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Introduction

In Nigeria, the criminal justice system begins with the commission of crime and ends with a verdict. The verdict is reached after series of interventions by the law enforcement agencies and they have the power to arrest, arraign, sentence and punish the offenders. In most criminal trails, it is usually the *state v. the accused,* in a criminal trial the sentencing comes after the accused has pleaded guilty to the charges brought against him or when he is found guilty by the court of law.

WHAT IS SENTENCING?

Sentencing means the prescription of punishment by a court to someone convicted of a crime.

According to the Canadian sentencing commission in 1987, sentencing is a judicial determination of legal sanctions to be imposed on the person found guilty of an offense.

Ichi v. State defines sentencing 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.

Section 248 of the criminal procedure act provides that if the court finds the accused person guilty, the court shall pass a sentence on the accused person, make an order to reserve judgment or adjourn the case.

Sentencing like every other scope has objectives and goals. The following are the aims of sentencing:

* the punishment of offenders.
* the reduction of crime (including its reduction by deterrence)
* the reform and rehabilitation of offenders.
* the protection of the public.
* the making of reparation by offenders to persons affected by their offences.

It is also important to note that the criminal procedure act, penal code, criminal code and criminal procedure code contains the various types of sentences.

Before the court arrives at a verdict, before an offender is sentenced whether to pay fine or imprisonment, there are procedures/principles they abide by to arrive at a Just and fair sentencing.

The Supreme Court has laid down six (6) principles/guidelines to aid courts in reaching a reasonable and fair sentence. These principles are as follows:

1. The nature of the offense
2. The character/nature of the offender
3. The position of the offender among his confederates
4. The rampancy of the offense
5. Statutory limitations
6. Concurrency of the sentence

The following guidelines would be discussed below.

**THE NATURE OF THE OFFENSE**

The general principle is that a person cannot be punished for an offense that did not constitute a crime in any written law at the time the offense was committed. As a principle of law, the nature of an offense has an effect on the kind of sentencing the offender would receive. The nature of an offense has to do with the elements of the offense such as the kind of crime committed, the impact the crime has on society, was the offense intentionally. All these and many more are the questions the court would have to answer in relation to the nature of an offense. We have 3 categories of offenses namely; felony, misdemeanor and simple offenses, of Which felony is the most serious and grave offense. Most felonies are classified as capital offenses, examples of felonies are; rape, murder, treason, armed robbery etc. All these crimes have a much more worse punishment as opposed to simple offense and misdemeanors(unlawful assembly, contempt In court) etc and this is so because of the nature of the offense.

The case of Adeyeye & ors v. State this was a case of armed robbery and they were sentenced to 18years imprisonments. On appeal, it was reduced to 10yrs by the western state of appeal. The appellant unhappy with the sentence appealed to the Supreme Court. The Supreme Court reinstated the 18yrs imprisonment with 3 strokes of cane and was of the opinion that the sentence of the appeal court was too lenient because of the seriousness of the offense.

In cases of manslaughter i.e unintended homicide either by provocation or automobile. In cases of automobile the court tends to reduce the sentence Muhammad v C.O.P. Provocation is a defense recognized by the criminal justice system and it is a mitigating factor, it reduces cases of murder to manslaughter Adekanmi v state.

The maximum sentence of manslaughter is life imprisonment. However, it is at the discretion of the court to determine the extent of sentence given to the accused.

**CHARACTER/ NATURE OF THE OFFENDER.**

The general principle is that evidence of character or character of evidence is inadmissible in law. Nevertheless , when the character of the accused person is in question that nature/evidence of his character becomes admissible in law. This basically means that the general rule is that evidence of character is not accepted as valid in law but in situations whereby the character of the accused person is in question then it would be seen as valid( this can be said to be an exception). When the character of the accused is of questionable nature, it would hold water in the court of law. This could either aid a person in getting a better sentence or hinder them. It is at the discretion of the court. When a person has become a nuisance to the society and has visited the courtroom one too many times, it is only right they be given a long sentence to protect the peace and order of the society and to rid it of every menace. This was seen in the case of R v state the appellant had been previously convicted for the defilement. This led to the court increasing his sentence from 18months to 5yrs imprisonment with hard labor. Also, in Adeyeye v State (supra) part of the reason the Supreme Court reinstated the earlier penalty was that the accused person had been convicted earlier of an offense.

**POSITION OF THE OFFENDER AMONG HIS CONFEDERATES**

This basically means the role the offender played while the crime was committed. Was the offender the leader? Or was he a mere follower of instructions.

The word ‘confederate’ means a person who works with, especially in something secret or illegal; an accomplice. The court will consider the above question i.e the role the person played in the execution of the crimes will be considered by the court before a sentence is imposed

**When the offender plays a minor role:** this means that an accomplice should not get a sentence higher than that given to the leader because the accomplice played a minor role in the commission of the crime and this is evident in the case of Enaoro v The queen this was a case of treasonable felony and they were sentenced to 15yrs imprisonment by the high court but this sentence was reduced by the Supreme Court to 5yrs and said the sentenced imposed on the lieutenant should never be more than the leader. The leader of the gang deserves more punishment than the lieutenant. In the above case, the leader got 10yrs, this means that the lieutenant should get a sentence lower than that.

**When the offender plays a major role:** when the offender ms of a crime are apprehended and convicted the one who lead the whole operation is given the much severe punishment. The above idea was given recognition in Queen v Mohammed & Ors while the first appellant who was the leader was given a maximum of 8years imprisonment ,the other parties were given a maximum of 5years imprisonment.

**RAMPANCY OF THE OFFENSE**

Rampancy in layman’s understanding can be said to mean the continuous reoccurrence of a particular event or activity that goes unchecked or series of events that happens without restraint.

The court has always been of the opinion that when a crime is rampant, the punishment given to the criminal should be severe in nature so as to deter the general public from committing crimes of that nature. R v Hassan & Owolabi the accused person was sentenced to 5years by the high court for forgery and another 5years for stealing. He appealed and the Supreme Court expressed its view thus “fraud on the customs are shockingly prevailed and forgery of the commercial documents strikes at the root of all credits, we are not disposed to reduce the sentence by one day”

The rampancy of the offense is one of the most factors to consider because it can be a mitigating factor or an aggravating factor depending on the offense. State v Adeboye.

**STATUTORY LIMITATIONS**

What is a statute of limitation?

## The statute of limitations is a time limit for filing criminal charges against someone. After the time limit has passed, a person cannot be prosecuted, tried or punished, regardless of the evidence against him or her. It can also be said to be a law that prohibits prosecutors from charging someone with a crime that was committed more than a specified number of years ago.

The purpose of having a statute of limitation is to prevent charges from being raised that date so far back into the past that defence against the charges is difficult and expensive. Evidence might be difficult to obtain, testimony may be clouded, and the defendant may not receive a fair trial.

There are usually exceptions for certain types of case. Capital crimes usually have no time limit in which they can be prosecuted, and others such as tax evasion may have an extended period.

A person cannot be convicted of a crime if he is caught after the statutory limitation has passed. If he is caught after the statutory limitation has passed, he is a free man. Each states establishes its own statutes of limitations, often with different time limits for distinct types of crime.

However, not all crimes are governed by statute of limitation and a prefect example is murder, this crime has no limitations which means a murderer can face justice at any time irrespective of when the crimes occurred. Some states also have no time limits for certain other types of crime, such as [sex offenses](https://victimsofcrime.org/docs/DNA%20Resource%20Center/sol-for-sexual-assault-check-chart---final---copy.pdf?sfvrsn=2" \o "Statutes of Limitations for Sexual Assault" \t "_blank) or terrorism charges.

In Nigeria, crimes like sexual offenses against minors, kidnapping, forgery etc have no statutory limitations. Also in Nigeria, we have two types of statutory limitation namely

1. Statutory Maximum: The "statutory maximum", which is the maximum fine which can be imposed by a summary court for a triable either way statutory offence.

2. Magisterial jurisdiction limitation

Note: whenever a statute itself stipulates a term of imprisonment no court should exceed its limits. Queen v Eyosors

**CONCURRENT & CONSECUTIVE SENTENCES**

These are the laws governing concurrent and consecutive sentences. When a jury convicts a person of two charges, it is at the discretion of the court to let the accused serve them concurrently or consecutively.

When a person serves a sentence consecutively that means the defendant serves them back to back but when they run concurrently that means he serves them at once.

For instance, if an accused of found guilty and charged on both account, one for two years and the other for three year. If the judge decides he should serve them consecutively that means he has a total of five years imprisonment but if he decides that he should serve them concurrently that means he has three years imprisonment.

The Supreme Court states that when the offenses are of similar nature they should run concurrently i.e together and not separately. Some criminal statutes, however, require that the sentence for the crime in question be served consecutively to any other crime committed in the same incident.

Nwanko v state.

Application

These guidelines have been broken to bits to the understanding of any man. From the hypothetical case, Evans is charged with countless felonies. After a critical examination of the case, it would come to light that this is not the first time the defendant has been involved in such cruel and malicious act. The nature of his offense which attract grave capital punishment is one to be taken seriously. The defendant’s character is questionable and in this situation admissible in the court of law. The defendant is a “kingpin” and is responsible for series of unlawful act, this means that he has masterminded a lot of criminal activities which brings us to the position among his confederates.

Rape is a crime that has been in existence for as long a man can remember, it is an act that is frowned up by everyone and the law sets out to bring any person found guilty of this crime to justice. In Nigeria today, rape cases are rampant, so the court must set an example to the general public so as to deter them from committing such crimes. Cases of rape, armed robbery and assault are not to be treated with a lenient hand. Evans has been found guilty of sexually assaulting under age women and this has no statutory limitation in Nigeria, what this means is that Evans would be brought at anytime.

The defendant has proven to be nuisance in the society and has not maintained peace and order in the society. The defendant is guilty of countless charges and as the presiding judge over this case, Evans would serve his sentencing consecutively. A person of his nature who is capable of assault, deceit, armed robbery and sexual assault of under age women does not deserve to serve his sentencing concurrently, doing that will mean putting him back into the society sooner than later and I refuse to do that because he is a threat to society.

Conclusion

These guidelines have been put in place by the Supreme Court to guide judges and the court when dealing with criminal cases. These guidelines are to ensure a Just and fair sentencing, to make sure the judgement given to an accused is not biased and to aid in the critical examination of a criminal case.

References

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