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COURSE: CRIMINOLOGY

Sentencing means the prescription of punishment by a court to someone convicted of a crime hence after the accused person pleaded guilty or has been found guilty during the trial or prosecution process, the preceding judge or magistrate then enters judgment of conviction. The Canadian sentencing commission in 1987 defined sentencing as judicial determination of legal sanction to impose on a person found guilty of an offence. In ICHI V STATE 1996: where it was held that a sentence is the judgment formally pronuced by the court or a judge upon an accused person. It is also judgment formally referring to an accused person, the legal consequences of guilt which he has confessed to or which he has been convicted of. A sentence is also a definite order pronounced by the corts of competent jurisdiction at the end of a criminal trial.

Fundamental purpose of sentencing

1. To denounce unlawful conduct
2. To deter the offender and other persons from committing crime
3. To separate the offender from the society when necessary
4. To assist rehabiliting offenders.

Mohammd v olawunmi the court held : once a court of competent jurisdiction makes a finding of guilt in a criminal case or quasi criminal matter, the conviction has been made regardless of the fragment of sentence consequent upon it.

The supreme court have laid down 6 basic principles/ guidelines to aid the court in reaching a reasonable, just, and fair sentence.

1. The nature of the offence
2. Character/ nature of the offender
3. The position of the offender among his co-federate
4. The rampancy of the offence
5. Statuory limitiation
6. Concurrency of the sentence

NATURE OF THE OFFENCE

As a principle of law and practice the nature of the offence committed by an accused person of which he has been found guilty of goes a long way in determing the extent of his punishment. The law is clear that a person cannot be found guilty of an offence which as at the time being committed does not constitute a crime in any written law and punishment clearly stated as stated in Adeye and others v The state in case of robbery by violence tried by the high-court of western state the court imposed a sentence of 18years imprisonment on the accused person. On appeal, the western state court reduced the sentence to 10 years. The accused person unsatisfied with the decision of appeal court yet appeal to the surpreme court. The supreme court reinstated the 18 years with 3 strokes of cane. The supreme court stated that the sentence of the appeal court was too lenient because of the seriousness of the offence.

**Character or nature of the offender**

as a principle of law and as a rule of evidence character of evidence is in admissible in law however when the character of the accused person is in Christian the evidence of his character becomes admissible in law in Adeyeye v The States part of the reasons advanced for the restatement heavier penalty of 18 years was the accused person has been convicted earlier of an offence. It would appear that the court worked on the assumption that anyone with previous call action has lost out in terms of me getting his sentence. Adeleye v Ajibade the appellants bad character was significant to the restoration of the heavier punishment of them. In R v state the appellant has been previously convicted for defilement just left the court to increase his sentence from 18 months to five years imprisonment with hard labour. R v Bangaza with a heavy stick the two accused person committed a deliberate Assault on the deceased with the intention to do him previous harm by way of retaliation for an assault committed by the deceased's children on the appellants younger brother. Death resulted and the appellants were charged therefore convicted and the appellants after the murder in 1950 the appellants ran away to a place in borno. They surrendered themselves early in 1959 and we're tried in December 1959 at the Time their offence the appellants were under 17yrs but old enough to be criminally responsible by the time they were convicted they were 17 and more, dissmissing the appeal and holding that they were likely sentenced to death. Adenoma CJN as it then was said under section 368(3) CPA it is the age of the offender at the time of his conviction that is material and it seems clear that the appellant cannot invoke the provision of the section but the responsible authorities will no doubt give search weight as it thinks fit today possibility that the opponents had not run away and had been brought to trial at once the section would have applied thus the appellants appeal was dismissed.

Position of the offender among his Confederate

i)When he plays a minor role

Enahoro v The queen a case of treasonable felony Enahoro was sentenced 15 years imprisonment by the High Court the Supreme Court reduce the sentence 5 years answered the sentence imposed on the lieutenant should never be more than the leader. The leader of the Gang should be punished more severely than the lieutenant this is to affirm that those who instigate should get a higher punishment those instigated in that case the late Awolowo got 10 years sentence so the lieutenant should not get a sentence higher than 10 years leader is usually the epicenter of The Activity the moving Force the progenitor of the Crime.

ii) playing a major role

Your offender who played a major role is usually visited with a major punishment than those inflicted on minor participants. The above idea was given judicial recongnision. Queen v Muhammad and others while the first appellant who was the leader was given a maximum sentence of 8years imprisonment the other parties where given a maximum sentence of 5years. In State v kerenkwo although the appellants was found not to be the leader the court was however of the view she played a leading part in the incident and most take that into consideration also in Ihon and another v TIB native authority.where the appellants all involved in a riot in which many animals where mained and destroyed. They all got sentence of 6years except the 6th appellant who got 8years imprisonment for being the moving force of the riot.

RAMPANCY OF THE OFFENCE

Where on offense is rampant or prevalent court has always thoughts that severity of sentence impose will aid in stamping out the crime in R v Hassan and Owolabi

The accused person was sentenced to 5 years by the high court for forgery and another 5years for stealing they appealed and the surpreme court expressed the view fraud on customs are shockingly prevalent and forgery of commercial documents strikes at the root of all credit they are not disposed to reduce the sentencing by 1day. State v Michael Ayegbemi it was also because the courts view in state v another that robbery on the roads and water in recent times has been on the increase and disturbing that the two parties to the robbery were sentenced to 20years.

Rampancy of the offence is one of the most necessary consideration as it can be a mitigating or an aggravating factor depending on the offense. Certain offence have be considered serious in nature for example sexual offences especially when it involves children are victims in State v Adeboye a three years prison sentence was imposed on an offender for inserting his finger into the vagina of a little girl aged 9 who was Hawking groundnut. Iko v the state a taxi driver was sentenced to 5years imprisonment with hard labor for raping a passenger so violently. Robbery with violence is also considered serious in nature Olamipekun v The state during a robbery. The leader ordered one of his followers to shoot a victim. He complied but the gun did not go off, he was sentenced to 5years imprisonment with hard labor. The court said inter Alia among other things. That the society demands that such a man be convicted.

STATUTORY LIMITATION

A statutory of limitation is the law that forbids prosecutors from charging someone with a crime that was committed more than a specify number of years ago. The general purpose of statute of limitations is to make sure conviction occurs only when evidence has not detiorated with time. After the period of statute has run the criminal is free also where the state itself had stipulated terms of imprisonment, the court shall not exceed the stipulated limit. However not all crimes are governed by statute of limitations. Example sexual offences, forgery, arson, crimes on violence, kidnapping has no statutory limitations. classification of felonies

1) simple offences

2) misdemeanor

3) felony

Furthermore, in Nigeria there are 2 types of statutory limitation

Statutory maximinum

Magisterial jurisdiction limitation

Aremo v IGP the magistrate court sentenced the accused person to 2 years imprisonment dissatisfied the state appealed to the supreme court. The supreme court stated cannot impose punishment more than what the magistrate court has imposed.

CONCURRENCY OF THE SENTENCE

There are laws governing concurrent and consecutive sentence when a person is charged for more than 2 offences in nig the general rule is that whenever a court finds an accused person guilty of more than one offence the sentences should run concurrently. The supreme court held this position by saying whenever the offences are similar or similar disposition they should run concurrently.

Nwankwo v state the accused person was found guilty for store breaking and possession of breaking equipment. The supreme court held that the sentence should run concurrently because they emanate from the same transaction.