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**QUESTION**

Evans, a notorious kidnap kingpin and armed robber, who has also been involved in series of assault, rape and defilement of young girls has finally been apprehended by the police. He was arrested at the Seme Border, dressed like a woman and attempting to cross the border to Benin Republic. Investigation into his activities was concluded by the police and he was brought to the High Court where you are the Presiding Judge. After a long trial, you have found Evans guilty of all the charges brought against him including kidnapping, armed robbery, rape, defilement, ritual killing , extortion and obtaining property by false pretence. Having found him guilty of these charges, your next assignment is to sentence him accordingly. What are the things that will guide you in sentencing Evans having regard to the guidelines laid down by the Supreme Court?

Criminal Justice System (CJS) is an essential part of any civilized nation to ensure justice, fairness, the practice of the rule of law and the institutionalization of a democratic system. The CJS is a system comprising of many bodies, groups, institutions or agencies that have been charged with the responsibilities of ensuring social agreement and mass compliance with the law, and deciding whether or not an individual is guilty of violating the laws of the society, and the appropriate punishment to be meted to such an individual. In addition to such responsibility, the CJS is also responsible for the care and rehabilitation of individuals found guilty of breaking the laws and to whom prescribed punishment is meted out.

The Criminal Justice System is a series of [government](https://en.wikipedia.org/wiki/Government) agencies and institutions. Goals include the [rehabilitation](https://en.wikipedia.org/wiki/Rehabilitation_(penology)) of offenders, preventing other crimes, and moral support for victims. The primary institutions of the criminal justice system are the [police](https://en.wikipedia.org/wiki/Police), [prosecution](https://en.wikipedia.org/wiki/Prosecutor) and [defense](https://en.wikipedia.org/wiki/Criminal_defense_lawyer) lawyers, the [courts](https://en.wikipedia.org/wiki/Court) and [prisons](https://en.wikipedia.org/wiki/Prison). The Criminal Justice System in Nigeria is made up of agencies like the police, the court etc, which have the right to arrest, arraign, try, sentence and punish offenders accordingly. A criminal trial usually involves the state and the society, with the offender who has committed the crime and the process of determining if the accused actually committed the crime he or she is alleged to have committed. A criminal justice system is a set of legal and social institutions for enforcing the criminal law in accordance with a defined set of procedural rules and limitations. In a criminal trial, conviction and sentencing both come at the end of the criminal proceedings.

A Sentence of the Court can be defined as a definite disposition order issued by a court or other competent tribunal against a person standing trial at the conclusion of a criminal trial. This is subsequent to the finding of guilt against him and must be an order which is definite in its nature, type and quantum. The Nigerian Criminal Code and the Penal Code as well as other offence-creating statutes specify the quantum of sentences, while the sentences themselves find their legitimacy in the criminal Procedure legislations applicable at the states and federal levels.

The term sentence in [law](https://en.wikipedia.org/wiki/Law) refers to [punishment](https://en.wikipedia.org/wiki/Punishment) that was actually ordered or could be ordered by a [trial court](https://en.wikipedia.org/wiki/Trial_court) in a [criminal procedure](https://en.wikipedia.org/wiki/Criminal_procedure). A sentence forms the final explicit act of a [judge](https://en.wikipedia.org/wiki/Judge)-ruled process as well as the symbolic principal act connected to their function. The sentence can generally involve a decree of [imprisonment](https://en.wikipedia.org/wiki/Imprisonment), a [fine](https://en.wikipedia.org/wiki/Fine_(penalty)), and/or punishments against a [defendant](https://en.wikipedia.org/wiki/Defendant) [convicted](https://en.wikipedia.org/wiki/Conviction_(law)) of a [crime](https://en.wikipedia.org/wiki/Crime). Those imprisoned for multiple crimes usually serve a concurrent sentence in which the period of imprisonment equals the length of the longest sentence where the sentences are all served together at the same time, while others serve a consecutive sentence in which the period of imprisonment equals the sum of all the sentences served sequentially, or one after the next.

Sentencing means the prescription of the punishment by a court to someone convicted of a crime. Hence, after an accused person or defendant has pledged or has been found guilty during the trial or prosecution. The presiding judge or magistrate then enters judgment for conviction and sets a date aside for sentencing. A sentence is also defined as the definite position or order pronounced by a court of competent jurisdiction at the end of a criminal trial after the finding of guilt of the accused person.

In the case of ***Ichi V State (1996)*** it is stated that a sentence is the judgment formally pronounced by the court or judge upon an accused person after his conviction in a criminal prosecution imposing the punishment to be inflicted. In other words, it is the judgment formally given declaring to the accused person, the legal consequences of the guilt which he has confessed to or which he has been convicted of.

***Section 248 of the Criminal Procedure Act*** provides that if the court finds the accused person guilty, the court shall pass sentence on the accused person or make an order to reserve judgment and adjourn the case to some other date. There are several types of sentences that are given to various types of crimes which are all contained in the Criminal code and Penal code and this various sentences serve as guidelines to sentencing criminals.

The fundamental purpose of sentencing is to contribute along with the crime prevention initiatives, the respect of the law and the maintenance of just, peaceful and safe society by imposing just sanctions that have various objectives that include:

1. Denouncing wrongful conducts.
2. Deferring offenders and other persons from committing crime.
3. Separating offenders from society when deemed necessary.
4. Assisting in the rehabilitation of offenders.
5. Promoting a sense of responsibility in offenders and acknowledgement of the harm done to the community or victims.

In Nigeria, those who have been previously convicted in criminal cases usually attract higher and harsher sentence, unlike first time offenders and vice versa.

The Supreme Court has laid down some basic guidelines that are used to aid courts in reaching reasonable, just and fair sentence so as to prevent the court from making or giving harsh and unnecessary sentences to people who do not deserve such.

According to the situation above concerning Evans, these are some of the guidelines that will guide me in his sentencing according to the Supreme Court of Nigeria.

1. Nature of the crime.
2. Character or nature of the offender.
3. The position of the offender among his confederates.
4. The rampancy of the offences.
5. Statutory Limitations.
6. Concurrency of the sentence.

**Nature of the crime**

Firstly, we have to consider the nature of the crime that has been committed by Evans in order to carry out proper sentencing. As a principle of law and practice the goes a long way in dictating or determining the event of his punishment. The law is clear that a person cannot be found guilty of an offence which is at the time of being committed does not constitute a crime in any written law and its punishment clearly stated.

In the case of Mr. Evans who has committed several crimes crime which include kidnapping, armed robbery, rape, defilement, ritual killing extortion and obtaining property by false pretence. He has been found guilty of all this offences and cording to the Criminal Code of Nigeria any person who unlawfully imprisons any person within Nigeria in such a manner as to prevent him or her from applying to a court for his release or from discovering to any other person the place where he is imprisoned, or in such a manner as to prevent any person entitled to have access to him from discovering the place where he is imprisoned; is guilty of a felony and is liable to imprisonment for 10 years.

Any person who steals anything, and, at or immediately before or immediately after the time of stealing it, uses or threatens to use actual violence to any person or property in order to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained, is said to be guilty of robbery and any person who has committed the offence of armed robbery is to be sentenced to imprisonment for not less than 21 years according to our Criminal Code. We can see this in the case of ***Adeye and others V. The State.*** This was a case of robbery by violence, tried by the High Court of Western States; the court imposed a sentence of 18 years imprisonment on the accused person. On appeal the western state appeal court reduced the sentence to 10 years. The accused person unsatisfied with the decision of the appeal court, appealed to the Supreme Court which reinstated the 18 years imprisonment with an added 3 strokes of the cane. The Supreme Court stated that the court of appeal was too lenient as to regards of the seriousness of the crime.

For Evans crimes of rape, it is said according to the Criminal Code that any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of harm, or by means of false and fraudulent representation as to the nature of the act, or, in the case of a married woman, by personating her husband, is guilty of an offence which is called rape and any person who is liable to have committed such an offence is sentenced to imprisonment for life with or without caning.

In a case of defilement, people could be punished based on the age groups of the people which they defile. According to the Criminal code, any person who has unlawful carnal knowledge of a girl under the age of thirteen of subject to imprisonment for life and if the girl is above thirteen but below sixteen then the offender is sentenced to 2 years imprisonment.

There were several crimes that were committed by Evans, we have ritual killings which are the same as murder and the punishment for murder is a sentence to death. He also involved himself in several cons such as obtaining property by false pretence and according to the Criminal Code, any person who by false pretence, and with intent to defraud, obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, is guilty of a felony, and is liable to imprisonment for three years. If the thing is of the value of one thousand naira or upwards, he is liable to imprisonment for seven years. It is immaterial that the thing is obtained or its delivery is induced through the medium of the contract induced by the false pretence. The offender cannot be arrested without warrant unless found committing the offence.

According to this particular guideline we can see the several offences that Evans have been found guilty of and the several sentences that are given if one is found guilty or liable for any one of this offences.

**Character or nature of the offender**

As a principle of law and rule of evidence, character evidence, or evidence of character is inadmissible in law. However, when the character of the accused person is in question, evidence of his character becomes admissible in law. This simply means that when the character of an accused person is in question during court proceedings, if it is found out that said person has questionable character morals, and then it can be used against that person in the court of law. Meaning that accused persons are also judged based on their character in court and also their morals as human beings.

Based on the character assessment of Evans, we can see that he is known as the superior officer in his crime ring because he is known as the king pin in this particular crime syndicate. We can also see that Evans is a very cunning person seeing that he was arrested at the Seme Border, dressed like a woman and attempting to cross the border to Benin Republic. We can also say that Evans exhibits very psychopathic tendencies and narcissistic behavior which makes it easy for him to kill and abuse people without a feeling of remorse. Therefore, using his character as criteria we can say that he is indeed capable to have committed the crimes that he has being accused of.

In ***Adeyeye V. The State*** part of the reason advanced for the reinstatement of 18 years penalty had been convicted earlier of an offence. It will appear that the court worked the assumption that anyone with a previous conviction has lost out in terms of mitigating his sentence. In ***Adeleye & Ajibade***, the appellant’s bad character was significant in the restoration of a heavier punishment on them.

In ***R V. Bangaza***, with a heavy stick, the two accused persons committed a deliberate assault on the diseased with the intention to do him previous harm by way of retaliation for an assault committed by the diseased children on the appellants younger brother. Death resulted and the appellants were charged, thereby, convicted and appealed. After the murder in 1950, the appellants ran away to a place in Bornu. They surrendered themselves early in 1959 and were tried in December 1959. At the time of their offence, the appellants were under 17 years but old enough to be criminally responsible. By the time they were convicted they were 17 and more. Dismissing the appeal and holding that they were more likely sentenced to death, **Adenoma CJN** said under ***Section 368(3) of the CPA “it is the age of the offender at that time of the conviction that is material and it seems clear that the appellants cannot invoke the provisions of the section but the responsible authorities will no doubt give such weight as he thinks fit to the possibility that if the appellants had not runaway, and had being brought to trial at once, the section would have applied.”*** thus**,** the appellants appeal was dismissed.

In ***R V. The State***, the appellants had been previously convicted for defilement. This led the court to increase his sentence from 18 months to 5 years imprisonment with hard labor. This is simply to say that the character of a man is key factor during his court proceedings and can make all the difference.

**The Position of the offender among his Confederates**

This is a very important guideline to follow because in such cases or crime organizations like the one Evan ran, we have or always have the major players and the in or players, that is to say that Evan, as the kingpin of his criminal organization, had a major role in everything or every crime committed and we also have the people whose job were to carry out orders. Some of the people who played minor roles were sometimes coerced into doing so and do not deserve to be punished they had no choice but to commit.

The offender who has played a major role in the commission of the crime is usually visited with more severe punishment than those inflicted on an offender with a minor role. The above idea was given judicial recognition in ***Queen Vs Mohammed*** and others. While the first appellant who was the leader who given a maximum sentence of 8years imprisonment the other appellant where given a maximum sentence of five years imprisonment.

In ***State Vs Kerenku,*** although the appellant who found not be the leader, the court was however, of the view that she played a leading part in the incident and must take that into consideration. Also, in ***Ihun Vs the Native Authority***, where the appellant were all involved in a riot in which many where maimed and destroyed. They all got sentences totalizing to 6years imprisonment except the sixth appellant who got 8years imprisonment for being the moving force of the riot.

Therefore, this guideline seeks to explain that people who play major roles in certain crimes tend to be given larger sentences, and people play minor roles are more likely to be given minor sentences like in the case of ***Enahoro Vs the Queen***.

**Rampancy of the offence**

Where an offence is rampant or prevalent, court have always thought that the severity of sentences imposed will aid in stamping out the crime. In Evans case, most of the crimes that have being committed by him are crimes that are frequented in our society and which have gone unchecked in the society. Some of the crimes like murder, rape, armed robbery etc. These are all crimes that we witness everyday in our society and the court is trying to tell us that if these crimes are punished more severely and with high sentencing then maybe people will defer from committing such crimes so as to prevent jail time in the foreseeable future.

In ***R Vs Hasan and Owolabi***, the accused was sentence to 5yeras for forgery and another 5years for stealing. The appeal and the Supreme Court express its views thus, frauds on the customs are shockingly prevalent and the forgery of commercial document strikes at the roots of all credits. We are disposed the reduce the sentence by one day

Also in the case of The ***State Vs Ayegbeni Michael***, It was because the court viewed in State Vs Another that robbery on roads and water in recent times has been on the increase and disturbing, that two parties in to the robbery where sentence to 20 years imprisonment. In ***Onyinokwu Vs Commissioner of police***, the offender was initially detained for causing harm and later he unsuccessfully tried to escape and additionally charged with escaping from lawful custody, although he was later discharge and acquitted, the court the view that 3 years imprisonment earlier imposed on him did not show adequate consideration not only for his fist offender status but also for offence.

Rampancy of the offence is one of the most necessary considerations, as it can be mitigating factor or aggravating one depending on the offence. Certain offences have been considered serious in nature. Example Sexual offences epically when children are involved. In ***State vs. Adeboye*** a three year prison sentence is imposed on an offender for inserting his finger into the vagina of a little girl of age nine.

See ***R V. Okeke***. The rampancy and gravity of an offence of an offence can be likened to the gravity of that offence. If considered rampant and grievous, the court will most likely impose a heavier punishment in the view to stamp out that type of crime in the society.

**Statutory Limitations**

The Criminal Statute of limitation is the law that permits one to convict another. A statute of limitation is a law which forbids a prosecutor from charging someone with a crime that was committed more than the specified number of years ago. The general purpose of the Statute of Limitation is to make sure that convictions occur only upon evidence that has not been doctored with or tampered with.

After the period of the statute has run, the criminal is essentially free. Also, where the state itself has stipulated terms of imprisonment, the court shall not exceed the statutory limitations. However, not all crimes are governed by the statutes, sexual offences with minors, crimes of violence, kidnapping, forgery, arson, have no statutory limitations. Many states have adopted systems that classify crimes by categories which include; felony, misdemeanors and simple offences. Furthermore, in Nigeria there are two types of statutory limitations which are:

1. Statutory Maximum
2. Magisterial Jurisdiction Limitation

In essence, whenever a statute itself has stipulated terms of imprisonment, no court should exceed the statutory limits. In ***Queen V. Eyo & Others***, the case of unlawful assembly, the high court sentenced them to 5 years imprisonment. On appeal to the Supreme Court, the Supreme Court decreases the sentence to 2 years because that was the maximum sentence stipulated by law. In ***Aremu 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 that it cannot impose punishment more than what the magistrate court has imposed.

This is to say that Statutory Limitations are there to make sure that people are punished according to the law and not according to the will of the people. This is also to make sure that people that deserve it are punished to the full extent of the law. Therefore, in Evans case, the statutory limitations are there to make sure that for his numerous crimes, he is punished according to how the law sees fit.

**Concurrency of the Sentence**

There are laws governing concurrent and consecutive sentences. When a person is charged and found guilty of more than 2 offences that are similar to one another, such sentencing should run concurrently. A concurrent sentence is a term of imprisonment equal to the length of the longest sentence. This method of sentencing only applies when a defendant has been sentenced for two or more crimes. The purpose of a concurrent sentence is to allow the defendant to serve all of his sentences at the same time. So, if a defendant has been sentenced to five years in prison for burglary, and also ten years in prison for aggravated assault, his total concurrent sentence would equal ten years in prison. The opposite of a concurrent sentence is a consecutive sentence. As the name implies, a consecutive sentence requires a defendant to serve two or more sentences back to back. Therefore, in the above example, the defendant's total sentence, if served consecutively, would be fifteen years. A concurrent sentence will be more favorable for a defendant who has been convicted of multiple crimes, because the total length of the sentence will be shorter than it would be if the sentences ran consecutively.

In Evans case, there are several crimes that has being committed by him that are quite similar to each other and so therefore, according to the supreme court which holds the position saying “whenever offences are of similar nature or disposition, they should run their sentencing concurrently”, Evan could run his sentences concurrently but due to the fact that his punishment for certain crimes include life imprisonment or death, it would not matter in this situation. In the case of ***Nwafor V. the State***, here the accused person was found guilty and sentenced for store breaking and possession of breaking instruments in the same transaction. The Supreme Court held that the sentencing should run concurrently, because they emanate from the same transactions.

In conclusion, in this scenario, as the presiding judge tasked with giving out a sentence and following the guide lines given by the Supreme Court of Nigeria, on unknown counts of murder, rape, kidnapping and armed robbery, extortion and fraud, Mr. Evan will be found guilty and sentenced with Life imprisonment, with no parole and hard labor.