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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 have 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 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?**

**INTROUCTION**

Sentencing has enabled the infliction of both appropriate and inappropriate punishment on both the offender and the innocent ones. However, sentencing gives birth to punishment so in order to administer the right punishment to the right person, and in order for this to be made possible, right sentencing has to be done, and what other way can this be done except through the guidelines provided for by the Supreme Court.

**DEFINITION OF SENTENCE**

Sentencing as a legal term encompasses the infliction and prescription of punishment giving to an accused person who has been found guilty. Various case laws and jurists have attempted to give a universally accepted definition that encompasses the whole characteristics of sentencing and some of them include the following:

1. According to Legal Dictionary, sentence can be defined as the punishment given to a person convicted of a crime; it is ordered by the judge, based on the verdict of the jury (or the decision of the judge if there is no jury) within the possible punishment set by the state law or federal law in convictions for a federal crime.
2. The Canadian Sentencing Commission in 1987 defined Sentencing as the judicial determination of legal sanctions to be imposed on the person found guilty of an offence.
3. In the case of *Ichi v. State (1996) 9NWLR pt470 at 183* sentencing was defined as the judgement formally pronounced by the court or judge upon an accused person after his conviction in a criminal prosecution imposing the punishment to be inflicted.

 Sentence can be defined as punishment that are actually ordered or could be ordered by a trial court in a criminal procedure. It is required to be within the guidelines set by state laws for states crimes or federal law in conviction for a federal crime. It is also be defined as the prosecution of the punishment by the court to someone convicted of a crime that he has been accused of. *Section 248 of Criminal Procedure Act* further explains that if the court finds the accused person guilty, the court shall pass sentence on the accused person or make an order to recede judgment and adjourn the case to some other date.

**PURPOSE OF SENTENCING**

 *Section 3A of the Crimes (Sentencing Procedure) Act 1999* provides seven purposes for which a court can impose a sentence on an offender;

1. To ensure that the offender is adequately punished for the offence
2. To prevent crime by deterring the offender from committing similar offences
3. To promote the rehabilitation of the offender
4. To make the offender accountable for his or her actions
5. To denounce the unlawful conduct of the offender
6. To recognize the harm done to the victim of the crime and to the community

 It can be closely monitored that the purposes provided by the *Crimes (Sentencing Procedure) Act 1999* is quite similar to the purposes of punishments which includes rehabilitation, deterrence, incapacitation, restitution, and retribution. However, it is important to note the difference between the purpose of sentencing and the purpose of punishment. The fundamental purpose of sentencing is to contribute alongside the Crime Prevention Initiative the respect of the rule of law and maintenance of a just, peaceful and safe society, while the important purpose of punishment is to retribute, incapacitate, rehabilitate, restitute and deter offenders and those in the society to ensure a safe society. Thus the purposes of sentencing which would be explained briefly include the following:

1. To denounce unlawful conduct

 In as much as criminal activities are concerned, such behaviors exhibited by offenders are usually looked down on by the society and are been taught in homes and educational institutions as vices and not as norms or morals that should be emulated by anyone, also does sentencing serve the same purpose as a means publicizing the behaviors of convicted offenders as not morally upright in the society. For instance, a person found guilty of theft, his sentencing acts as a medium of denouncing the unlawful conduct carried out by the offender. Sentencing acts as an expression of society’s concern about and the disapproval of the offending behavior under consideration.

1. To deter the offender and other persons from committing the offence or similar offence

 Deterrence is defined as the inflicting of punishment on an offender to prevent the crime from recurring and also to prevent future crimes. The purpose of deterrence is to make the punishment in such a way that the offender and other people in the society would not have the desire to commit the crimes in future. Sentencing serves the purpose of deterring other member of the society and even the offender himself amongst others to not commit the offence or similar offences as they may receive the same result or perhaps worse if they do. It seeks to protect the society from offending behavior through preventive measures and by deterring offending behavior.

1. To separate offenders from good citizens

 Sentencing helps in distinguishing the offender the offender from the innocent. For instance, in a case where a group of people are being arrested as parties to an offence, through sentencing we can identify those that were the principal offenders, their accessories and those who were quite unlucky to be involved in the case even if they were innocent. Sentencing seek to punish the offender as a consequence of their criminal behavior, normally resulting in some sort of loss depending on the sentence chosen.

1. To assist in rehabilitating offenders

 Rehabilitation is defined as the restoration of a convicted offender to a constructive place in the society through some combination of treatment, education and training. It is the most appealing justification for punishment. The main purpose of rehabilitation is to prevent crime by changing the personality of the offender. Sentencing seeks to reduce the risk of reoffending through the effective rehabilitation of offenders, providing people with the opportunity to change and move away from past offending behavior.

1. To promote the sense of responsibilities of offenders and acknowledgement of the harm done to the community and victims.

 Sentencing helps in making offenders accountable for their actions and to recognize the harm done to the victim of the crime and to the community. It gives an insight into the level of impact the crime committed has on the victim and members of the public; having this insight will make them take responsibilities for consequences of the action they carried out. It acknowledges the harm cause to the victims and communities. Sentencing may also aim to recognize and meet the needs of victims and communities by requiring the offender to repair at least some of the damage caused.
 The purposes of sentencing as clearly stated above will aid the court in providing just, fair and reasonable sentences to accused persons; which leads us to the main and important question of the day: Guidelines laid down by the Supreme Court in Sentencing the offender

**LAWS GOVERNING SENTENCING AND PRACTICES IN NIGERIA**

 The Supreme Court has laid down six basic guidelines to aid court arrive at a reasonable, just and fair sentence for an accused person and they include;

1. Nature of the offence
2. Characters or the names of the offenders
3. Position of the offender amongst the confederate
4. Rampancy of the offence
5. Statutory Limitation
6. Concurrence of the sentence

 These six guidelines provided would be used in answering the question given in the assignment as well as been explained exhaustively:

1. **Nature of the Offence**

 The nature of then offence committed by the offender after he has been found guilty goes a long way in determining the extent of the punishment which he would be inflicted with. The law has made it clear that a person cannot guilty of an offence he committed if at the time it was committed, it was not counted as an offence, i.e. at the time the crime was committed it does not constitute a crime and its punishment was not clearly stated in any written law. Thus in the case of *Adeye & ors v. State*, where the crime of robbery with violence was tried by the High Court of the Western state and the court imposed a sentence of 18 years’ imprisonment for the accuse person. On appeal, the Western State Appeal reduced the sentence to 10 years imprisonment. Then accused still dissatisfied appealed to the Supreme Court. The Supreme Court reinstated the 18 years imprisonment with 3 stroke of cane based on the seriousness of the offence committed.

 In a case where a person has been found guilty of a serious crime such as murder or rape, he would be imprisonment for 3 years or more as these crimes are felonies and are punishable by imprisonment, or death penalty; however, a person guilty of driving without license or over-speeding would either be sentenced with a fine or be reprimanded to engage in community service as the crime committed is not a serious one. From the scenario seen in the question given above, due to the fact that Evans has been fought guilty of many crimes which include kidnapping,armed robbery, rape, defilement, ritual, killing, extortion and obtaining property by false pretense; most of which are serious crimes, he would be guilty of felonies and his punishment would be based on the courts discretion. Therefore, in order to pass a just and fair judgement the nature of the crime committed should be evaluated and the punishment given should be proportionate to the crime being committed.

1. **Character/Nature of the Offender**

 As a principle in law and a rule in evidence, character evidence is inadmissible in law especially when the character of the accused is in question. This means that if the offender is a “first-time offender” the punishment given to him would not be as strict as the one given to a redundant offender. In *R v. State*, the appellant had been previously convicted for defilement. This led the court to increase his sentence from 18 months’ imprisonment to 5 years imprisonment with hard labor. Also in *Adeyeye v. State*, part of the reason why the reinstatement of the heavier punishment was made possible was because the accused had been earlier convicted of an offence. Due to the fact that Evans has been constantly involved in the crimes listed above, it is believed that he would be sentenced to a heavier and more severe punishment than someone who just committed the offence for the first time.

1. **Position of the Offender amongst the Confederate**

 In playing of roles in the commission of crime, it has been observed that those who play the minor role always tend to have lesser punishment that those who play the major roles. Leaders in crime commission is usually visited with more severe punishment than those with little or minor participation. In *Queen v. Mohammed & ors*, where the 1st appellant who was the leader was given a maximum punishment of 8 years imprisonment while the other appellant was given a maximum sentence of 5 years imprisonment. Also in *Ihom & ors v. Tiv Native Authority*, where the appellant who were involved were given sentences totaling 6 years imprisonment, while the 6th appellant got 8 years imprisonment for being the moving force of the riot. Evans as seen from the scenario is the leader of the group and due to this fact, he would receive much more punishment as the leader than any other person in the gang.

1. **Rampancy of the Offence**

 Rampancy of the offence is one of the most reseeding considerations, as it can be a mitigating factor or an aggravating one depending on the offence. In the case of *State v. Michael Ayegbeni*, the court sentenced the two parties to 20 years imprisonment as robbery on the roads nd water in recent times have been recurring and on the increase*.* Certain offences are considered serious in nature for example sexual offences towards children, that is why in *State v. Adeboye*, a 3 years imprison sentence was imposed on an offender for inserting his finger into the vagina of a girl aged 9 who was hawking groundnut. The gravity of the offence can also be likened to the rampancy of the offence, if considered rampant and grievous, the court would most likely impose a heavier punishment in the view to cast out this type of crime in the society. Due to the rampancy of the crimes he is involved in, he would be sentenced to heavier punishment as a result of the gravity of the crimes.

1. **Statutory Limitation**

 A statute of limitation is a law which forbids prosecutors from changing someone with a crime that was committed more than a specified number of year. Where the state has stipulated times of imprisonment, the court shall not exceed the statutory limit. In *Queen v. Eyo &* *ors,* a case of unlawful assembly, the High Court sentenced them to 5 years imprisonment but on appeal to the Supreme Court, the sentence was reduced to 3 years as that was the maximum stipulated by law. Also, in *Aremu v. IGP*, the magistrate sentenced the accused persons to 2 years imprisonment. On appeal to the Supreme Court, the court held that it cannot impose punishment more than that imposed by the Magistrate Court. However, not all crimes are governed by the statute of limitation, crimes such as murder, arson, assault have no statute of limitation. In the case of Evans, due to the fact that not all the crimes in which he has been found guilty of have statutory limitation, he would be punished based on the court’s discretion on the crimes that have no statutory limitation, while crimes with statutory limitation, he would be given the maximum punishment.

1. **Concurrent and Consecutive Sentence**

 It is a general rule that whenever a person is found guilty of more than one offence, the sentence given should run concurrently. In *Nwafor v. State*, where the accused person was found guilty of store breaking and possession of breaking instrument, the Supreme Court held that the sentences should run concurrently because they are of the same nature. In the same vein, in the case of Evans, while giving out his sentences, the crimes with similar nature and disposition should run concurrently.

**CONCLUSION**

In order to arrive at a just, fair and reasonable sentence for Evans, the six basic guideline provided for by the Supreme Court would go a long way as acting as guidelines for the infliction of punishment for the crimes he committed. Due to the nature of the crime he committed, the character of Evans as an offender, the position of him in the Confederate while playing a major role as the gang leader, the rampancy of the offence he has been found guilty of in the society, the statutory limitation guiding the extent by which a punishment given to him can go and the similar nature of the crime he has committed which would lead to the concurrent running of the sentence, it can be seen that any sentence given to him after this six guidelines have been carefully and strategically followed, would result in a just, fair and reasonable sentence.