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In all criminal trials, where a conviction is secured, the next logical step would be sentencing.

***What is sentencing?***

The Black’s Law Dictionary defines a sentence as:

“The judgment that a court formally pronounces after finding a criminal Defendant guilty; or the punishment imposed on a criminal wrongdoer”.

The Canadian Sentencing Commission (1987) defines sentencing as “the judicial determination of legal sanctions to be imposed on a person found guilty of an offense “. In the case of Ichi v. State a sentence was defined as “the judgement formally pronounced by the court or a judge upon a person after his conviction in a criminal prosecution “.

Sentencing means the prescription of a punishment by a court to someone convicted of a crime hence after an accused has pleaded or has been found guilty.

***What is ‘sentence’?***

The word “sentence” means a punishment given to a person convicted of a crime. A sentence is ordered by the Judge or Magistrate, based on the verdict of the Judge or Magistrate within the possible punishments set by State Law (or Federal Law in convictions for a Federal crime).

Sentencing is a very broad field accommodating different approaches and ideas. It is an exercise of a discretionary power. Technically, a sentence includes all fines, community service, restitution or other punishment, or terms of probation.

The criminal justice system in Nigeria starts to run with the commission of a crime and continues with subsequent interventions by agencies of the system with the arrest, arraignment, trial, sentencing and punishment of the offender. A criminal trial involves two processes both of which are important to the society and the offender. Firstly, there is the process of determining whether the accused carried out the act or made the omission alleged against him; if he did, then the second stage is that of sentencing him for his offense. In simple legal parlance the word “sentence is an order which is definite in its nature, type and quantum, whether it is made mandatory by law or it is fixed by the court or tribunal at its discretion.

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 quantum or degree of sentences is specified in the offence-creating laws and this is done with or without judicial discretion. For example, certain sentences can be made mandatory by law, leaving no discretion to the courts as is the case of death penalty for all the offenses for which it is stipulated as the sentence or punishable with specified single terms of imprisonment. On the other hand, certain sentences are provided with specification of a range in each instance of a minimum term and a maximum term of imprisonment, while others just specify a statutory minimum punishment or a statutory maximum punishment.

***What is the purpose of sentencing?***

the key purpose of sentencing includes:

1. Punishment: to promote a sense of responsibility in offenders.

2. Deterrence (general and specific) : to deter the offender and other persons from committing the crime.

3. Rehabilitation:: to assist rehabilitation

4. Denunciation: to denounce unlawful behavior.

5. Protection of the community: to separate offenders from the society when necessary.

These purposes overlap and none can be considered in isolation from the others when determining what an appropriate sentence is in a particular case. Sentencing generally aims at the protection of the society through prevention of crime or reform of the offender which may be achieved by the means of deterrence, elimination or reformation/rehabilitation of the offender.

The bone of contention now lays with how is the court to reach a fair judgment in determining the sentence of the accused. The Supreme Court in the case of Mohammed v. Olawunmi (1992) the court held that “once a court of competent jurisdiction makes a finding of guilt in a criminal case or quasi criminal matter a conviction has been made regardless of the deferment of sentencing or consequence upon it. The sentence whether imprisonment or payment of fine emanates from the judge’s discretion after the finding of guilt and flows logically from the conviction”. The Supreme Court laid down six basic guidelines to aid the court in reaching a reasonable, just and fair sentence. These guidelines are designed to indicate to judges the expected sanction for particular types of offenses. Although statutes provide a variety of sentencing options for particular crimes, guidelines attempt to direct the Judge to more specific actions that could be taken. These guidelines are provided as follows;

* **The Nature of the Offense**: The Law is that a person cannot be found guilty of an offense which as at the time being committed did not constitute a crime in any written law and his punishment clearly stated. Penal statutes often provide for the maximum punishment for committing an offence; this maximum is not mandatory, the court has discretion to impose punishment that is less than the maximum, and the court is not bound to give reasons for doing so. The appellate court shall not interfere with the discretion of the court to impose punishment unless it is made a ground of appeal. In the case of Adesanya v. The Queen the accused having committed the offense of forgery was sentenced to pay a fine, on appeal at the instance of the accused person the court held that payment of fine was too small a punishment for the offense of forgery hence imprisonment in accordance to the provisions of the Criminal Code by virtue of Section 467 provides the Punishment for forgery in general thus “ Any person who forges any document, writing, or seal, is guilty of an offence which, unless otherwise stated ,is a felony, and he is liable ,if no other punishment is provided, to imprisonment for three years”. In the case of Mohammed v. C.O.P the accused was sentenced to 3yrs imprisonment by the High Court for running over and killing a pedestrian. The Supreme Court reduced the sentence to 18 months imprisonment and 5 years disqualification from driving. In cases of vehicular man slaughter there is a tendency of the court to impose slight punishments.
* **Character or Nature of the Offender:** as a rule of evidence, character evidence is inadmissible in law. However, when the character of the accused person is in question the evidence of his character becomes admissible in law. The court works on the assumption that anyone with a previous conviction has lost out in terms of mitigating the statement. In an ‘appropriate situation’, and depending on the offence charged, Defendants who are first offenders without a felony record may be entitled to a probation or pre-sentence report by a probation officer based on background information and circumstances of the crime, often resulting in a recommendation as to probation and amount of punishment. In the case of Adeyeye v. The State part of the reasons advanced from the reinstatement of 18 years imprisonment was that the accused had been convicted earlier of an offense. Adenuma CJN stated in the case of R v. Bangaza “under Section 368(3) of the Criminal Procedure Act, it is the age of the offender and the time of the conviction that is material”. **The case given expressly states that the accused is a notorious criminal and has also been involved in series of assault, rape and defilement of young girls. This goes to show that the accused is a hardened criminal and is guilty of multiple grievous crimes therefore this should lead to an increase in the sentence judging by the character and notorious history of the offender.**
* **The Position of the Offender among His Confederates:** the principle here is that those who instigate should get higher punishment than those instigated. In the case of Enahoro v. The State the Supreme Court reduced the sentence of 15 years imprisonment of the accused by the High court on the grounds that a sentence imposed on a lieutenant should never be more than the leader. The offender who has played a major role in the commission of the crime is usually visited with more severe punishment. **In the scenario given it is stated that the accused is the kidnap ‘*kingpin’* and armed robber, this implies that the accused played a major role in the crimes committed therefore making it obvious that he should be imposed with a heavy sentence and one definitely heavier than his counterparts.**
* **Rampancy of the Offense:** where an offense is rampant or prevalent courts have always thought that severity of sentences imposed would aid in stamping out the crime. If an offense is considered rampant and grievous the court would most likely impose a heavier punishment in the view to stamp out these kinds of crimes in society. **The offenses carried out by the accused (Evans) in the given case is are quite rampant in Nigerian society especially the offenses of kidnapping, armed robbery and extortion. Therefore the court will have to impose a punishment in order to stamp these crimes by showing society the hefty penalties that come with committing such crimes.**
* **Statutory Limitations:** a criminal statute of limitation is a law that forbids a prosecutor from charging someone with a crime that was committed more than a specified number of years ago. The general purpose of this is to make sure convictions occur only upon evidence that has not deteriorated its time. Also when the state itself are stipulated terms of imprisonment the court shall not exceed its statutory limitations. **In the given scenario the crimes committed by the accused do not have any statutes of limitation therefore the court shall sentence in accordance with the terms of imprisonment and whatever limitations may exist in the laws of that state.**
* **Concurrent and Consecutive Sentences:** Concurrent sentences are where the Defendant found guilty for more than one crime serves prison at the same time and only lasts as long as the longest term imposed. Consecutive sentences are where the Defendant is found guilty for more than one crime and the terms for several crimes are served one after another. Separate offenses charged together must each receive a separate sentence but if they all form part of the same criminal action, the sentence will be concurrent. In Nigeria the general rule is that whenever a court finds an accused person guilty of more than one offense the sentences should run concurrently. The Supreme Court held this position stating that whenever the offenses are of similar disposition they should run concurrently. In the case of Nwaifor v. The State the accused was found guilty of store break-in and possession of break-in instruments in the same transaction. The Supreme Court held that the punishment should run concurrently because they are offenses emanating from a similar transaction. **According to the general rule followed in the Nigeria in reference to the given scenario and according to the understanding of this writer due to the fact that the accused has been convicted of multiple crimes he well be sentenced to serve his term concurrently as long as the longest term imposed because he has committed more than two crimes in the same transaction which are rape and defilement, kidnapping and armed robbery and extortion and obtaining property under false pretenses.**

***Conclusion.***

In conclusion this writer being the judge in the given case would not consider any form of mitigation of punishment due to the notorious character of the offender and the major role which he played in the commission of the crimes and also for the purpose of stamping the rampancy of such crimes in the society. Section 273 of the Penal Code provides; 'Whoever **kidnaps** or abducts a person shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine'. By virtue of the provisions of the Criminal Code Act, the applicable law in this instant case, Sections 401 and 402 state:

401.

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.

402.

(1) any person who commits the offence of robbery shall upon conviction be sentenced to imprisonment for not less  than 21 years.

Also Section.319 of the Criminal Code prescribes the death penalty as punishment for homicide. This is based on the principle of fair deserts as a theory of punishment.

To determine unlawful killing, S.306 of the Criminal Code provides that a killing is unlawful if it not authorized, justified or excused by law. And finally any person who conspires with another by deceit or any fraudulent means to affect the market price of anything publicly sold, or to defraud the public, or any person, whether a particular person or not, or to **extort** any property from any person, is guilty of a felony, and is liable to imprisonment for seven years. Considering all the punishments provided by legislation it is apparent that the accused should serve a term of imprisonment concurrently as long as the longest term imposed. The accused in my opinion should serve a life sentence.