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COURSE : CRIMINOLOGY

 ASSIGNMENT

Evans a notorious kidnap kingpin and armed robber, who has also been involved in series of assault, rape and defilement of young girls have finally been apprehended by the police. He was arrested at the seme border, dressed as 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.

**ANSWER**

The next line of action is to sentence Evans but in accordance to the crime in which he has been found guilty of. In order to do that I have to state the things that will guide me in sentencing Evans.

 Firstly, The term **sentence** in [law](/wiki/Law%22%20%5Co%20%22Law) refers to [punishment](/wiki/Punishment%22%20%5Co%20%22Punishment)that was actually ordered or could be ordered by a [trial court](/wiki/Trial_court%22%20%5Co%20%22Trial%20court) in a [criminal procedure](/wiki/Criminal_procedure%22%20%5Co%20%22Criminal%20procedure). A sentence forms the final explicit act of a [judge](/wiki/Judge%22%20%5Co%20%22Judge)-ruled process as well as the symbolic principal act connected to their function. The sentence can generally involve a decree of [imprisonment](/wiki/Imprisonment%22%20%5Co%20%22Imprisonment), a [fine](/wiki/Fine_%28penalty%29%22%20%5Co%20%22Fine%20%28penalty%29), and/or punishments against a [defendant](/wiki/Defendant%22%20%5Co%20%22Defendant) [convicted](/wiki/Conviction_%28law%29%22%20%5Co%20%22Conviction%20%28law%29) of a [crime](/wiki/Crime%22%20%5Co%20%22Crime). 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. Additional sentences include **intermediate**, which allows an inmate to be free for about 8 hours a day for work purposes **determinate**, which is fixed on a number of days, months, or years; and **indeterminate** or **bifurcated**, which mandates the minimum period be served in an institutional setting such as a [prison](/wiki/Prison%22%20%5Co%20%22Prison) followed by street time period of [parole](/wiki/Parole%22%20%5Co%20%22Parole), [supervised release](/wiki/United_States_federal_probation_and_supervised_release%22%20%5Co%20%22United%20States%20federal%20probation%20and%20supervised%20release) or [probation](/wiki/Probation%22%20%5Co%20%22Probation) until the total sentence is completed.

 Secondly, If a sentence is reduced to a less harsh punishment, then the sentence is said to have been mitigated or commuted. Rarely depending on circumstances, [murder](/wiki/Murder%22%20%5Co%20%22Murder) charges are mitigated and reduced to [manslaughter](/wiki/Manslaughter%22%20%5Co%20%22Manslaughter)charges. However, in certain legal systems, a defendant may be punished beyond the terms of the sentence [social stigma](/wiki/Social_stigma%22%20%5Co%20%22Social%20stigma), loss of governmental benefits, or collectively, the [collateral consequences of criminal charges](/wiki/Collateral_consequences_of_criminal_charges%22%20%5Co%20%22Collateral%20consequences%20of%20criminal%20charges). [Statutes](/wiki/Statute%22%20%5Co%20%22Statute) generally specify the highest penalties that may be imposed for certain offenses, and [sentencing guidelines](/wiki/Sentencing_guidelines%22%20%5Co%20%22Sentencing%20guidelines) often mandate the minimum and maximum imprisonment terms to imposed upon an offender, which is then left to the [discretion](/wiki/Discretion%22%20%5Co%20%22Discretion) of the trial court.[[1]](%22%20%5Cl%20%22cite_note-United_States_v._Valencia-Mendoza-1) However, in some jurisdictions, prosecutors have great influence over the punishments actually handed down, by virtue of their discretion to decide what offenses to charge the offender with and what facts they will seek to prove or to ask the defendant to stipulate to in a [plea agreement](/wiki/Plea_agreement%22%20%5Co%20%22Plea%20agreement). It has been argued that legislators have an incentive to enact tougher sentences than even they would like to see applied to the typical defendant since they recognize that the blame for an inadequate sentencing range to handle a particularly egregious crime would fall upon legislators, but the blame for excessive punishments would fall upon prosecutors.

 Sentencing law sometimes includes cliffs that result in much stiffer penalties when certain facts apply. For instance, an [armed career criminal](/wiki/Armed_career_criminal%22%20%5Co%20%22Armed%20career%20criminal) or [habitual offender](/wiki/Habitual_offender%22%20%5Co%20%22Habitual%20offender) law may subject a defendant to a significant increase in his sentence if he commits a third offence of a certain kind. This makes it difficult for fine gradations in punishments to be achieved.

In order to sentence Evans I will have to state the guidelines used in sentencing him as aides by the Supreme Court, These are:

1.) Nature of the Offence.

2.) Characters to the nature of the offence.

3.) The position of the offender among his confederate.

4.) The rampancy of the offence.

5.) Statutory Limitation.

6.) Concurrency of the offence.

1.) Nature of the offence:

When sentencing an offender for a crime that has been committed the nature of the offence has to be taken into consideration. As a principle of law and practice the nature of the offence committed by an accused person ( the defendant ) of which he has been found guilty goes a long way in dictating/determining 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 it’s punishment clearly stated. As stated in the case of **Adeyeye v. The state** a case of robbery by violence by the high court of western state. 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 was unsatisfied with the decision of the appeal court yet appealed to the Supreme 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 see also in **Adesanya V. The queen**

2.) Characters to the nature of the offence.

As a principle of law or rule of law evidence ( vice versa ) character evidence or evidence of character is inadmissible in law. However, When the character of the accused person is in question the nature evidence of his character becomes admissible in law. In **Adeyeye V. The state** part of the reasons advanced for the reinstatement of the earlier penalty (18 years) was that the accused person had been convicted earlier of an offence. It would appear, that the court worked on the assumption that anyone with a previous conviction has lost out in terms of mitigating his stentence.

3.) The position of the offender among his confederate.

1. When the offender plays a minor role

In ***Enaoro vs The Queen***a case of treasonable felony . Enaoro was sentenced to 15 years imprisonment by the high court . The supreme court reduced the sentence to 5 years and said the sentence imposed on the lieutenant should not be more than  that of 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 than those who instigated. In that case the late Awolowo who was the leader got 10 years in jail . The leader is usually the epicenter of activities the moving force and the progenitor of the crime.

2. Playing a major role

The offender who has played a major role in an offence  is usually visited with more severe punishment than those inflicted on minor participants the above idea was given judicial recognition in ***Queen vs Muhammed***and others . While the first appellant who was the leader was given a minimum sentence of 8 years the rest were given a maximum of 5 years.

4.) The rampancy of the offence.

Where an offence is rampant or prevalent courts have also thought that severity of punishment imposed 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 5 years for stealing he appealed and the Supreme Court expressed its view this, “Fraud on the customs are shockingly prevailent and forgery of the commercial documents strikes at the root of all credits, we are not reduce the sentence by one day.

See also **State V. Michael Aiyegbemi a**nd also **Onyilokwu V. C.O.P**

5.) Statutory Limitation.

There are two types of statutory limitation in Nigeria :

1. Statutory Maximum

2. Magisterial jurisdiction limitation

In essence wherever there is a statute stipulating the punishment for any offence the court cannot go beyond that punishment. In ***Queen vs Eyo and others***a case of unlawful assembly the high court sentenced them to 5 years imprisonment on appeal the supreme court reduced the sentence to 3 years because it was what was stipulated by law (maximum sentence). Also in ***Mordi vs C.O.P***the magistrate sentenced the accused to 2 years then on appeal the high court increased it to 10 years. On appeal the supreme court reinstated the decision of the magistrate court.

6.) Concurrency of the Offence.

When a person is found guilty of more than 2 offences at a time in Nigeria.  The general rule is that the sentences should run concurrently. The supreme court held this position by saying ,whatever the offences are similar or of similar nature /disposition the should run concurrently. In ***Nwankwo vs The state***the court held that the sentences should be run concurrently because the offences were similar. Just like Evans in the above question his offences are similar and they would be run concurrently.