY (AGED 13 OR OVER) OR A CHILD UNDER 13 (INCLUDING STATUTORY RAPE AGAINST A MINOR UNDER 16)

(1) TYPE 1 — STATUTORY FORCIBLE INDECENT ACTS

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury is caused against a victim under thirteen years of age as a result of indecent acts by compulsion (including attempts thereof)	Criminal Act, Article 305, paragraph 1, (Article 301)
Bodily injury is caused by an offender aged nineteen or over, against a victim aged thirteen to under sixteen as a result of indecent acts by compulsion (including attempts thereof)	Criminal Act, Article 305, paragraph 2 (Article 301)

(2) TYPE 2 — STATUTORY RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury is caused against a victim under thirteen years of age as a result of Sexual Intercourse, *Pseudo*-Sexual Intercourse (including attempts thereof)	Criminal Act, Article 305, paragraph 1 (Article 301)
Bodily injury is caused by an offender aged nineteen or over, against a victim aged thirteen to under sixteen by having sexual intercourse (including attempts thereof) or having *pseudo-sexual intercourse* (including attempts thereof)	Criminal Act, Article 305, paragraph 1 (Article 301)

(3) TYPE 3 — FORCIBLE INDECENT ACTS

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury is caused against a victim under thirteen years of age as a result of Indecent Acts by Compulsion, *Quasi*-Indecent Acts by Compulsion/ Indecent Acts by Deceptive Schemes or by the Use of Force as prescribed in the Sexual Crime Act, Article 7, paragraph 3 to 5 (including attempts thereof)	Sexual Crime Act, Article 8, paragraph 1 (Article 7, paragraph 3 to paragraph 5)
Bodily injury is caused against a disabled victim as a result of Indecent Acts by Compulsion, *Quasi*- Indecent Acts by Compulsion/Indecent Acts by Deceptive Schemes or by the Use of Force as prescribed in Sexual Crime Act, Article 6, paragraph 3, 4, 6 (including attempts thereof)	Sexual Crime Act, Article 8, paragraph 1 (Article 6, paragraph 3, paragraph 4, paragraph 6)

(4) TYPE 4 — SEXUAL ABUSE INVOLVING NON-PENILE PENETRATION

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury is caused against a victim under thirteen years of age as a result of Imitative Rape/ *Quasi*-Imitative Rape/*Quasi*-Sexual Penetration by Deceptive Schemes or by the Use of Force as prescribed in the Sexual Crime Act, Article 7, paragraph 2, paragraph 4, paragraph 5 (including attempts thereof)	Sexual Crime Act, Article 8, paragraph 1 (Article 7, paragraph 2, paragraph 4, paragraph 5)
Bodily injury is caused against disabled victim as a result of Imitative Rape/*Quasi*-Imitative Rape as prescribed in the Sexual Crime Act, Article 6, paragraph 2, paragraph 4 (including attempts thereof)	Sexual Crime Act, Article 8, paragraph 1 (Article 6, paragraph 2, paragraph 4)

(5) TYPE 5 — RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury caused as a result of Rape/*Quasi*-Rape, Sexual Intercourse by Deceptive Schemes or Use of Force as prescribed in the Sexual Crime Act, Article 7, paragraph 1, paragraph 4, paragraph 5 (including attempts thereof)	Sexual Crime Act, Article 8, paragraph 1 (Article 7, paragraph 1, paragraph 4, paragraph 5)
Bodily injury caused as a result of Rape/*Quasi*-Rape, Sexual Intercourse by Deceptive Schemes or Use of Force as prescribed in the Sexual Crime Act, Article 6, paragraph 1, paragraph 4, paragraph 5 (including attempts thereof)	Sexual Crime Act, Article 8, paragraph 1 (Article 6, paragraph 1, paragraph 4, paragraph 5)

3. SEXUAL CRIMES UNDER THE MILITARY CRIMINAL ACT

(1) TYPE 1 - FORCIBLE INDECENT ACTS COMMITTED AGAINST MILITARY PERSONNEL, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury caused as a result of Indecent Acts by Compulsion, *Quasi*-Indecent Acts by Compulsion (including attempts thereof) committed against military personnels, etc.	Military Criminal Act, Article 92-7 (Article 92-3, Article 92-4)

(2) TYPE 2 - SEXUAL ABUSE INVOLVING NON-PENILE PENETRATION/RAPE AGAINST MILITARY PERSONNEL, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury caused as a result of Imitative Rape, *Quasi*-Imitative Rape (including attempts thereof) against military personnels, etc.	Military Criminal Act, Article 92-7 (Article 92-2, Article 92-4)
Bodily injury caused as a result of Rape, *Quasi*-Rape (including attempts thereof) against military personnels, etc.	Military Criminal Act, Article 92-7 (Article 92, Article 92-4)

3 CASES RESULTING IN DEATH (RAPE RESULTING IN DEATH/ SEXUAL ABUSE INVOLVING NON-PENILE PENETRATION RESULTING IN DEATH/FORCIBLE INDECENT ACTS RESULTING IN DEATH)

ELEMENTS OF OFFENSE	APPLICABLE LAW
Death as a result of Rape/*Quasi*-Rape/Imitative Rape/ *Quasi*-Imitative Rape/Indecent Acts by Compulsion/ *Quasi*- Indecent Acts by Compulsion (including attempts thereof)	Criminal Act, Article 301-2
Death of the victim as a result of crimes as prescribed in the Sexual Crime Act, from Article 4, Article 5 (including attempts thereof)	Sexual Crime Act, Article 9, paragraph 2
Death of the victim as a result of sexual crimes as prescribed in the Sexual Crime Act, Article 6, Article 7 (including attempts thereof)	Sexual Crime Act, Article 9, paragraph 3
Death of the victim as a result of crime as prescribed in the Act on the Protection of Children and Youth Against Sex Offenses, Article 7 (including attempts thereof)	Act on the Protection of Children and Youth Against Sex Offenses, Article 10, paragraph 2
Death of the victim as a result of Rape/Quasi-Rape/Imitative Rape/Quasi-Imitative Rape/Indecent Acts by Compulsion/ Quasi-Indecent Acts by Compulsion (including attempts thereof) committed against military personnel, etc.	Military Criminal Act, Article 92-8

※ The following offenses constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes, or the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years) (This applies to all offenses which fall under Type 1 through Type 3)

ELEMENTS OF OFFENSE	APPLICABLE LAW
An offender, after sentenced for the offense of rape after robbery (including attempts thereof), repeats the commission of such offense within three years upon completion of sentence or upon the exemption from the sentence.	Aggravated Punishment Act, Article 5-5
An offender, after sentenced for the offense of a special violent crime as prescribed in the Special Violent Crime Act, repeats the commission of a sexual crime as prescribed in the Act, Article 2, paragraph 1, subparagraph 3 and 4 within three years upon the completion of sentence or upon the exemption from the sentence.	Special Violent Crime Act, Article 3

※ The following applies to cases where the offender is a mandatory reporter of child abuse cases (This applies to all offenses which fall under Type 1 Through Type 3)

ELEMENTS OF OFFENSE	APPLICABLE LAW
An offender is a person who has a duty to report child abuse cases under Article 10, paragraph 2, and commits a crime of child abuse as stipulated in Article 2, subparagraph 4, item 6, item 13 (This is limited to habitual offenders falling within item 6 and subject to aggravated punishment under other statutes) of the same Act against a child under his or her protection.	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 7

DEFINITION OF SENTENCING FACTORS

1 GENERAL STANDARDS[3)]

1. SADISTIC AND PERVERSE CONDUCTS

- This applies where one or more of the following are present and the resulting harm or bodily injury is considerably severe:
  - Conducts that cause prolonged immobility to the victim by the use of means such as strapping,
  - Conducts that inflicts bodily harm to the victim's body by the use of instruments such as cigarette butt, needle, club, and the like,
  - Conducts that inserts substances into the sexual organs of the victim,
  - Other conducts with other comparable factors.

2. OFFENSE WITH AN EXTREME LEVEL OF SEXUAL HUMILIATION

- This indicates cases in which one or more of the following factors apply and as a result of the commission of the offense caused extreme levels sexual humiliation to the victim:
  - When the commission of the offense was filmed.
  - When the offense was committed in the presence of others, such as the victim's children, spouse, or parents.
  - When substances or instruments were used for sexual pleasure.
  - Other cases with comparable factors.

3. CONSTANT AND REPEATED OFFENSE AGAINST MULTIPLE VICTIMS

- This indicates cases in which the offender committed sexual crimes against multiple victims of five or more in a constant and repeated manner.

3) Sentencing factors with the same designation that apply to offenses resulted in bodily injury or death of the victim have the same definition unless separately defined.

4. TAKING ADVANTAGE OF AUTHORITY AS A SUPERIOR

- This means the defendant is the victim's superior (under the Military Criminal Act, Article 2, subparagraph 1) and taking advantage of such authority (including explicitly exercising authority or influence in performing one's duties).

5. VULNERABLE VICTIMS

- This indicates cases in which the victim was especially vulnerable due to physical or mental incapacity, the victim's age at the time of the crime, rank within an organization, as such the military, positions of authority, or chain of command, and the offender was already aware of or possibly aware of the victim's circumstances.

6. VICTIM'S PREGNANCY

- This indicates cases in which the victim has been impregnated as a result of the offense.

7. OFFENSE COMMITTED IN A SPECIALLY PROTECTED AREA

- This indicates cases where the offender induces or attempts to induce the victim from specially protected areas for children under thirteen years of age. This applies to schools (including school grounds and buildings), nurseries, orphanages, kindergartens, other educational facilities, places nearby the facilities, streets leading to the facilities, stairways, elevators in apartment complexes, and the like.

8. VICTIM EXPRESSES THE INTENT OF NON-PUNISHMENT

- This indicates cases in which the offender shows sincere remorse with genuine efforts to reach a settlement with the victim; the victim or the family of victim (in the case of a deceased victim) fully understands the legal and social implications of opposing punishment and clearly expresses an intention not to seek punishing the offender. However, this should not apply in the following cases:
  - (1) in cases in which the victim or the family of the deceased opposes punishment as a result of *de facto* coercion or deceit by the offender against the victim's will, or

- (2) where there is no reasonable or convincing basis for the victim or their legal representative to express no desire for punishment.

- This applies only to cases in which, upon careful and thorough examination and assessment of the victim's or legal representative's age, intelligence, and ability to fully understand the meaning, content, and legal implications of expressing an intent not to seek punishment, it is determined that such expression is both informed and genuine.

9. OFFENSE BY THE PERSON WITH LEGAL OBLIGATION TO REPORT CHILD ABUSE OR BY A CHILD WELFARE FACILITY STAFF PRESCRIBED IN ACT CONCERNING THE PUNISHMENT OF CHILD ABUSE, ARTICLE 7

- This applies where one or more of the following are present:
  - Offense committed by the director of an organization or the employee of the institution or facilities prescribed in the Children-Juvenile Sexual Crime Act, Article 34, paragraph 2 against a child or juvenile victim who is under the protection, supervision, or medical treatment of the offender,
  - Offense committed by the director of an organization or the employee of the institution or facilities established with the purpose to protect and educate disabled persons,
  - Offense is committed by the person, with the duty to report child abuse cases set forth Act on Special Cases Concerning Punishment of Child Abuse Crime, Article 10, paragraph 2, against the child under his or her protection.

10. MINOR PARTICIPATION

- This indicates cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.

- However, this does not apply in cases in which the offender had an active role in the commission of the offense by causing another person to commit the crime by means such as in an attempt to fulfill the offender's voyeurism.

11. PLANNED CRIME

- This applies where one or more of the following are present:
  - Advance preparation and possession of the crime weapon ,
  - Planned conspiracy,
  - Inducement of victim,
  - Preparation of destruction of evidence,
  - Prior planning of a flight plan,
  - Other cases with comparable factors.

12. MORALLY REPREHENSIBLE MOTIVES

- This applies where one or more of the following are present:
  - Offense committed for the purpose of preventing the victim's report of another crime that the offender committed,
  - Offense committed out of retaliation, grievance, or hatred against the victim,
  - Offense committed for economic gain,
  - Other cases with comparable factors.

13. OFFENSE COMMITTED BY CAUSING DIMINISHED PHYSICAL OR MENTAL CAPACITY OF THE VICTIM

- This indicates cases in which the reduced mental capacity is caused by the use of alcohol, substances, or the like with the purpose of diminishing the victim's perception and control for the commission of the offense.

14. SINCERE REMORSE

- This refers to cases where the defendant is recognized as having sincere remorse for committing the crime, specifically cases where the specific circumstances of acknowledging the crime, voluntary efforts for damage recovery or crime prevention, etc., are recognized through investigation and judgment.

15. NO PRIOR CRIMINAL CONVICTIONS

- It means that the defendant has no previous criminal conviction before. However, this does not apply to cases in which the offense was committed repeatedly over an extended period.

16. ABUSE OF RELATIONSHIPS OF TRUST

- This indicates cases in which the offender exploits mutual relationship with the victim and his/her trust in the offender, while it does not amount to a statutorily aggravated offense. Examples of such relationship include:
  - Teacher-student relationship,
  - Child of an acquaintance,
  - Patient,
  - Subordinate,
  - Member of a religious congregation,
  - Other comparable relationships.

17. PRIOR CRIMINAL CONVICTION OF THE SAME-OFFENSE

- This refers to cases of criminal convictions for sexual assault offense as set forth in the sentencing guideline.

18. CAUSING SECONDARY HARM

- This indicates cases of causing secondary harm to the victim after the first offense and constitutes one of followings;
  - the offender consistently harassed the victim while attempting to reach settlement, or put undue pressure on the victim by means of implying tangible or intangible disadvantages, otherwise causing harm through comparable means in response to refusal of settlement
  - disclosure of personal information of the victim, any disadvantageous measures for reporting or insulting remarks on the victim, or bullying
  - other cases with comparable factors

2 CASES RESULTING IN INJURY

1. MINOR BODILY INJURIES

- This indicates cases in which the inflicted injury requires two weeks or less of medical care, affecting relatively limited bodily parts, which does not disrupt the victim's day-to-day activities and does not require medical intervention such as surgical stitches and the like.

2. SERIOUS BODILY INJURIES

- This indicates cases in which the recovery from the inflicted injury requires 4 to 5 weeks or more of medical care in general, including incidences with after-effects causing impairment, severe disability resulting from the offense, injuries inflicted on vulnerable body parts, or further anticipated bodily injuries.

3 CASES RESULTING IN DEATH

1. OFFENDER'S ACTS WERE NOT THE DIRECT CAUSE OF DEATH

- This indicates cases in which the intervening causes were unforeseen by the offender at the time of the commission of the offense and, the offender cannot be held liable for the direct cause of the death.

2. ABSENCE OF REMORSE (EXCLUDING CASES WHERE THE OFFENDER MERELY DENIES OFFENSE)

- This indicates cases in which the offender admits to committing the crime yet does not express any sign of guilt or remorse but rather justifies the offense conduct. This should be distinguished from merely denying the offense.

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number. However, where a victim or bereaved family member has intent of non-punishment, such wishes may be treated on a par with a Conduct Factor.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.
- Where the upper limit of the sentencing range under the sentencing guidelines exceeds 25 years, life imprisonment may be imposed.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2. If the resulting upper limit exceeds 25 years, life imprisonment may be imposed.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE SENTENCING GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE RANGE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

  ※ Even where "Where the offense was committed against multiple victims, or was repeatedly committed over a prolonged period" is reflected as a Special Aggravating Sentencing Factor, these Guidelines on Sentencing Multiple Offenses shall apply separately.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE OFFENSES

- Except for concurrent offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply:

❶ For multiple offenses involving two offenses, the upper end of the sentencing range shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION		ADVERSE	AFFIRMATIVE
Primary Circumstance	Risk of Recidivism, Etc.	• Planned crime • Sadistic and perverse conduct or offense with an extreme level of sexual humiliation • Offense committed in a specially protected area (applies to a sexual offense against a victim under thirteen years of age) • Prior convictions for the same-offense (a suspended sentence of imprisonment or a heavier punishment within the past 10 years) • Repeated crimes • Vulnerable victims • Use of dangerous objects • Gang-rape	• Cases where the degree of violence is extremely minor in forcible indecent acts (against a victim aged 13 or older, excluding offenses committed against persons with disability) • Offender attempted to thwart or hinder the accomplice's commission of the crime • Cases where the degree of the indecent acts is minor
	Others	• Offense as prescribed in the Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 5 • Offense by a mandatory reporter or a child welfare facility employee, or cases where the offender with an obligation to report child abuse cases committed a crime of child abuse as defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Pregnancy of the victim • Serious bodily injuries	• Cases where bodily injury resulted from the acts, but the base offense remained at the attempt stage • Victim expresses the intent of non-punishment

CLASSIFICATION		ADVERSE	AFFIRMATIVE
General Circumstance	Risk of Recidivism, Etc.	• Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Lack of family/social ties • Offense resulting in diminished physical or mental capacity of the victim • Drug or alcohol addiction • Absence of sincere remorse	• No criminal conviction for the same offense, and no prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Stable family/social ties • Offense committed impulsively • Voluntary surrender to investigative agencies • Sincere remorse
	Others	• Active participation as a co-offender • Destroying evidence or attempting to conceal evidence after the commission of the offense • Causing secondary harm (excepting cases where the act constitutes a crime of coercion)	• Offender's minor participation as a co- offender • Cases of physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member • Considerable restitution

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.
- Repeated Offense
  - This refers to cases where the offender is found to have repeatedly committed similar offenses, upon comprehensive consideration of the nature of the offense, the offender's history of punishment, and concurrent offense, etc.
  - However, this does not apply to cases in which multiple conducts of sexual intercourse constitute a single offense.
- Offense Committed Impulsively
  - This refers to a case where the offender, while contacting the victim for some other purpose without any intent to commit the offense, formed such criminal intent only at that point and committed the offense, and where there was no planning or advance preparation for the offense, such as luring the victim or bringing the victim into a state of diminished physical or mental capacity.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:

❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.

❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.

❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.

❹ Even where ❸ above is applicable, imprisonment shall be recommended if:

- Rape, Sexual Abuse Involving Non-penile Penetration against a victim under 13 years of age, or Rape against a disabled victim (13 years of age or older),
- Rape after Robbery (including Aggravated Robbery and Rape and Sexual Abuse Involving Non-penile Penetration), or Indecent Acts by Compulsion After Special Robbery,
- Continued and/or Repeated Offenses against three or more victims,
- Prior conviction for the same-offense within 3 years resulting in a suspended sentence of imprisonment without labor.