

A CRITICAL ANALYSIS OF THE APPLICATION OF GUIDELINES ON REDUCTION IN SENTENCES FOR GUILTY PLEAS IN SINGAPORE

This article examines the Court of Appeal’s decision in *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 with regard to the application of the Guidelines on Reduction in Sentences for Guilty Pleas (“PG Guidelines”) to drug trafficking cases. This article first starts with analysing the aims and objectives of the PG Guidelines and the Sentencing Advisory Panel. It then sets out a summary of the Court of Appeal’s decision and highlights three main issues arising from the decision. This article posits that a different judicial approach should have been adopted. Alternatively, legislative reforms, with reference to other jurisdictions, are necessary.

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I. Introduction

1 On 15 August 2023, the Sentencing Advisory Panel (“SAP”) issued its first sentencing guidelines – Guidelines on Reduction in Sentences for Guilty Pleas² (“PG Guidelines”). More than a year later, Singapore’s Court of Appeal had the opportunity to consider the application of the PG Guidelines to drug trafficking offences in *Iskandar bin Jinan v Public Prosecutor*³ (“*Iskandar*”). The approach in *Iskandar* raises some questions which forms the primary basis of this paper. Although *Iskandar* was a drug trafficking case, it also raises issues that are of wider implications.

2 In Section II, this paper will provide an introduction to the PG Guidelines. In Section III, the facts and holdings of *Iskandar* are set out. In Section IV, this paper highlights three issues arising from *Iskandar*.

1 I am immensely grateful to Assistant Professor Benny Tan (Faculty of Law, National University of Singapore) for his invaluable guidance throughout the writing of this article. The views expressed herein are entirely my own views. This article is written in my personal capacity and is not representative of any organisation. All errors remain mine alone.

2 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025).

3 [2024] 2 SLR 673.

In Section V, this paper argues for a different approach that the Court of Appeal in *Iskandar* should have adopted, and pre-emptively defends the said approach from potential criticisms. In Section VI, drawing from other jurisdictions, this paper suggests for legislative reforms. Finally, Section VII concludes this paper.

II. Guidelines on Reduction in Sentences for Guilty Pleas

3 In this section, an introduction to the PG Guidelines is provided by looking at the aims and objectives of the SAP and the framework of the PG Guidelines.

A. *Aims and objectives of Sentencing Advisory Panel*

4 The SAP's "key function ... is to formulate and publish guidelines on matters relating to sentencing".⁴ The purpose of publishing guidelines is "to promote greater consistency, transparency and public awareness".⁵

5 However, beyond the above aims, this paper argues that the SAP was formed to "lead the way" in sentencing. The SAP is not restricted to merely restating established court practices but rather is meant to recommend changes to existing sentencing practices or to clarify the best practices where there is ambiguity.

6 The SAP is said to be "proactive" in its publication, so as to "pre-empt or address areas of concern".⁶ It adopts a holistic and consultative approach by involving different stakeholders,⁷ and may also conduct research in promulgating guidelines.⁸ The proactive, holistic and consultative approach of the SAP shows that it is meant to review current court practices and address concerns by proposing a

4 Ministry of Law, "Establishment of Sentencing Advisory Panel" (2 June 2022) <<https://www.mlaw.gov.sg/news/press-releases/2022-06-02-establishment-of-sentencing-advisory-panel/>> (accessed 11 April 2025).

5 Ministry of Law, "Establishment of Sentencing Advisory Panel" (2 June 2022) <<https://www.mlaw.gov.sg/news/press-releases/2022-06-02-establishment-of-sentencing-advisory-panel/>> (accessed 11 April 2025).

6 Singapore Parl Debates; Vol 95, Sitting No 26; [5 March 2021] (K Shanmugam, Minister for Home Affairs and Minister for Law).

7 Singapore Parl Debates; Vol 95, Sitting No 26; [5 March 2021] (K Shanmugam, Minister for Home Affairs and Minister for Law); Sentencing Advisory Panel, "What We Do" <<https://www.sentencingpanel.gov.sg/what-we-do/>> (accessed 11 April 2025).

8 Sentencing Advisory Panel, "What We Do" <<https://www.sentencingpanel.gov.sg/what-we-do/>> (accessed 11 April 2025).

recommended approach. In essence, the SAP would be recommending for a change in the law.

7 A parallel can be drawn to the Sentencing Advisory Panel⁹ in England and Wales. There, with regard to rape, the prevailing court practice up till 2005 was to treat a previous sexual relationship between the offender and the victim as a mitigating factor.¹⁰ However, the UK's Sentencing Advisory Panel had conducted research, including interviewing victims, and found that rape by a husband or other sexual partner is as serious as "stranger rape".¹¹ Therefore, the UK Sentencing Advisory Panel had recommended – contrary to prevailing court practices – that the English Court of Appeal pronounce that no mitigatory weight should be given to a previous sexual relationship.¹² The proactive, consultative and research-based approach of the UK Sentencing Advisory Panel allowed it to recommend for a change in court practices. Therefore, similarly, the stated proactive, holistic, consultative and research-based approach of Singapore's SAP strongly suggests that it is meant to recommend changes in court practices as well.

8 In fact, it can be said that the SAP *is indeed* "leading the way" in Singapore's sentencing jurisprudence.¹³ For example, in the

9 The Crime and Disorder Act 1998 (c 37) (UK) created the Sentencing Advisory Panel in the UK. "The [Sentencing Advisory] Panel was established to draft and consult on proposals for guidelines, [and] refer them back to the Court of Appeal for consideration" (The Sentencing Council for England and Wales, "About the Sentencing Council: History" <<https://www.sentencingcouncil.org.uk/sentencing-and-the-council/about-the-sentencing-council/history/>>). The Sentencing Advisory Panel's recommendations to the English Court of Appeal were not binding.

10 *Public Prosecutor v Mohammed Liton Mohammed Syeed Mallik* [2008] 1 SLR(R) 601 at [104]–[107].

11 *Public Prosecutor v Mohammed Liton Mohammed Syeed Mallik* [2008] 1 SLR(R) 601 at [109].

12 *Public Prosecutor v Mohammed Liton Mohammed Syeed Mallik* [2008] 1 SLR(R) 601 at [108] and [110].

13 In the Guidelines for Scams-Related Offences ("Scam Guidelines"), the Sentencing Advisory Panel suggests that fines, probation and community sentences are inappropriate for scams-related offences, even for young offenders: Sentencing Advisory Panel, "Guidelines for Scams Related Offences" (21 August 2024) <<https://www.sentencingpanel.gov.sg/guidelines-for-scams-related-offences/>> (accessed 13 August 2025) at para 7. This is a marked deviation from the sentences that were previously being meted out. For example, in *Public Prosecutor v Muhammad Ryan Rosmani* [2024] SGDC 239 at [24], a case which was decided after the publication of the Scam Guidelines, the district judge declined to follow a precedent because that precedent case "[did] not reflect the current context of intensified efforts to combat the ever-growing menace of scams-related offences". For a case decided before the publication of the Scam Guidelines where probation was given to a youthful offender for a scam-related offence, see the unreported case of *Public Prosecutor v Jervis Tan Le Jia* (Lorraine Lee, "Last chance': Youth Gets
(cont'd on the next page)

PG Guidelines, the SAP's suggestion is for a plea of guilt to be accounted for at a separate stage in a sentencing framework¹⁴ which is a clear deviation from the Court of Appeal's previous demurral to do so.¹⁵ The SAP also suggests that the strength of the evidence against the accused person should not be considered in determining the level of reduction in sentence for a guilty plea,¹⁶ which is a deviation from then-prevailing court practices.¹⁷

9 Admittedly, the Minister for Law has said that the PG Guidelines “do not fundamentally change our present sentencing practice”.¹⁸ At first blush, this contradicts the argument that the PG Guidelines are intended to “lead the way” in court sentencing practices. However, the Minister's comments must be read in its context. The Minister was making the point that, even before the PG Guidelines, courts had already been reducing sentences on account of guilty pleas.¹⁹ This was in response to a concern raised that criminals may be getting away with lighter sentences by “exploiting the maximum amount of mitigating options available to them”.²⁰ Therefore, rather than asserting that the PG Guidelines are not meant to “lead the way”, the Minister was simply clarifying that the very concept of the PG Guidelines is not a new development. The point remains that the PG Guidelines do change

Probation for Helping JB Syndicate Withdraw S\$2.2m of Suspected Scam Funds from ATMs”, *Channel News Asia* (12 August 2024) <<https://www.channelnewsasia.com/singapore/last-chance-youth-probation-syndicate-withdraw-s22m-scam-4879046>> (accessed 11 April 2025)). Indeed, the State Courts have since adopted the Scam Guidelines and meted out imprisonment terms: see, eg, *Public Prosecutor v Damian Eiyuu Ang* [2025] SGDC 5 and *Public Prosecutor v Cheah Bernice* [2024] SGDC 220.

- 14 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 8, Table 1.
- 15 *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 at [38].
- 16 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 8, Table 1.
- 17 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [60]–[64].
- 18 Singapore Parl Debates; Vol 95, Sitting No 112; [19 September 2023] (K Shanmugam, Minister for Home Affairs and Minister for Law).
- 19 Singapore Parl Debates; Vol 95, Sitting No 112; [19 September 2023] (K Shanmugam, Minister for Home Affairs and Minister for Law): “Currently, the Courts can and do reduce sentences, in appropriate cases, if accused persons plead guilty.”
- 20 Singapore Parl Debates; Vol 95, Sitting No 112; [19 September 2023] (K Shanmugam, Minister for Home Affairs and Minister for Law): “The Guidelines would not result in ‘criminals getting away with much lighter sentences.’” As mentioned earlier, our courts already grant reductions in sentences where accused persons plead guilty, in appropriate cases.

present sentencing practices, as already highlighted earlier and which the Minister also recognises,²¹ albeit not “fundamentally”.

10 Therefore, on top of promoting greater consistency, transparency and public awareness, the SAP was formed to “lead the way” in sentencing jurisprudence.

B. Framework of Guidelines on Reduction in Sentences for Guilty Pleas

11 The PG Guidelines provide a three-step framework for determining a sentence where an accused person has pleaded guilty:

Step 1:²² Determine indicative sentence without considering any factors relating to accused’s guilty plea.

Step 2: Determine the applicable stage of proceedings with reference to Table 1 below.

Step 3:²³ Apply an appropriate reduction to the indicative sentence. The reduction should generally not exceed the maximum reduction for the applicable stage. If the law provides for a mandatory minimum sentence, the sentence cannot be reduced below the mandatory minimum sentence.

21 Singapore Parl Debates; Vol 95, Sitting No 112; [19 September 2023] (K Shanmugam, Minister for Home Affairs and Minister for Law): “The Guidelines build on and provide greater structure to the existing practice”.

22 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 8, Table 1.

23 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 8, Table 1.

Stage	Description	Reduction in sentence to be considered
1	From the first mention until 12 weeks after the hearing when the prosecution informs the court and the accused person that the case is ready for the plea to be taken.	Up to 30%
2	After Stage 1, until either of the following: For cases subject to Criminal Case Disclosure (“CCD”) procedures, when the court first gives directions for the filing of the Case for the Prosecution in relation to the charge. For cases not subject to CCD procedures, when the court first fixes trial dates for the charge.	Up to 20%
3	After Stage 2, until before the first day of trial.	Up to 10%
4	On or after the first day of trial.	Up to 5%

Table 1. Stages and the respective reduction provided for in the PG Guidelines²⁴

12 The PG Guidelines also provide for a “public interest exception” – that a court may decline to apply the PG Guidelines if it would be “contrary to public interest” to apply the PG Guidelines.²⁵ In such cases, the court may apply a “just and proportionate” reduction as it deems fit.²⁶

III. Court of Appeal’s decision in *Iskandar bin Jinan v Public Prosecutor*

13 *Iskandar*²⁷ was an appeal by Iskandar bin Jinan (“Iskandar”) and Mohd Farid Merican bin Maiden (“Farid”) against their sentences imposed by the High Court.²⁸ Iskandar was convicted, *inter alia*, of trafficking in not less than 14.99g of diamorphine, and Farid for abetting Iskandar’s trafficking.²⁹

24 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 9, Table 2.

25 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 13(b).

26 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 13(b).

27 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673.

28 *Public Prosecutor v Iskandar bin Jinan* [2024] SGHC 134.

29 A full list of charges and the sentences imposed by the High Court upon each of the defendants in *Public Prosecutor v Iskandar bin Jinan* [2024] SGHC 134 can be found at Annex A.

14 The Court of Appeal’s decision can be split into two parts: (a) the endorsement of, and comments regarding, the PG Guidelines; and (b) the “calibration”³⁰ of the PG Guidelines in relation to drug trafficking offences in the Misuse of Drugs Act 1973³¹ (“MDA”).

A. Endorsement of and comments regarding Guidelines on Reduction in Sentences for Guilty Pleas

15 The Court of Appeal endorsed the PG Guidelines as an appropriate analytical framework to determine the extent to which a sentence might be reduced on account of an offender’s guilty plea,³² because the PG Guidelines rightly give effect to a guilty plea as a mitigating factor by recognising the utilitarian benefits of an early plea of guilt³³ and by quantifying the utilitarian value of a plea of guilt with reference to the timeliness of the same.³⁴

16 The court also endorsed accounting for the guilty plea in a separate step from other aggravating and mitigating factors,³⁵ departing from its previous decision in *Ng Kean Meng Terence v Public Prosecutor*³⁶ (“*Terence Ng*”).³⁷

17 Curiously,³⁸ despite the Court of Appeal’s endorsement of the PG Guidelines and its departure from *Terence Ng*, the court also went to great lengths to emphasise that the PG Guidelines are non-binding on the courts.³⁹ Consequently, the court explained that it would be inaccurate to

30 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [6].

31 2020 Rev Ed.

32 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [49].

33 The utilitarian benefits of a plea of guilt are: “... (b) it spares the victim the ordeal of having to testify, thereby saving the victim the horror of having to re-live the incident; and (c) it saves the resources of the State which would otherwise have been expended if there were a trial” (*Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 at [66], citing *Regina v Millberry* [2003] 1 WLR 546 at [27]–[28]).

34 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [50].

35 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [51]–[69].

36 [2017] 2 SLR 449.

37 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [70]–[76].

38 The Court of Appeal’s decision to endorse the Guidelines on Reduction in Sentences for Guilty Pleas (“PG Guidelines”) over judicial precedents regarding the framework to assess the mitigatory weight of a plea of guilt and yet also condemn the PG Guidelines as non-binding and inferior to judicial precedents is an issue which will be revisited below at paras 25–29.

39 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [6], [57] and [72].

speak of “modifying” the PG Guidelines⁴⁰ or of the PG Guidelines being inconsistent with judicial precedents.⁴¹

B. *Applicable maximum reductions in Guidelines on Reduction in Sentences for Guilty Pleas for drug trafficking offences*

18 The Court of Appeal considered four different ways⁴² that the PG Guidelines could be applied to drug trafficking offences:

- (a) a maximum reduction of 30% (“Uncalibrated PG Guidelines Approach”);
- (b) a maximum reduction of 15% (“High Court’s Approach”);
- (c) a maximum reduction of 10% (“Prosecution’s Approach”); and
- (d) applying the maximum reduction of 30% to the interval of the relative indicative starting band (in the case of first-time offenders) or indicative aggregate band (in the case of repeat offenders) (“Young Independent Counsel’s Approach”).

Weight of diamorphine	Indicative starting sentence (for first-time offender)	Sentence after applying 30% maximum reduction (Uncalibrated PG Guidelines Approach)	Sentence after applying 15% maximum reduction (High Court’s Approach)	Sentence after applying 10% maximum reduction (Prosecution’s Approach)	Sentence after applying 30% maximum reduction of the interval (YIC’s Approach)
Prescribed sentencing range: 5 to 20 years’ imprisonment (s 33(1) of the MDA, read with row 1 of the Second Schedule of the MDA dealing with s 5 of the MDA)					
Up to 3g	5 to 6 years	5 years	5 years to 5 years 1 month	5 years to 5 years 5 months	5 years to 5 years 8 months
3g to 5g	6 to 7 years	5 years	5 years 1 month to 6 years	5 years 5 months to 6 years 4 months	5 years 8 months to 6 years 8 months
5g to 7g	7 to 8 years	5 years to 5 years 7 months	6 years to 6 years 10 months	6 years 4 months to 7 years 2 months	6 years 8 months to 7 years 8 months

40 It would be more accurate to speak of “calibrating” the PG Guidelines: see *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [6].

41 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [72].

42 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [77].

Weight of diamorphine	Indicative starting sentence (for first-time offender)	Sentence after applying 30% maximum reduction (Uncalibrated PG Guidelines Approach)	Sentence after applying 15% maximum reduction (High Court's Approach)	Sentence after applying 10% maximum reduction (Prosecution's Approach)	Sentence after applying 30% maximum reduction of the interval (YIC's Approach)
7g to 8g	8 to 9 years	5 years 7 months to 6 years 3 months	6 years 10 months to 7 years 8 months	7 years 2 months to 8 years 1 month	7 years 8 months to 8 years 8 months
8g to 9g	10 to 13 years	7 years to 9 years 1 month	7 years 8 months to 11 years	9 years to 11 years 8 months	9 years 1 month to 12 years 1 month
9g to 9.9g	13 to 15 years	9 years 1 month to 10 years 6 months	11 years to 12 years 9 months	11 years 8 months to 13 years 6 months	12 years 5 months to 14 years 5 months
Prescribed sentencing range: 20 to 30 years' or life imprisonment (s 33(1) of the MDA, read with row 4 of the Second Schedule of the MDA dealing with s 5 of the MDA)					
10g to 11.5g	20 to 22 years	20 years	20 years	20 years	20 years to 21 years 5 months
11.5g to 13g	23 to 25 years	20 years	20 years to 21 years 3 months	20 years 8 months to 22 years 6 months	22 years 5 months to 24 years 5 months
13g to 15g	26 to 29 years	20 years to 20 years 3 months	22 years 1 month to 24 years 8 months	23 years 5 months to 26 years 1 month	25 years 1 month to 28 years 1 month

Table 2. Tabular representation of the four approaches considered by the Court of Appeal in respect of first-time offenders⁴³

Weight of diamorphine	Indicative aggregate (after accounting for uplift for repeat offender)	Sentence after applying 30% maximum reduction (Uncalibrated PG Guidelines Approach)	Sentence after applying 15% maximum reduction (High Court's Approach)	Sentence after applying 10% maximum reduction (Prosecution's Approach)	Sentence after applying 30% maximum reduction of interval (YIC's Approach)
Prescribed sentencing range: 10 to 30 years' imprisonment (s 33(4A) of the MDA)					
Up to 3g	10 to 14 years	10 years	10 years to 11 years 11 months	10 years to 12 years 7 months	10 years to 12 years 10 months
3g to 5g	11 to 15 years	10 years to 10 years 6 months	10 years to 12 years 9 months	10 years to 13 years 6 months	10 years to 13 years 10 months

43 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [88].

Weight of diamorphine	Indicative aggregate (after accounting for uplift for repeat offender)	Sentence after applying 30% maximum reduction (Uncalibrated PG Guidelines Approach)	Sentence after applying 15% maximum reduction (High Court's Approach)	Sentence after applying 10% maximum reduction (Prosecution's Approach)	Sentence after applying 30% maximum reduction of interval (YIC's Approach)
5g to 7g	12 to 16 years	10 years to 11 years 2 months	10 years 2 months to 13 years 7 months	10 years 10 months to 14 years 5 months	10 years 10 months to 14 years 10 months
7g to 8g	12 to 16 years	10 years to 11 years 2 months	10 years 2 months to 13 years 7 months	10 years 10 months to 14 years 5 months	10 years 10 months to 14 years 10 months
8g to 9g	14 to 20 years	10 years to 14 years	11 years 11 months to 17 years	12 years 7 months to 18 years	12 years 2 months to 18 years 2 months
9g to 9.99g	16 to 20 years	11 years 2 months to 14 years	13 years 7 months to 17 years	14 years 5 months to 18 years	14 years 10 months to 18 years 10 months
Prescribed sentencing range: 20 to 30 years' or life imprisonment (s 33(4A) read with s 33(4D) of the MDA, read with s 33(1) of the MDA, read with row 4 of the Second Schedule of the MDA dealing with s 5 of the MDA)					
10g to 11.5g	23 to 28 years	20 years	20 years to 23 years 10 months	20 years 8 months to 25 years 2 months	21 years 6 months to 26 years 6 months
11.5g to 13g	25 to 29 years	20 years to 20 years 4 months	21 years 3 months to 24 years 8 months	22 years 6 months to 26 years 1 month	23 years 10 months to 27 years 10 months
13g to 15g	27 to 30 years	20 years to 21 years	22 years 11 months to 25 years 6 months	24 years 4 months to 27 years	26 years 1 month to 29 years 1 month

Table 3. Tabular representation of the four approaches considered by the Court of Appeal in respect of repeat offenders⁴⁴

19 Seemingly through the process of elimination,⁴⁵ the Court of Appeal eventually adopted the Prosecution's Approach that a maximum discount of 10% is applicable for Stage 1, and 5% for Stages 2, 3 and 4.⁴⁶

44 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [89].

45 The Court of Appeal rejected the Uncalibrated PG Guidelines Approach, the High Court's Approach and the Young Independent Council's Approach at [90]–[93], [94]–[101] and [102]–[105] respectively.

46 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [106] and [110].

20 There are four reasons for the Court of Appeal’s decision. Firstly, the Prosecution’s Approach “obviates the problem of a clustering of sentences at or near the mandatory minimum irrespective of the actual quantity of drugs involved”.⁴⁷ A clustering of sentences should be avoided because of the need for proportionality between the potential harm to society and the sentence imposed⁴⁸ and the court’s duty to consider the full spectrum of sentences in determining the appropriate sentence.⁴⁹ The court was also cognisant that it would be inconsistent with the strong deterrent stance that Parliament has taken against drug offences, for a drug trafficker of 14.99g of diamorphine to receive a sentence that is at the lower range of the sentencing range.⁵⁰

21 Secondly, applying the Prosecution’s Approach, the sentences imposed would be more consistent with the pre-PG Guidelines precedents.⁵¹

22 Thirdly, “[t]he ‘cliff effect’ between the ranges of 9g to 9.99g and 10g to 11.5g for first-time offenders [would] also be less pronounced compared to applying [the High Court’s Approach]”.⁵² Clinging occurs where there is a disproportionate increase in sentence. The “cliff effect” is undesirable because, for example, the difference in sentences for an offender trafficking in 9.99g and another offender trafficking in 10g of diamorphine would be exponential and out of proportion to the harm caused.

23 Finally, the Court of Appeal decided that a maximum reduction of 5% should apply for Stages 2, 3 and 4 because any further division of the percentage reduction would lead to “overly and unduly granular figures and an excessively mathematical approach, which should be eschewed”.⁵³

IV. Issues arising from Court of Appeal’s decision in *Iskandar bin Jinan v Public Prosecutor*

24 In this section, this paper highlights three key issues arising from *Iskandar*⁵⁴ in order of the breadth of impact each issue presents: (a) applying generally to the PG Guidelines; (b) applying specifically

47 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [107].

48 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [92(a)].

49 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [92(b)].

50 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [92(c)].

51 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [108].

52 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [109].

53 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [110].

54 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673.

to all offences with a mandatory minimum sentence; and (c) applying specifically to offences with multiple mandatory minimum sentences.

A. *Application of Guidelines on Reduction in Sentences for Guilty Pleas becomes an unnecessary step*

25 The first issue that arises from *Iskandar* is one that impacts the PG Guidelines generally – if the Court of Appeal’s decision is accepted, it is arguable that the application of the PG Guidelines to future cases becomes unnecessary.

26 Given the Court of Appeal’s endorsement of the framework in the PG Guidelines,⁵⁵ in all future cases where the accused pleads guilty, the PG Guidelines should apply. However, the court had also simultaneously emphasised that the PG Guidelines are not binding on the courts. Consequently, the law is in a limbo – are the PG Guidelines binding or not? The question is this: If a judge decides to not consider the PG Guidelines at all in their decision, and has no need to justify so because it is non-binding, would that decision be wrong in principle and thus reversible on appeal? *Iskandar* has created ambiguity in these questions.

27 In any case, given that the Court of Appeal emphasised that binding judicial guidelines and precedents take precedence over the PG Guidelines,⁵⁶ the lower courts will, even after applying the PG Guidelines, have to consider whether the final sentence is in line with the sentences meted out in past cases. Where the final sentence deviates from precedents, the courts could, and should, adopt the Court of Appeal’s approach in *Iskandar* to then “calibrate” the PG Guidelines to ensure that the final sentence is consistent with precedents.

28 The mischief is immediately prevalent – despite going through an additional step of applying the framework in the PG Guidelines, the courts are stuck with the same result as if they had directly applied their minds to the precedents. Therefore, it can be argued that applying the PG Guidelines becomes an unnecessary step.

29 This directly defeats the purpose of the PG Guidelines. If past precedents will invariably be preferred over the PG Guidelines, the PG Guidelines cannot then be said to encourage accused persons who

55 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [49]–[51], [66]–[69] and [75].

56 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [58].

intend to plead guilty to do so earlier.⁵⁷ It would also not improve consistency nor transparency.⁵⁸ Accused persons and defence counsels are left in no better a position as they were in prior to the publication of the PG Guidelines.

B. Interaction of Guidelines on Reduction in Sentences for Guilty Pleas with all mandatory minimum sentence offences – clustering issue

30 The second issue that arises from *Iskandar* is one that impacts all offences with a mandatory minimum sentence (“MMS”).

31 One key reason for the Court of Appeal’s decision to “calibrate” the PG Guidelines is the issue of clustering.⁵⁹ Clustering occurs because there is a range of indicative sentences, which after applying the reduction, will result in a sentence that is actually below the MMS. Nonetheless, the courts are bound to impose the MMS. Hence, the final sentence for this range of indicative sentences is the MMS. Because clustering arises as a result of an MMS, it is an issue present in all offences with an MMS. Specifically, where the uplift from the MMS is lesser than the 30% reduction on the indicative sentence, the final sentence will be lower than the MMS and clustering will happen. This can also be proven mathematically:

Clustering happens where: Final sentence <MMS	Equation 1
Final sentence = indicative sentence - 30% indicative sentence Final sentence = 70% indicative sentence	Equation 2
Indicative sentence = MMS + uplift from MMS (“uplift”)	Equation 3
Substituting Equation 3 into Equation 2, Final sentence = 70% (MMS + uplift)	Equation 4
Substituting Equation 4 back into Equation 1, Clustering happens where: 70% (MMS + uplift) <MMS	Equation 5

57 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 3.

58 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 3. See also paras 4–10 above on the aims and objectives of the Sentencing Advisory Panel in general.

59 See *Iskandar bin Jiman v Public Prosecutor* [2024] 2 SLR 673 at [20].

Expanding and balancing Equation 5: Clustering happens where: $70\% (MMS + \text{uplift}) < MMS$ $70\% MMS + 70\% \text{ uplift} < MMS$ $70\% MMS + 70\% \text{ uplift} - 70\% MMS < MMS - 70\% MMS$ $70\% \text{ uplift} < 30\% MMS$ $70\% \text{ uplift} + 30\% \text{ uplift} < 30\% MMS + 30\% \text{ uplift}$ $\text{Uplift} < 30\% (MMS + \text{uplift})$	
Since $MMS + \text{uplift} = \text{indicative sentence}$ (Equation 3), Clustering happens where: $\text{Uplift} < 30\% \text{ indicative sentence}$ (ie, reduction)	

32 To further illustrate the point, the sentence provided for aggravated rape⁶⁰ is an imprisonment term of between 8 years to 20 years. For any offender with an indicative starting sentence of up to 11.4 years, the final sentence after applying a 30% reduction would be the MMS of 8 years (because the uplift (3.4 years) is lesser than 30% of 11.4 years (3.42 years)).

33 Therefore, it can be proven that clustering occurs for all offences with an MMS. Consequently, future courts will have to consider how the PG Guidelines should be calibrated to avoid the clustering effect for all offences with an MMS. If *Iskandar* is instructive, then the approach that all future courts would adopt is to lower the applicable maximum reduction in the PG Guidelines.

34 However, decreasing the reduction to be applied as was decided in *Iskandar*, only *reduces* the scale of, and does not “obviate”,⁶¹ the clustering problem.

60 Penal Code 1871 (2020 Rev Ed) s 375(3).

61 The Court of Appeal asserted that the Prosecution’s Approach would “obviate” the clustering problem: see *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [107].

Weight of diamorphine	Indicative starting sentence (first-time offender)	Sentence after applying 30% maximum reduction (Uncalibrated PG Guidelines Approach)	Sentence after applying 10% maximum reduction (Prosecution's Approach)
Prescribed sentencing range: 5 to 20 years' imprisonment (s 33(1) of the MDA, read with row 1 of the Second Schedule of the MDA dealing with s 5 of the MDA)			
Up to 3g	5 years	5 years	5 years
	5 years 3 months	5 years	5 years
	5 years 6 months	5 years	5 years
	5 years 9 months	5 years	5 years 2 months
...			
5g to 7g	7 years	5 years	6 years 4 months
	7 years 3 months	5 years 1 month	6 years 6 months

Table 4. Clustering effect of the Uncalibrated PG Guidelines Approach and the Prosecution's Approach

35 The above table shows that when applying the Uncalibrated PG Guidelines Approach, for all indicative sentences of up to 7 years and 3 months, the final sentences cluster at the MMS of 5 years. When applying the Prosecution's Approach, clustering at the MMS still occurs, albeit at a smaller scale – for all indicative sentences of up to 5 years and 9 months. This is because the mathematical proof above is still true, even if the numbers are changed from 30% to 10%.

36 Therefore, in *Iskandar*, to be strictly technical, the Court of Appeal's use of the word "obviate" in relation to the problem of clustering is perhaps inaccurate. Unless corrected, this approach would be similarly applied to all other offences with an MMS.

37 However, since the start of writing this paper, the above comments have been recognised by a three-judge *coram* (Sundaresh Menon CJ, Tay Yong Kwang JCA, and Vincent Hoong J) sitting in the High Court hearing the Magistrate's Appeal in *Ng En You Jeremiah v Public Prosecutor*⁶² ("Jeremiah Ng"). In *Jeremiah Ng*, the appellant had pleaded guilty to a charge of drink driving under s 67(1)(b) read with s 67(2)(a) of the Road Traffic Act⁶³ ("Drink Driving Charge") and a charge of dangerous driving causing death under s 64(1) punishable under s 64(2)(a) read with ss 64(2)(c) and 64(2D)(b) of the Road Traffic Act ("Dangerous Driving Charge"). In sentencing the appellant, the district judge declined to apply the PG Guidelines because the district judge held that it would be contrary to public interest for the PG Guidelines to apply

62 [2025] 4 SLR 395.

63 Cap 276, 2004 Rev Ed.

given the very serious nature of the offence and the circumstances of the charges.⁶⁴

38 On appeal, one of the issues was whether the PG Guidelines should be applicable for the Drink Driving Charge and the Dangerous Driving Charge, and if so, whether any calibration was necessary.⁶⁵ The Young Independent Counsel (“YIC”) appointed at first instance had suggested that for the Dangerous Driving Charge – similar to the eventual approach adopted in *Iskandar* – the maximum sentence reductions should be reduced from 30% to 20% for Stage 1 and 20% to 15% for Stage 2, with maximum sentence reductions for Stages 3 and 4 being the same as set out in the PG Guidelines.⁶⁶ The YIC was concerned about “a clustering effect of sentences near the mandatory minimum imprisonment term of three years for [the Dangerous Driving Charge]”.⁶⁷ The High Court disagreed, holding that the PG Guidelines should apply to the Dangerous Driving Charge without any calibration because the degree and extent of clustering in the present context was not sufficient to warrant a calibration of the PG Guidelines.⁶⁸

39 The implication of *Jeremiah Ng* is threefold. Firstly, as highlighted earlier in this paper,⁶⁹ the High Court recognised that, “[a]ny offence with a mandatory minimum imprisonment sentence will experience some degree of clustering since there is a statutory ‘floor’ to how much the sentence can be reduced”.⁷⁰

40 Secondly, also as highlighted earlier in this paper,⁷¹ the High Court recognised that the so-called calibration of the PG Guidelines to reduce the maximum sentence reduction – the same approach adopted in *Iskandar* which was professed to “obviate” the clustering problem – does not actually obviate the clustering problem.⁷²

41 Hence, it is clear that *Jeremiah Ng* had actually departed from *Iskandar*’s ruling in so far as *Jeremiah Ng* had declined to calibrate the PG Guidelines even though the same clustering effect was found

64 *Public Prosecutor v Jeremiah Ng En You* [2023] SGDC 274 at [96] and [113].

65 *Ng En You Jeremiah v Public Prosecutor* [2025] 4 SLR 395 at [57(c)] and [110]–[126].

66 *Ng En You Jeremiah v Public Prosecutor* [2025] 4 SLR 395 at [120].

67 *Ng En You Jeremiah v Public Prosecutor* [2025] 4 SLR 395 at [121].

68 *Ng En You Jeremiah v Public Prosecutor* [2025] 4 SLR 395 at [125].

69 See paras 31–33 above.

70 *Ng En You Jeremiah v Public Prosecutor* [2025] 4 SLR 395 at [125].

71 See paras 34–35 above.

72 *Ng En You Jeremiah v Public Prosecutor* [2025] 4 SLR 395 at [122] and [125]. Specifically, the High Court held, at [125] that, “Even on Ms Chua’s own proposal of a maximum 20% reduction, there would be an observable clustering of sentences of three to 3.75 years’ imprisonment at the mandatory minimum of three years.”

to be present in the Dangerous Driving Charge (an offence with an MMS). This leads into the third and final implication of *Jeremiah Ng*'s decision – the High Court's justification for its departure from *Iskandar*. The High Court considered that the extent and degree of clustering in the Dangerous Driving Charge was not of sufficient concern as to mandate a calibration of the PG Guidelines. In the High Court's judgment, "the concern should not be about whether there is *any* clustering, but about the *extent* and *degree* of clustering"⁷³

42 This article posits that as a matter of principle, all forms of clustering are concerning because clustering, in and of itself, contradicts the trite sentencing principles of "the need for proportionality between the potential harm to society and the sentence imposed and the duty of the court to consider the full spectrum of sentences in determining the appropriate sentence" (as recognised by the High Court itself in *Jeremiah Ng* and by the Court of Appeal in *Iskandar*).⁷⁴ Hence, clustering in the Dangerous Driving Charge in *Jeremiah Ng* should, like in *Iskandar*, have been concerning enough to warrant a calibration, albeit not in the type of calibration presently contemplated by the High Court and Court of Appeal.

43 Even if one accepts *Jeremiah Ng* to be correct, the decision results in further uncertainty in the law surrounding the PG Guidelines. The decision begs the question: Where is the line drawn? What degree or extent of clustering would be sufficiently concerning enough to warrant a calibration of the PG Guidelines and when would it not? In the case of a dangerous driving charge with an MMS of 3 years' imprisonment, applying a 30% reduction which results in all indicative sentences of up to 4.3 years to cluster at the mandatory minimum of 3 years is somehow acceptable. Yet, in the case of a diamorphine drug trafficking charge with an MMS of 5 years' imprisonment, applying a 30% reduction which results in all indicative sentences of up to 7 years to cluster at the mandatory minimum of 5 years is somehow unacceptable. If these cases were taken at face value as instructive, is the line drawn somewhere between 1.3 to 2 imprisonment years of clustering? Should the PG Guidelines automatically apply without any calibration to all offences with an MMS of equal or less than 3 years' imprisonment? On the flip side, should the PG Guidelines automatically require calibration for all offences with an MMS of equal or more than 5 years' imprisonment? These are questions which *Jeremiah Ng* raises and for which future cases will have to answer. In the meantime though, if one accepts *Jeremiah Ng* to be correct, the law

73 *Ng En You Jeremiah v Public Prosecutor* [2025] 4 SLR 395 at [125].

74 *Ng En You Jeremiah v Public Prosecutor* [2025] 4 SLR 395 at [124].

with regard to the application of the PG Guidelines to offences with MMS is, to a certain extent, unclear.

C. Interaction of Guidelines on Reduction in Sentences for Guilty Pleas with offences with multiple mandatory minimum sentences – cliffing issue

44 Another key reason for the Court of Appeal’s decision in *Iskandar* to “calibrate” the PG Guidelines is the “drastic ‘cliff effect’”.⁷⁵ The table below shows that when applying the Uncalibrated PG Guidelines approach, the sentence for a 9.99g diamorphine drug trafficker is almost half that of a 10g diamorphine drug trafficker.

Weight of diamorphine	Legislatively prescribed mandatory minimum sentence	Indicative starting sentence (first-time offender)	Sentence after applying 30% maximum reduction (Uncalibrated PG Guidelines Approach)	Sentence after applying 10% maximum reduction (Prosecution’s Approach)
9.99g	5 years	13 to 15 years	9 years 1 month to 10 years 6 months	11 years 8 months to 13 years 6 months
10g	20 years	20 to 22 years	20 years	20 years

Table 5. Cliff effect of the Uncalibrated PG Guidelines Approach and the Prosecution’s Approach

45 The “cliff effect” will always occur in offences that have multiple MMS as the prescribed punishment. These are offences which, for the same singular offence, have different MMS pegged to a singular factor. For example, the offence in *Iskandar* was trafficking in diamorphine (a Class A Drug), for which the MMS is 5 years for trafficking up to 9.99g of diamorphine and 20 years for trafficking in diamorphine of between 10g to 14.99g.⁷⁶

46 The “cliff effect” arises because the sentence for a 10g diamorphine drug trafficker can never go below the legislatively prescribed MMS of 20 years while the sentence for a 9.99g diamorphine drug trafficker will almost never go near 20 years (that being the upper limit of the legislatively prescribed range).⁷⁷ Furthermore, the 9.99g diamorphine

75 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [99]. See also para 22 above.

76 Misuse of Drugs Act 1973 (2020 Rev Ed) Second Schedule.

77 *Vasantha d/o Joseph v Public Prosecutor* [2015] 5 SLR 122 at [45]–[46]; *Angliss Singapore Pte Ltd v Public Prosecutor* [2006] 4 SLR(R) 653 at [84]; *Sim Gek Yong v* (cont’d on the next page)

drug trafficker may receive further reductions on his sentence based on several mitigating factors, whereas the 10g diamorphine drug trafficker may not. Hence, there will always be a “cliff effect” in that the difference in sentence will always be disproportionate to the 0.01g difference in drug quantity.

47 Consequently, future courts will have to consider how the PG Guidelines should be calibrated to address the “cliff effect” for all offences with multiple MMS. In practice, the only offences in Singapore that have multiple MMS are found in the MDA, such as drug trafficking, importation and possession. Nonetheless, if, in future, there are other offences with multiple MMS, then this third issue raised in *Iskandar* is likewise applicable.

V. Recommendations for different judicial approach

48 In this section, a different judicial approach is recommended and pre-emptively defended from potential criticisms.

49 It should be noted that the issues raised in *Iskandar*⁷⁸ are uniquely Singaporean because they are the result of a combination of four factors: (a) non-binding sentencing guidelines providing for a percentage reduction on sentences following a plea of guilt; (b) offences with MMS; (c) sentencing guidelines that do not provide for how offences with MMS are to be dealt with; and (d) certain offences with multiple MMS result in cliffing. While other jurisdictions may have one or more of these factors, no other jurisdiction among those surveyed⁷⁹ presents all four factors. Therefore, the courts in these jurisdictions have not considered the issues in *Iskandar* and can offer no help in this regard.⁸⁰

A. *Guidelines on Reduction in Sentences for Guilty Pleas should be endorsed and given judicial precedential effect*

50 Firstly, the Court of Appeal in *Iskandar* should have unambiguously endorsed the PG Guidelines and elevated them into a

Public Prosecutor [1995] 1 SLR(R) 185 at [12]–[13].

78 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673.

79 A total of seven jurisdictions were looked into: UK, South Australia, New Zealand, Hong Kong, Malaysia, India and the US. The detailed analysis of the different jurisdictions can be found at Annex B.

80 In Hong Kong, the Hong Kong Court of Final Appeal (“HKCFA”) recently had the opportunity to consider the interaction of their PG Guidelines with offences with mandatory minimum sentences: *HKSAR v Lui Sai Yu* [2023] HKCFA 26. However, the HKCFA did not consider issues of clustering and cliffing.

judicial guideline binding on the lower courts. This would mean that if the final sentence after applying the PG Guidelines is at variance with precedents, the courts need not feel bound to follow those precedents.

51 It is acceptable to depart from pre-PG Guidelines sentencing benchmarks. The PG Guidelines are meant to “lead the way” in sentencing jurisprudence,⁸¹ and where there are shifts or changes in the law, it is acceptable and even expected that there will be changes in the sentencing norm.

52 Moreover, if it is accepted that the PG Guidelines are principled, sound and correct, then the change in sentencing norm could simply be justified by reasoning that the pre-PG Guidelines sentencing norms were incorrect and that the “true” “correct” position can be gleaned from post-PG Guidelines cases. Indeed, an empirical study of written judgments issued between 1 June 2017 and 31 May 2022 found that only 18% of 699 cases alluded to or applied the “saving public resources” justification in assessing the mitigatory weight of an accused’s guilty plea.⁸² Similarly, past cases had suggested a one-quarter to one-third reduction on account of the accused’s guilty plea.⁸³ Hence, the implication is that, in these cases, the mitigatory weight of the accused’s guilty plea, quantified as a percentage reduction, was calculated wrongly. With the pronouncement of the PG Guidelines, and the adoption of the same, it can now be said confidently that these cases erred in principle and can be departed from.

53 Admittedly, the PG Guidelines explicitly provide that, “[w]here the final sentence after the reduction is applied is at variance with existing judicial guidelines or precedents for the offence in question, the court should apply its mind as to whether to adopt the existing judicial guidelines or precedents or to give full effect to the relevant reductions in sentence under [Step 2]”.⁸⁴ In *Iskandar*, the Court of Appeal took special notice of this paragraph in refusing to depart from pre-PG Guidelines sentencing precedents.⁸⁵

81 See paras 4–10 above.

82 Benny Tan Zhi Peng, “Assessment of Mitigatory Weight of an Accused Person’s Guilty Plea: A Post-Terence Ng Empirical Study and Practical Suggestions” [2023] *SAL Practitioner* 3.

83 *Chia Kim Heng Frederick v Public Prosecutor* [1992] 1 SLR(R) 63 at [20].

84 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 10.

85 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [58] and [98].

54 However, the court should be careful not to overinterpret or overpitch para 10 of the PG Guidelines. The SAP is neither a legislative nor a judicial creature. It is trite that the power to prescribe the applicable punishments for an offence lies with the Legislature while the duty of imposing the punishment and determining the extent of the punishment lies with the Judiciary.⁸⁶ In recognition of this separation of powers, and following *stare decisis*,⁸⁷ it is expected that the PG Guidelines expressly provide that it cannot overrule any binding judicial precedents. Moreover, para 10 of the PG Guidelines simply cautions that it is the court that must make the decision whether to adopt the PG Guidelines or to follow existing precedents. Indeed, that was the very task that the Court of Appeal faced in *Iskandar*. As the apex court of the land, the Court of Appeal is not and cannot possibly be restricted from endorsing the PG Guidelines and overruling any past judicial precedents.

55 Paragraph 10 of the PG Guidelines was also cited by the Minister for Law in response to a question of whether the PG Guidelines would result in “criminals getting away with much lighter sentences”.⁸⁸

56 However, since the PG Guidelines are not a creature of the Legislature, the Minister’s comments are irrelevant in so far as there is no need to consider parliamentary intention in interpreting them. In any case, the Minister’s comments should not be read as restricting the PG Guidelines to a lower status than precedents. As argued at para 9 above, the Minister’s comments do not detract from the argument that the PG Guidelines are intended to “lead the way” in court sentencing practices.

57 Furthermore, the Minister was citing directly from the PG Guidelines that it is not “intended to result in reductions in sentences *over and above* the existing judicial guidelines or precedents *in cases where offenders have pleaded guilty*” [emphasis added].⁸⁹ This is not to say that the PG Guidelines cannot supersede precedents. It is merely a caution that the reductions should only be applied to *indicative sentences arrived at as if the accused claimed trial*; the reductions cannot apply to an indicative sentence arrived at with reference to cases where the offender had pleaded guilty because that indicative sentence would already have taken into consideration the mitigating weight of a plea of guilt, and to

86 See, eg, *Mohammad Faizal bin Sabtu v Public Prosecutor* [2012] 4 SLR 947 at [34], [42] and [60].

87 See, eg, *Mah Kah Yew v Public Prosecutor* [1968–1970] SLR(R) 851 at [6].

88 Singapore Parl Debates; Vol 95, Sitting No 112; [19 September 2023] (K Shanmugam, Minister for Home Affairs and Minister for Law).

89 Singapore Parl Debates; Vol 95, Sitting No 112; [19 September 2023] (K Shanmugam, Minister for Home Affairs and Minister for Law).

apply the reduction again would be to double count the mitigating weight of a guilty plea.

58 Therefore, the Court of Appeal in *Iskandar* had every right, and should have, overruled past precedents in favour of the PG Guidelines. Doing so would have given full effect to the PG Guidelines. It is argued that there is no need for the PG Guidelines to be perfectly consistent with the sentences meted out pre-PG Guidelines.

B. Approach in Public Prosecutor v Almendoar Syed Farez should be accepted

59 Secondly, the Court of Appeal in *Iskandar* should have adopted the approach (“*Almendoar’s Approach*”) in *Public Prosecutor v Almendoar Syed Farez*⁹⁰ (“*Almendoar*”). *Almendoar’s Approach* is theoretically sound and justified on principles. It would also have effectively dealt with the issue of clustering and would have given full effect to the PG Guidelines in achieving its stated aims. Although *Almendoar’s Approach* does not “solve” the “cliff effect”, it will be argued that the “cliff effect” is an inevitable problem and may not necessarily be an evil. Furthermore, *Almendoar’s Approach* would not dilute the deterrent message of sentences.

(1) *Introduction to approach in Public Prosecutor v Almendoar Syed Farez*

60 In *Almendoar*, the offender pleaded guilty to, and was convicted of, two charges.⁹¹ The charge of relevance is the consumption of morphine under s 8(b)(ii) of the MDA punishable under s 33A(2) MDA (“LT-2 Charge”). The offender had pleaded guilty within Stage 1 of the PG Guidelines and the district judge accepted that a 30% reduction in sentence could be considered.⁹²

61 The legislatively prescribed MMS for a LT-2 Charge is 7 years’ imprisonment.⁹³ The offender was previously convicted of an LT-2 Charge and was sentenced to the MMS of 7 years’ imprisonment.⁹⁴ Therefore, this was the offender’s second LT-2 offence. Moreover, there were two similar LT-2 Charges that had been taken into consideration, “which disclosed an entrenched habit of drug consumption.”⁹⁵ Therefore, the district judge

90 [2024] SGDC 116.

91 *Public Prosecutor v Almendoar Syed Farez* [2024] SGDC 116 at [1].

92 *Public Prosecutor v Almendoar Syed Farez* [2024] SGDC 116 at [34].

93 Misuse of Drugs Act 1973 (2020 Rev Ed) s 33A(2).

94 *Public Prosecutor v Almendoar Syed Farez* [2024] SGDC 116 at [20(a)].

95 *Public Prosecutor v Almendoar Syed Farez* [2024] SGDC 116 at [37].

was minded to impose a sentence of 8 years and 6 months' imprisonment if the offender had been convicted after trial.⁹⁶

62 Applying the 30% reduction to the indicative sentence of 8 years and 6 months' imprisonment would bring the final sentence to approximately 6 years' imprisonment. This would not be permissible given that the legislatively prescribed MMS is 7 years' imprisonment. Therefore, the district judge would have had to impose the MMS of 7 years. The mischief here is apparent – such a sentence would not have been proportionate to the criminality of the offender, which was the very reason why there had to be an uplift from the MMS. The aforementioned issue regarding clustering is likewise applicable here.

63 The district judge held that the reduction would “apply only to the uplift” [emphasis in original omitted].⁹⁷ The uplift in this case was 18 months – the difference between the MMS of 7 years and the indicative sentence of 8 years and 6 months. The 30% reduction in absolute terms is therefore around 6 months. The final sentence imposed was 8 years' imprisonment for the LT-2 Charge.⁹⁸ The offender's appeal against the sentence in MA 9082/2024/01 was dismissed by the High Court on 23 August 2024.

(2) *Approach in Public Prosecutor v Almenoar Syed Farez right to exclude mandatory minimum sentence from reduction*

64 The main plank of *Almenoar's* Approach is that the MMS portion of the indicative sentence is excluded from the PG Guidelines reduction, *ie*, that the reduction applies only to the uplift. This is theoretically sound and justified on principles which, in *Iskandar*, would have addressed the Court of Appeal's potential concern on why the percentage reduction should be attached to a certain portion of the sentence only.⁹⁹

65 In contrast, the Prosecution's Approach adopted in *Iskandar* provides for a reduction on the MMS portion of the entire sentence. This can be illustrated mathematically:

96 *Public Prosecutor v Almenoar Syed Farez* [2024] SGDC 116 at [38].

97 *Public Prosecutor v Almenoar Syed Farez* [2024] SGDC 116 at [35].

98 *Public Prosecutor v Almenoar Syed Farez* [2024] SGDC 116 at [38].

99 The Court of Appeal expressed concern about the YIC's Approach because “there [was] no principled explanation for why the percentage reduction should be attached to the range of the sentence assigned to a certain quantity of drugs, *ie*, the interval” (*Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [105]).

$$\begin{aligned} &\text{Prosecution's Approach: } 10\% \times \text{indicative sentence} \\ &\text{Indicative sentence} = \text{MMS} + \text{uplift} \\ &\text{Therefore,} \\ &10\% \times \text{indicative sentence} = 10\% \times (\text{MMS} + \text{uplift}) \\ &10\% \times \text{indicative sentence} = (10\% \times \text{MMS}) + (10\% \times \text{uplift}) \end{aligned}$$

66 In the Prosecution's Approach, it is incorrect to apply a reduction to the MMS, because that would be detracting from the clear Parliamentary intention behind setting an MMS. Fundamentally, the gravity of an offence is reflected by the kind and length of punishment that it attracts, and an MMS "plainly reflect[s]" the seriousness of an offence.¹⁰⁰ Parliament had specifically imposed an MMS after having regard to, *inter alia*, crime statistics, and in a democratic society, as a representation of public sentiments.¹⁰¹ The MMS is a Legislature-prescribed reflection of the gravity of the offence; it is the minimum sentence that offenders of that crime must deserve, even if there are extenuating circumstances that may warrant a downward calibration. Therefore, it would be incorrect to give a reduction on the MMS portion of the entire sentence.

67 Furthermore, the MMS is a strong deterrent and is often used to combat serious and prevalent crimes. Sundaresh Menon CJ, citing the Singapore Parliamentary Debates, noted that the MMS were introduced for a variety of offences in 1984 to "combat the increasing crime rate at that time".¹⁰² Therefore, the MMS for each crime is pegged at a sufficiently high level and, combined with its nature as a mandatory punishment, serves as an effective deterrence.

68 On this reason, a judicial reduction in sentence, which represents mitigating weight, cannot be given *on* the MMS because to do so would be contrary to the deterrent message intended by Parliament – to take with one hand and to give with another.

69 Therefore, it is argued that the MMS portion of the sentence is a sacred, sacrosanct sentence that is legislatively prescribed and no reduction should be given *on* this portion of the sentence. Thus, *Almenoar's* Approach, which recognises this and accordingly excludes

100 *Geevanathan s/o Thirunavakarasu v Public Prosecutor* [2023] 5 SLR 1551 at [57].

101 For example, the High Court in *Sivakumar s/o Rajoo v Public Prosecutor* [2002] 1 SLR(R) 265 at [24] noted that, "It is clear that Parliament regards drink-driving offences so seriously as to warrant an almost-mandatory minimum period of 12 months' disqualification." Albeit made in the context of a disqualification order, the comments are equally applicable to mandatory minimum periods of imprisonment.

102 *Mohamad Fairuuz bin Saleh v Public Prosecutor* [2015] 1 SLR 1145 at [39].

the MMS portion of the sentence from the calculation of the reduction for a guilty plea, is theoretically sound and justified on principles.

- (3) *Approach in Public Prosecutor v Almenoar Syed Farez equally applicable to all offences with mandatory minimum sentence, including drug trafficking offences*

70 One may argue that *Almenoar's* Approach cannot be transposed onto drug trafficking offences because *Almenoar*¹⁰³ was a case of drug consumption. The argument would be that in *Almenoar*, the uplift from the MMS was for the offender's aggravating factors, viz, the previous conviction and the taken-into-consideration ("TIC") charges. In contrast, in *Iskandar*, the uplift from the MMS was for the increase in drugs trafficked. Therefore, it would not be logically sound for the reduction to only apply to the quantity of increased drugs trafficked (the uplift) and not to the quantity of drugs below that increase (the MMS portion).

71 However, such an argument is conceptually flawed and misinformed. In both *Almenoar* and *Iskandar*, the uplift was given for aggravating factors. In *Iskandar*, in determining the appropriate sentence between 20 and 30 years, the court looked at aggravating and mitigating factors. It just so happened that for a drug trafficking offence, the primary indicator of harm, and hence sentence, is the increase in the amount of drugs trafficked. However, other aggravating or mitigating factors, such as the accused's role, TIC charges or period of offending, may also adjust the uplift. It is wrong to see *Almenoar's* Approach as basis for giving a reduction only on some weight of drugs trafficked. Instead, *Almenoar's* Approach should be viewed as a reduction given on the aggravating factors warranting an uplift from the MMS and the refusal to give a discount on the MMS portion of the sentence for reasons explained at paras 66–69 above. Such an approach is equally applicable to all offences with an MMS.

- (4) *Approach in Public Prosecutor v Almenoar Syed Farez actually obviates clustering*

72 Adopting *Almenoar's* Approach would actually obviate the clustering problem and not merely reduce the clustering effect in scale. Arithmetically, any two offenders with different starting indicative sentences will not arrive at the same final sentence because the 30% reduction is only applied to the uplift which is already different for the two offenders. Therefore, *Almenoar's* Approach ensures that offenders with different culpability (represented by the different indicative starting

103 *Public Prosecutor v Almenoar Syed Farez* [2024] SGDC 116.

sentences) will have differentiated final sentences. The table below illustrates the point.

Weight of diamorphine	Indicative starting sentence (first-time offender)	Sentence after applying 10% maximum reduction (Prosecution's Approach)	Sentence after applying 30% maximum reduction to uplift <i>only</i> (Almenoar's Approach)
Prescribed sentencing range: 5 to 20 years' imprisonment (s 33(1) of the MDA, read with row 1 of the Second Schedule of the MDA dealing with s 5 of the MDA)			
Up to 3g	5 years 3 months	5 years	5 years 2 months
	5 years 6 months	5 years	5 years 4 months
	5 years 9 months	5 years 2 months	5 years 6 months
	6 years	5 years 5 months	5 years 8 months

Table 6. Elimination of clustering effect under *Almenoar's Approach*

(5) *Approach in Public Prosecutor v Almenoar Syed Farez maintains maximum possible reduction of 30%*

73 Adopting *Almenoar's Approach* maintains the maximum possible reduction for a plea of guilt at 30%, which is a principled decision that should be preferred over arbitrarily reducing the maximum reduction to 10%.

74 The percentage reduction provided for in the PG Guidelines is a quantification of the mitigating weight of a plea of guilt.¹⁰⁴ A plea of guilt is given mitigating weight because of the clear benefits that it brings about – “the impact of victims and witnesses” and “public resources” justifications.¹⁰⁵ In relation to these two justifications, the “earlier the accused person indicates that he will plead guilty, the greater the benefits”.¹⁰⁶ Therefore, the maximum reduction of 30% represents, in theory and in principle, the maximum mitigating weight that a plea of guilt is deserving of.

104 This was also implicitly recognised in *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [86]: “In our view, it is also principled to quantify the mitigatory weight of a plea of guilt with reference to the timeliness of the same. The earlier the accused person indicates that he will plead guilty, the greater the utilitarian benefits, and hence the larger the reduction in sentence ought to be.”

105 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 4.

106 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 6.

75 It is acknowledged that the PG Guidelines provide for a reduction of *up to the maximum* of 30%. The Court of Appeal in *Iskandar* relied on this fact and decided that, “[t]he maximum percentages can be calibrated having regard to the particular criminal offence in question and its relevant sentencing precedents and benchmarks”¹⁰⁷

76 However, such a reading is perhaps inaccurate. The PG Guidelines provide for a *maximum* reduction because it is up to the sentencing court to determine the *actual* mitigating weight of the accused person’s plea of guilt with reference to the two justifications. In fact, in *Iskandar*, the Court of Appeal itself seemed to recognise this fact when it held that the court retains the discretion to award a reduction lower than the applicable maximum if, for example, “the unreasonable conduct of an offender results in protracted or delayed plead-guilty proceedings”¹⁰⁸ or if a lower reduction would result in a sentence that better accords with the overall criminality of the case.¹⁰⁹

77 Therefore, the reason the PG Guidelines provide for a *maximum* reduction at every stage is not so that it may be calibrated according to the particular criminal offence in question, but because it is an acknowledgment that, while the *actual* mitigating weight of an accused person’s plea of guilt varies from case to case, the theoretical maximum mitigating weight of a plea of guilt is quantified at 30%.

78 It is principled that the maximum mitigating weight of an accused person’s plea of guilt is not differentiated based on the type of offence that is committed. To decide otherwise is to arbitrarily reduce the theoretical maximum mitigating weight of a plea of guilt on the basis of a factor that has no relevance. Indeed, why should the mitigating weight of a drug trafficker’s plea of guilt be quantified as a maximum of 10% whereas that of a rapist is a maximum of 30%?

79 Hence, the maximum reduction limit of 30% should be retained for all offences – the 30% representing the maximum mitigating weight that should be given to a plea of guilt on the basis of the two justifications. *Almenoar’s* Approach retains this 30% maximum limit and should be preferred.

107 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [104].

108 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [111].

109 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [119].

(6) *Approach in Public Prosecutor v Almenoar Syed Farez allows for significant tiering*

80 By retaining the maximum 30% reduction, *Almenoar's* Approach allows for significant tiering which is crucial and fundamental to the PG Guidelines for it to achieve one of its stated aims – to encourage early plea of guilty.¹¹⁰ This “encouragement” is done by giving a larger reduction on the sentence the earlier the accused pleads guilty.

81 However, if *Iskandar* is adopted, a maximum reduction of 10% applies for Stage 1¹¹¹ and a maximum reduction of 5% applies for Stages 2, 3 and 4.¹¹² The Court of Appeal in *Iskandar* also eschewed “overly and unduly granular figures and an excessively mathematical approach”,¹¹³ and suggested that the sentencing court “should generally apply a reduction nearer to the maximum within each stage of the PG Guidelines, at least for Stages 1 and 2”.¹¹⁴ The upshot of these various holdings taken together is that the sentencing court is, in essence, restricted to three possible percentages to apply over four stages: 10%, 5% and 0%.

82 This is not ideal for two reasons. Firstly, it is doubtful whether an additional 5% reduction will sufficiently incentivise the accused to plead guilty within Stage 1 instead of Stage 2. Secondly, since the accused would get the same reduction whether s/he pleads guilty in Stage 2 or 4, the accused would be indifferent as to whether s/he actually pleads guilty within Stage 2, 3 or 4. In other words, there is no incentive for an accused person to plead guilty as early as possible once the case has progressed beyond 12 weeks of the Prosecution indicating that it is ready for a plea to be taken. Therefore, in “calibrating” the PG Guidelines, the Court of Appeal in *Iskandar* had likely reduced the effectiveness of the PG Guidelines in encouraging early pleas of guilt.

83 Instead, *Almenoar's* Approach retains the original tiering in the PG Guidelines.¹¹⁵ This is the more appropriate framework to ensure that the PG Guidelines still achieve their objective of encouraging early guilty pleas.

110 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (15 August 2023) <<https://www.sentencingpanel.gov.sg/resources/guidelines/guilty-pleas/>> (accessed 13 August 2025) at para 3.

111 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [106].

112 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [110].

113 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [110].

114 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [111].

115 Maximum 30% reduction for Stage 1, 20% for Stage 2, 10% for Stage 3 and 5% for Stage 4.

(7) *Approach in Public Prosecutor v Almenoar Syed Farez still results in cliffing. However, cliffing not necessarily a bad thing.*

84 Like the Prosecution’s Approach adopted in *Iskandar*, *Almenoar’s* Approach does not solve the “cliff effect”. However, as compared to the Uncalibrated PG Guidelines Approach, *Almenoar’s* Approach does mitigate the “cliff effect”, albeit to a lesser extent than the Prosecution’s Approach. The table below shows the three approaches.

Weight of diamorphine	Legislatively prescribed mandatory minimum sentence	Indicative starting sentence (first-time offender)	Sentence after applying 30% maximum reduction (Uncalibrated PG Guidelines Approach)	Sentence after applying 10% maximum reduction (Prosecution’s Approach)	Sentence after applying 30% maximum reduction to uplift (<i>Almenoar’s</i> Approach)
9.99g	5 years	13 to 15 years	9 years 1 month to 10 years 6 months	11 years 8 months to 13 years 6 months	10 years 7 months to 12 years
10g	20 years	20 to 22 years	20 years	20 years	20 years to 21 years 5 months

Table 7. Comparison of cliff effect in the three approaches

85 The fact that *Almenoar’s* Approach does not solve the “cliff effect” or that it is less effective than the Prosecution’s Approach in mitigating the “cliff effect” is not fatal to its viability as a better alternative. This is because, on top of the added advantages of *Almenoar’s* Approach over the Prosecution’s Approach already canvassed above, the “cliff effect” is not necessarily an evil that must be eliminated.

86 As aforementioned,¹¹⁶ the “cliff effect” is a legislatively created problem in that it is inherent in all offences with multiple MMS. Therefore, a certain level of “cliff effect” is inevitable in drug trafficking offences.

87 However, it is acknowledged that a huge “cliff effect” necessarily violates the golden rule of proportionality in sentencing. Therefore, the issue is as to scale and in this regard, it is argued that *Almenoar’s* Approach creates an acceptable level of “cliffing”.

88 A moderate “cliff effect”, is acceptable because it is keeping with sentencing principles. It is trite that the maximum sentence is usually

116 See paras 45–46 above.

reserved for the worst type of cases conceivable for that offence¹¹⁷ and that the sentencing court should generally utilise the full spectrum of possible sentences.¹¹⁸ The upshot of these two trite sentencing principles is that there will be, *prima facie*, a “cliff effect” between trafficking in 9.99g of diamorphine (which attracts a sentence of between 5 and 20 years) and 10g of diamorphine (which attracts a sentence of between 20 and 30 years).

89 Under *Almenoar’s Approach*, the gap between 12 years for a 9.99g of diamorphine drug trafficker and the 20 years for a 10g of diamorphine drug trafficker is justified because the 12 years may be calibrated upwards on account of a variety of aggravating factors. Firstly, the 12 years is the sentence given where the accused person pleads guilty. If the accused had claimed trial, the sentence would instead be 15 years. Secondly, the 15 years sentence is “based only on the quantity of diamorphine and, as the name suggests, leaves room for the sentencing judge to adjust the sentence upwards in an appropriate case to reflect the offender’s culpability as well as other aggravating circumstances”.¹¹⁹

90 Therefore, *Almenoar’s Approach* is acceptable because it reduces the “cliff effect” to an acceptable level and would allow the sentencing court to utilise the whole spectrum of sentences.

(8) *Approach in Public Prosecutor v Almenoar Syed Farez when viewed differently produces inconsistent results. However, such a view is erroneous.*

Weight of diamorphine	Indicative starting sentence	Uplift from mandatory minimum sentence	30% discount applied to uplift, effective discount in absolute terms	Effective discount (column 4) as percentage of indicative starting sentence (column 2)
Prescribed range: 5–20 years’ imprisonment				
Up to 3g	5 to 6 years	0 to 1 year	0 to 4 months	0 to 5.6%
3g to 5g	6 to 7 years	1 year to 2 years	4 to 8 months	5.6% to 9.5%
5g to 7g	7 to 8 years	2 years to 3 years	8 months to 1 year	9.5% to 12.5%
7g to 8g	8 to 9 years	3 years to 4 years	1 year to 1 year 4 months	12.5% to 14.8%

117 *Vasentha d/o Joseph v Public Prosecutor* [2015] 5 SLR 122 at [45]–[46]; *Angliss Singapore Pte Ltd v Public Prosecutor* [2006] 4 SLR(R) 653 at [84]; *Sim Gek Yong v Public Prosecutor* [1995] 1 SLR(R) 185 at [12]–[13].

118 *Poh Boon Kiat v Public Prosecutor* [2014] 4 SLR 892 at [60].

119 *Vasentha d/o Joseph v Public Prosecutor* [2015] 5 SLR 122 at [45].

Weight of diamorphine	Indicative starting sentence	Uplift from mandatory minimum sentence	30% discount applied to uplift, effective discount in absolute terms	Effective discount (column 4) as percentage of indicative starting sentence (column 2)
8g to 9g	10 to 13 years	5 years to 8 years	1 year 8 months to 2 years 8 months	16.7% to 20.5%
9g to 9.99g	13 to 15 years	8 years to 10 years	2 years 8 months to 3 years 4 months	20.5% to 22.2%
Prescribed range: 20–30 years' or life imprisonment				
10g to 11.5g	20 to 22 years	0 to 2 years	0 to 8 months	0 to 3%
11.5g to 13g	23 to 25 years	3 to 5 years	1 year to 1 year 8 months	4.3% to 6.7%
13g to 15g	26 to 29 years	6 to 9 years	2 years to 3 years	7.7% to 10.3%

Table 8. Criticism of inconsistent absolute and percentage reduction under *Almenoar's Approach*

91 With reference to the table above, the potential criticism is two-fold. Firstly, the reduction, calculated either as a percentage on the total indicative sentence or in absolute terms, increases as the weight of diamorphine increases. Secondly, it is odd and inconsistent that for the first half of the Table, one who traffics more drugs gets a greater reduction, but in the second half of the Table, someone who traffics more drugs than the first half of the Table will actually get a smaller reduction, calculated as a percentage and in absolute terms. For example, the ranges of 10g to 11.5g and 11.5g to 13g receive a smaller reduction than the ranges of 8g to 9g and 9g to 9.99g.

92 While this potential criticism does accurately highlight the mechanism of the *Almenoar's Approach*, it is an unfounded criticism. Firstly, the calculation of the percentage reduction that each range is entitled to is incorrect. The reduction should not be seen as a percentage of the entire indicative sentence simply because the MMS portion of the indicative sentence should not, and is not, considered as part of the reduction.¹²⁰ If, instead, the reduction is calculated as a percentage of the uplift portion only, it would, naturally, yield a constant of 30%. This constant 30% represents the mitigating weight of the accused person's plea of guilt.¹²¹

93 Secondly, it is only natural, within each half of the Table, for the reduction in absolute terms to increase as the weight of diamorphine increases. This is precisely because the uplift is increasing, and as

120 See paras 64–69 above.

121 See paras 72–79 above.

a percentage reduction, the absolute amount of reduction would likewise increase. The same observation can be said of all the other approaches which employ a percentage-based reduction against an increasing sentence.

94 Thirdly, the comparison of the ranges of 10g to 11.5g and 11.5g to 13g as against the ranges of 8g to 9g and 9g to 9.99g is flawed. While both halves of the Table may be simplistically seen as the varying weights of a single drug trafficking offence, the difference between both halves of the Table is not merely the weight of the diamorphine trafficked but also the punishment provided. The offender for the range of 11.5g to 13g receives a smaller absolute discount than the offender for the range of 8g to 9g because the former offender receives a smaller uplift from the MMS prescribed. Therefore, the fixed percentage reduction applied to a smaller uplift naturally results in a smaller absolute discount. There is nothing inherently objectionable in such an observation. In fact, the offender for the range of 11.5g to 13g *should* receive a smaller absolute discount precisely because of the higher MMS prescribed and the accompanying points aforementioned at paras 64–69 above.

(9) *Approach in Public Prosecutor v Almendoar Syed Farez does not dilute deterrent sentences for drug trafficking*

95 Finally, it may be argued that *Almendoar's* Approach may send the wrong message to the public that Singapore is getting “soft” on drug crimes because of the large 30% reduction.

96 This is not true. The table below shows that, with the exception of the 8g to 9g and 9g to 9.99g ranges, *Almendoar's* Approach actually results in similar or harsher sentences than the Prosecution's Approach. The Prosecution's Approach was endorsed by the Court of Appeal in *Iskandar*. By extension, *Almendoar's* Approach would also not be considered as sending out a message that the courts are getting more lenient on drug traffickers. In fact, under *Almendoar's* Approach, the final sentence of 26 years and 3 months for an offender with an indicative starting point of 29 years is exactly within the range of sentences that the Court of Appeal in *Iskandar* thought necessary and consistent with precedents.¹²²

122 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 at [108].

Weight of diamorphine	Indicative starting sentence (first-time offender)	Sentence after applying 30% maximum reduction (Uncalibrated PG Guidelines Approach)	Sentence after applying 10% maximum reduction (Prosecution's Approach)	Sentence after applying 30% maximum reduction on uplift (<i>Almenoar's</i> Approach)
Prescribed sentencing range: 5 to 20 years' imprisonment (s 33(1) of the MDA, read with row 1 of the Second Schedule of the MDA dealing with s 5 of the MDA)				
Up to 3g	5 to 6 years	5 years	5 years to 5 years 5 months	5 years to 5 years 8 months
3g to 5g	6 to 7 years	5 years	5 years 5 months to 6 years 4 months	5 years 8 months to 6 years 4 months
5g to 7g	7 to 8 years	5 years to 5 years 7 months	6 years 4 months to 7 years 2 months	6 years 4 months to 7 years 1 month
7g to 8g	8 to 9 years	5 years 7 months to 6 years 3 months	7 years 2 months to 8 years 1 month	7 years 1 month to 7 years 9 months
8g to 9g	10 to 13 years	7 years to 9 years 1 month	9 years to 11 years 8 months	8 years 6 months to 10 years 7 months
9g to 9.99g	13 to 15 years	9 years 1 month to 10 years 6 months	11 years 8 months to 13 years 6 months	10 years 7 months to 12 years
Prescribed sentencing range: 20 to 30 years' or life imprisonment (s 33(1) of the MDA, read with row 4 of the Second Schedule of the MDA dealing with s 5 of the MDA)				
10g to 11.5g	20 to 22 years	20 years	20 years	20 years to 21 years 5 months
11.5g to 13g	23 to 25 years	20 years	20 years 8 months to 22 years 6 months	22 years 1 month to 23 years 6 months
13g to 15g	26 to 29 years	20 years to 20 years 3 months	23 years 5 months to 26 years 1 month	24 years 2 months to 26 years 3 months

Table 9. Comparison of final sentences imposed under the three approaches

97 Even if criticism is made upon the 8g to 9.99g range, it can be said that this is a very limited range in the entire context of diamorphine drug trafficking. For one, the mandatory death penalty for the capital threshold amount of 15g and above is not affected. The deterrent drug sentencing regime is therefore not significantly affected.

98 In any case, the benefits of adopting *Almenoar's* Approach¹²³ outweigh the impact, if any, of the lower sentencing for the 8g to 9.99g range. In particular, by effectively encouraging early pleas of guilt, *Almenoar's* Approach allows more public resources to be diverted to drug enforcement.

99 If the Court of Appeal in *Iskandar* was concerned that applying *Almenoar's* Approach would result in an unacceptable dilution of the

123 See paras 64–90 above.

deterrent message for drug trafficking, then, instead of adopting the Prosecution's Approach which is inferior to the *Almenoar's* Approach in the many ways aforementioned, the court should have invoked the public interest exception to the PG Guidelines and held that the PG Guidelines should not be applicable to drug trafficking offences.

100 In any case, if the Judiciary does accept *Almenoar's* Approach, and the Legislature finds that it has, indeed, resulted in a dilution of the deterrent message for drug trafficking, then it is open to the Legislature to pass new laws to tackle this issue.

VI. Recommendations for legislative reform

101 In the alternative to a different judicial approach, legislative reforms are necessary. In this section, this paper sets out recommended legislative reforms with reference to the approaches in other jurisdictions.

102 Although the issues raised in *Iskandar*¹²⁴ are uniquely Singaporean,¹²⁵ an examination of the legislative approaches in the UK and South Australia may inform Singapore's approach at reforms. These two jurisdictions are part of the seven jurisdictions surveyed in the course of writing this article: UK, South Australia, New Zealand, Hong Kong, Malaysia, India and the US. New Zealand will not be covered because, despite the legislative prescription for a plea of guilt to be taken into account in determining sentence, the actual reduction for a plea of guilt is set out in case law. There, the reduction depends on an evaluation of all the circumstances in which the plea is entered and not solely or principally with reference to when the plea is entered. Hong Kong, Malaysia, India and the US do not have any legislated PG Guidelines. In Hong Kong, the "PG Guidelines" are set out in case law. Although Malaysia has a multiple mandatory minimum sentencing regime for drug offences like Singapore, Malaysia does not have equivalent PG Guidelines and thus will not be covered. Similarly, India does not have PG Guidelines; instead, India relies on a unique plea-bargaining system. The US employs a unique sentencing table with a vertical axis of "Offense Level" from Level 1 to 43 and a horizontal axis of "Criminal History Category" from Category I to VI. The mitigating weight for a plea of guilt is given where the defendant "clearly demonstrates acceptance of responsibility for his offence", and the offense level is decreased by two levels. Therefore, these jurisdictions are not considered. The detailed analysis of the different jurisdictions can be found at Annex B.

124 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673.

125 See para 49 above.

A. *Legislating for Sentencing Council with powers to issue guidelines with legislative effect – learning from UK*

103 In England and Wales, the statutorily created Sentencing Council (“SC”) issues guidelines. These guidelines *must be followed* by judges “unless the court is satisfied that it would be contrary to the interests of justice to do so”.¹²⁶

104 Singapore’s Legislature could similarly legislate so. If the guidelines published by the SAP are binding on the courts, the courts do not face the dilemma of having to give effect to the guidelines and yet having to follow pre-guidelines precedents. However, it is acknowledged that such a development takes time. The development of the English Sentencing Advisory Panel to the Sentencing Guidelines Council and finally the SC¹²⁷ is perhaps a model that Singapore may follow. This gradual development allows for processes to be tested through trial-and-error and for experience accumulation.

105 Moreover, the SC’s seven-step process to continually develop and review guidelines is also something that Singapore’s SAP can adopt:

- (a) identifying priorities for development of guidelines;
- (b) undertaking research;
- (c) discussing and refining the approach to draft a guideline;
- (d) issuing the draft guideline for consultation with criminal justice professionals and the wider public;
- (e) considering the responses from the consultation and developing a definitive version of the guideline;
- (f) publishing the definitive version; and
- (g) monitoring the use and effect of the guideline.

Such a robust process is commendable, and Singapore’s SAP should adopt such a process. Perhaps it is timely for the SAP to review the use and effect of the PG Guidelines, and to propose a recommended solution to the issues arising from *Iskandar*.

126 Sentencing Act 2020 (c 17) (UK) s 59(1).

127 The history of the development of the UK Sentencing Council can be found at Annex B.

106 Singapore can also learn from the SC’s “Reduction in sentence for a guilty plea”¹²⁸ (“UK PG Guidelines”). Like Singapore,¹²⁹ the UK PG Guidelines adopts a sliding scale approach with the percentage of reduction being pegged to the point in proceedings that the accused person pleads guilty.

107 The beauty of UK’s approach lies in its comprehensiveness – the UK PG Guidelines has listed out all the offences with mandatory minimum sentences¹³⁰ and the application of the UK PG Guidelines to it. The UK PG Guidelines expressly provide that in some cases, the final sentence cannot go below the MMS whereas for others, the courts are permitted to reduce the sentence to, at the maximum, 80% of the MMS.¹³¹

108 Therefore, if Singapore were to publish PG Guidelines with legislative effect, it should look into the position of *all* MMS in the country, and whether the reduction for a plea of guilt could bring the final sentence below the MMS. The Legislature may consider using “presumptive minimum sentences”¹³² instead, where the PG Guidelines may allow a sentence to be reduced below its MMS and relieve the issues of clustering.

109 However, such sweeping reforms are unlikely in the short term. Instead, given that the issues in applying the PG Guidelines are, currently,

128 Sentencing Council, “Reduction in Sentence for a Guilty Plea: Definitive Guideline” (1 June 2017) <<https://www.sentencingcouncil.org.uk/overarching-guides/crown-court/item/reduction-in-sentence-for-a-guilty-plea-first-hearing-on-or-after-1-june-2017/>> (accessed 11 April 2025) (“UK PG Guidelines”).

129 Or perhaps it is more appropriate to say that the Singapore’s PG Guidelines are like the UK PG Guidelines (rather than the other way around) because Singapore’s PG Guidelines seem to have gotten its inspiration from the UK counterpart.

130 A list of all the offences with a mandatory minimum sentence in the UK can be found here: Sentencing Academy, “Sentencing Explained: Mandatory Minimum Sentences” (February 2024) <<https://www.sentencingacademy.org.uk/wp-content/uploads/2024/02/Mandatory-Minimum-Sentences-Explainer.pdf>> (accessed 11 April 2025). A comparison was done with the UK PG Guidelines to determine that all offences with a mandatory minimum sentence was covered.

131 Sentencing Council, “Reduction in Sentence for a Guilty Plea: Definitive Guideline” (1 June 2017) <<https://www.sentencingcouncil.org.uk/overarching-guides/crown-court/item/reduction-in-sentence-for-a-guilty-plea-first-hearing-on-or-after-1-june-2017/>> (accessed 11 April 2025) at Sections F4, F5 and G.

132 Singapore is not entirely foreign to such a concept. Section 303A of the Criminal Procedure Code 2010 (2020 Rev Ed) provides for a “presumptive minimum sentence”. For example, s 332 of the Penal Code 1871 (2020 Rev Ed) provides that the punishment for an offence of voluntarily causing hurt to deter a public servant from his duty is, *inter alia*, an imprisonment term of up to 7 years, “provided that in exceptional circumstances imprisonment need not be imposed”.

most prevalent with drug offences, the Legislature could look into reforms for the MDA first.

B. *Legislating for different maximum reductions for different offences – learning from South Australia*

110 In South Australia, the Sentencing Act 2017 legislatively provides the court the power to reduce the defendant's sentence on account of the defendant's plea of guilt.¹³³

111 Interestingly, South Australia's approach provides for a different maximum reduction for different offences based on the seriousness of the offences.¹³⁴ *Prima facie*, this goes against the idea of the maximum percentage reduction representing the mitigating weight of an offender's plea of guilt which should be a constant regardless of the offence committed. Nonetheless, this seems to be an explicit acknowledgment by the Legislature of South Australia, for whatever reason, that a large reduction should not be afforded to serious offenders.

112 Singapore may learn from this in that if the Legislature is concerned about the reduction afforded to drug offenders, or even any other offence it deems serious enough, the Legislature may explicitly provide for a different maximum reduction. It is important to note that the differing maximum percentage reduction for the offences would *not* be a representation of the different mitigating weight of the offenders' plea of guilt, but merely a manifestation of the Legislature's policy considerations.

113 Secondly, South Australia's Sentencing Act 2017 explicitly provides a list of factors that the courts should consider in determining the actual percentage of reduction.¹³⁵ This is commendable and something that Singapore may adopt since it provides clarity and comprehensiveness. Furthermore, Singapore's public interest exception is listed, instead, as a factor to be considered under South Australia's Sentencing Act 2017.¹³⁶ This is the preferred approach because rather than ignore the PG Guidelines entirely, the courts may use this consideration

133 Sentencing Act 2017 (SA) ss 39 and 40.

134 For summary offences in the Magistrates Courts, the maximum reduction is 40%; Sentencing Act 2017 (SA) s 39. For serious indictable offences, the maximum reduction is 25%, and for all other offences, the maximum reduction is 35%; Sentencing Act 2017 (SA) s 40.

135 Sentencing Act 2017 (SA) ss 39(4) and 40(5).

136 The relevant wording in ss 39(4)(a) and 40(5)(a) of the Sentencing Act 2017 (SA) reads: "whether the reduction of the defendant's sentence by the percentage contemplated would be so disproportionate to the seriousness of the offence, or so
(cont'd on the next page)

to award a smaller than usual reduction but still state clearly what weight, if any, they are giving to the accused's plea of guilt.

VII. Conclusion

114 In conclusion, *Iskandar*¹³⁷ raises three broad issues:

- (a) On a strict reading of the case, the application of the PG Guidelines becomes unnecessary because sentencing precedents will necessarily prevail. Thus, the very aims and objectives that the PG Guidelines seeks to achieve would not be met.
- (b) The approach adopted in *Iskandar* does not actually solve the clustering problem but merely reduces it in scale. This, unless corrected, would be applicable to all other offences with an MMS.
- (c) The approach adopted in *Iskandar* is also, in theory, applicable to all offences, present and future, with multiple MMS. In practice, currently, the only offences affected are those in the MDA.

115 This paper has argued that the Court of Appeal in *Iskandar* should have, firstly, emphatically endorsed the PG Guidelines and elevated it to the status of judicially-binding precedents, and secondly, adopted *Almenoar's* Approach. It is a much better alternative to exclude the MMS portion of the sentence from the calculation of the reduction to be applied for a guilty plea. Consequently, *Almenoar's* Approach eliminates the clustering problem, maintains a consistent theoretical maximum mitigating weight of 30% to be attributed to all pleas of guilt and allows for significant tiering thereby encouraging early guilty pleas. Although *Almenoar's* Approach does not resolve the "cliff effect", that is not inherently objectionable because the "cliff effect" is an inevitable consequence of the multiple MMS sentencing regime legislatively prescribed. In any case, *Almenoar's* Approach does bring the "cliff effect" to an acceptable level, keeping in mind the need to allow for upwards calibration of the sentence for aggravating factors. Potential criticisms of *Almenoar's* Approach have also been pre-emptively dealt with.

116 Alternatively, the Legislature may intervene with reforms. While sweeping reforms are necessary in the long term, it may be more realistic to target the MDA in the short term first, since the issues discussed in

inappropriate in the case of that particular defendant, that it would, or may, affect public confidence in the administration of justice".

137 *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673.

this paper coalesce in the drug offences in the MDA. Until the Legislature intervenes, all things considered, this paper argues that *Almenoar's* Approach is the best principled approach that the Judiciary can adopt.

ANNEX A

**Defendants' charges and sentences imposed by the High Court in
*Public Prosecutor v Iskandar bin Jinan*¹³⁸**

Accused person	Charge	Sentence	Consecutive/ Concurrent	Global sentence
Iskandar bin Jinan	Section 5(1)(a) MDA p/u s 33(1) MDA – trafficking in not less than 14.99g of diamorphine	29 years' imprisonment	Consecutive	32 years' imprisonment
	Section 5(1)(a) r/w s 5(2) MDA p/u s 33(4A) MDA – possession for the purposes of trafficking not less than 82.4g of methamphetamine	12 years' imprisonment	Concurrent	
	Section 8(b)(ii) MDA p/u s 33(4) MDA – consuming methamphetamine	3 years' imprisonment	Consecutive	
	Section 5(1)(a) r/w s 5(2) MDA p/u s 33(4A) MDA – possession for the purposes of trafficking not less than 1.40g of diamorphine	Taken into consideration	N/A	
	Section 8(a) MDA p/u s 33(1) MDA – possession of not less than 4.29g of diamorphine			
	Section 8(a) MDA p/u s 33(1) MDA – possession of not less than 82.4g of methamphetamine			

138 [2024] SGHC 134.

Accused person	Charge	Sentence	Consecutive/ Concurrent	Global sentence
Mohd Farid Merican bin Maiden	Section 5(1)(a) r/w s 12 MDA p/u s 33(1) MDA – abetting by engaging in conspiracy with Iskandar to traffic in not less than 14.99g of diamorphine	28 years' imprisonment	Consecutive	31 years' imprisonment
	Section 8(b)(i) MDA p/u s 33(4) MDA – consuming 2-[1-(5-Fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoic acid or its hexanoic acid isomer	3 years' imprisonment	Consecutive	
	Section 5(1)(a) r/w s 5(2) MDA p/u s 33(4A) MDA – possession for the purposes of trafficking not less than 277.14g of vegetable matter and not less than 392.8g of colourless liquid, which were analysed and found to contain 5-fluoro-MDMB-PICA or its fluoro positional isomer in the pentyl group	10 years' imprisonment	Concurrent	
	Section 8(b)(i) MDA p/u s 33(4) MDA – consuming 2-[1-(4-Fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoic acid or its hexanoic acid isomer or any of their respective fluoro positional isomers in the pentyl group	Taken into consideration	N/A	
	Section 8(b)(i) MDA p/u s 33(4) MDA – 2-[1-(5-Fluoropentyl)-1H-indazole-3-carboxamido] -3,3-dimethylbutanoic acid or its hexanoic acid isomer or any of their respective fluoro positional isomers in the pentyl group			

ANNEX B

Analysis of approaches in other jurisdictions

Jurisdiction	Description
UK	<p>Sentencing Advisory Panel (“English SAP”) was established by Crime and Disorder Act 1998.¹³⁹ The English SAP drafted non-binding guidelines and referred them to the Court of Appeal for consideration.¹⁴⁰</p> <p>Sentencing Guidelines Council (“SGC”) was established by the Criminal Justice Act 2003.¹⁴¹ The SGC, relying on the English SAP’s draft guidelines, had ultimate responsibility for the creation and form of guidelines. The courts had a statutory obligation to “have regard” to the guidelines.¹⁴²</p> <p>Sentencing Council (“SC”) was established by the Coroners and Justice Act 2009¹⁴³ to replace both the English SAP and the SGC. Judges and magistrates must follow the guidelines issued by the SC “unless the Court is satisfied that it would be contrary to the interests of justice to do so”.¹⁴⁴</p> <p>Has guidelines on reduction in sentences for guilty pleas (“PG Guidelines”) in similar form as Singapore – sliding scale approach with reduction quantified by reference to timeliness of plea of guilt.¹⁴⁵</p> <p>PG Guidelines are binding on the courts.¹⁴⁶</p> <p>PG Guidelines explicitly provide for approaches to be taken for all offences with mandatory minimum sentences (“MMS”) in the UK. In some cases, the final sentence cannot go below the MMS whereas for others, the courts are permitted to reduce the sentence to, at maximum, 80% of the MMS¹⁴⁷</p> <p>Does not have offences with multiple MMS.</p> <p>Courts have not considered issues of clustering and cliffing.</p>

139 c 37 (UK).

140 Sentencing Council, “History” <<https://www.sentencingcouncil.org.uk/sentencing-and-the-council/about-the-sentencing-council/history/>> (accessed 11 April 2025).

141 c 44 (UK).

142 Criminal Justice Act 2003 (c 44) (UK) s 172 (repealed by the Coroners and Justice Act 2009 (c 25) (UK)).

143 c 25 (UK).

144 Sentencing Act 2020 (c 17) (UK) s 59(1).

145 Sentencing Council, “Reduction in Sentence for a Guilty Plea: Definitive Guideline” (1 June 2017) <<https://www.sentencingcouncil.org.uk/overarching-guides/crown-court/item/reduction-in-sentence-for-a-guilty-plea-first-hearing-on-or-after-1-june-2017/>> (accessed 11 April 2025) (“UK PG Guidelines”) at Section C.

146 Sentencing Act 2020 (c 17) (UK) s 59(1).

147 A list of all the offences with mandatory minimum sentences in the UK can be found here: Sentencing Academy, “Sentencing Explained: Mandatory Minimum Sentences” (February 2024) <<https://www.sentencingacademy.org.uk/wp-content/uploads/2024/02/Mandatory-Minimum-Sentences-Explainer.pdf>> (accessed 11 April 2025). A comparison was done with the UK PG Guidelines to determine that all offences with a mandatory minimum sentence was covered.

Jurisdiction	Description
State of South Australia	<p>PG Guidelines in similar form as Singapore – sliding scale approach with reduction quantified by reference to timeliness of plea of guilt.</p> <p>However, PG Guidelines are set out in the statute: Sentencing Act 2017.¹⁴⁸</p> <p>PG Guidelines, therefore, have legislative effect and binding on the courts.</p> <p>PG Guidelines specify different maximum reduction for different types of offences. For summary offences in the Magistrates Courts, the maximum reduction is 40%.¹⁴⁹ For serious indictable offences, the maximum reduction is 25% and for all other offences, the maximum reduction is 35%.¹⁵⁰</p> <p>Courts are legislatively empowered to go below MMS if courts “[think] that good reason exists”.¹⁵¹</p> <p>Does not have offences with multiple MMS.</p> <p>Courts have not considered issues of clustering and cliffing.</p>
New Zealand	<p>Courts are legislatively required to consider “whether and when the offender pleaded guilty” in sentencing.¹⁵²</p> <p>PG Guidelines set out only in case law: maximum reduction of 25% and a sliding scale approach.¹⁵³</p> <p>However, the actual percentage to be applied depends on an evaluation of all the circumstances in which the plea is entered and not solely or principally with reference to when the plea is entered.¹⁵⁴</p> <p>Does not have offences with multiple MMS.</p> <p>Courts have not considered issues of clustering and cliffing.</p>

148 Sentencing Act 2017 (SA).

149 Sentencing Act 2017 (SA) s 39.

150 Sentencing Act 2017 (SA) s 40.

151 Sentencing Act 2017 (SA) s 25(1).

152 Sentencing Act 2002 (NZ) s 9(2)(b).

153 *Hessell v R* [2010] NZSC 135.

154 *Hessell v R* [2010] NZSC 135 at [70] and [74].

Jurisdiction	Description
Hong Kong	<p>PG Guidelines set out only in case law: maximum reduction of one-third and a sliding scale approach.¹⁵⁵</p> <p>Most generous PG Guidelines – accused would still receive 20% reduction when pleading guilty on first day of trial.</p> <p>Hong Kong Court of Final Appeal (“HKCFA”) recently had the opportunity to consider the application of their PG Guidelines to offences with an MMS.¹⁵⁶</p> <p>HKCFA concluded that it had no power to reduce the sentence below the statutorily provided MMS on account of a plea of guilt.¹⁵⁷ Hence, HKCFA applied one-third reduction to indicative sentence of 5 years 6 months and arrived at the final sentence of 5 years which was the MMS. Regrettably, HKCFA did not consider the effect of clustering, since that is an apparent issue that would flow from its decision.</p> <p>Moreover, the offence in question seemed to be an offence with a tiered sentencing regime, much like the multiple MMS sentencing regime. Regrettably, the HKCFA did not consider the “cliff effect”.</p>
Malaysia	<p>Has offences with multiple MMS.¹⁵⁸</p> <p>However, does not employ any form of PG Guidelines.</p> <p>Instead, Malaysia adopts a plea-bargaining process where the accused pleads guilty on, and is sentenced on, the terms of the plea bargain.¹⁵⁹</p> <p>Alternatively, the court will determine, in each case, what mitigating weight, if any, to be given to a plea of guilt.¹⁶⁰</p>

155 *HKSAR v Ngo Van Nam* CACC 418/2014 and *HKSAR v Abdou Maikido Abdoulkarim* CACC 327/2015.

156 *HKSAR v Lui Sai Yu* [2023] HKCFA 26.

157 *HKSAR v Lui Sai Yu* [2023] HKCFA 26 at [62]–[72].

158 Dangerous Drugs Act 1952 (No 30 of 1952) (M’sia) ss 39A and 39B.

159 Criminal Procedure Code (Act 593) (M’sia) ss 172C and 172D.

160 *Md Shahzada Sajū v Public Prosecutor* (30 July 2024, Court of Appeal) (Putrajaya) at [31]–[37]. See Court of Appeal Putrajaya, “Grounds of Decision” <<https://efs.kehakiman.gov.my/EFSWeb/DocDownloader.aspx?DocumentID=d0127b5c-bbe4-4b6c-a00f-7ca98be5bb13&Inline=true>> (accessed 11 April 2025).

Jurisdiction	Description
India	<p>Does not employ any form of PG Guidelines. Employs system of plea bargaining.¹⁶¹ An accused person may apply for plea bargaining within 30 days from the date of framing of charge in court.¹⁶² Upon receiving such an application, the court will notify the Public Prosecutor.¹⁶³ Thereafter, the Public Prosecutor, the police officer who investigated the case, the accused and the victim will meet to work out a satisfactory disposition of the case.¹⁶⁴ Where a satisfactory disposition has been arrived at, the court will dispose of the case according to the terms agreed upon by parties.¹⁶⁵ Where the offence has an MMS, the court may sentence the accused to one-half of such minimum punishment or to one-fourth of such minimum punishment if the accused is a first-time offender.</p>
US	<p>Does not employ any form of PG Guidelines. In sentencing, the US uses a Sentencing Table.¹⁶⁶ The Sentencing Table has a vertical axis of “Offense Level” from Level 1 to 43 and a horizontal axis of “Criminal History Category” from Category I to VI. Using the two axes, the sentencing court will be able to arrive at a particular cell which sets out the range of imprisonment in months that is appropriate. Where the defendant “clearly demonstrates acceptance of responsibility for his offence” the offense level is decreased by two levels.¹⁶⁷</p>

161 Bharatiya Nagarik Suraksha Sanhita 2023 (Bill No 122 of 2023) (India) s 289.

162 Bharatiya Nagarik Suraksha Sanhita 2023 (Bill No 122 of 2023) (India) s 290(1).

163 Bharatiya Nagarik Suraksha Sanhita 2023 (Bill No 122 of 2023) (India) s 290(3).

164 Bharatiya Nagarik Suraksha Sanhita 2023 (Bill No 122 of 2023) (India) s 291(a).

165 Bharatiya Nagarik Suraksha Sanhita 2023 (Bill No 122 of 2023) (India) s 293.

166 United States Sentencing Commission, “2024 Guidelines Manual: Annotated Chapter 5” (2024) <<https://www.usc.gov/guidelines/2024-guidelines-manual/annotated-2024-chapter-5>> (accessed 11 April 2025).

167 United States Sentencing Commission, “2024 Guidelines Manual: Annotated Chapter 3” (2024) <<https://www.usc.gov/guidelines/2024-guidelines-manual/annotated-2024-chapter-3#3e11>> (accessed 11 April 2025).