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Basic principles or guidelines to aid courts in reaching reasonable, just and fair sentences as laid down by the supreme court.

In Nigeria, the criminal justice system can be described as a procedural one, beginning from arrest, down to conviction and then sentencing. Thus, in Nigeria, an individual cannot be convicted of an offence unless there is an arrest of the suspect and the suspect cannot be sentenced unless he has been convicted of an offence as provided in the laws guiding criminal justice in Nigeria. **Section 248 criminal procedure act** provides that if the court finds the accused person guilty the court shall pronounce sentence on the accused person or make an order to reserve judgement and adjourn the case to some further date.

Sentencing basically means the prescription of punishment by a court to someone who has been convicted of a crime and it is issued by the presiding judge or magistrate. In the case of **Ichi v state** it was held that sentence is the judgement formally pronounced by the judge or court upon an accused person after his conviction in a criminal prosecution imposing the punishment to be inflicted.

The law is clear that a person cannot be found guilty of an offence which as at the time of being committed does not constitute a crime in any written law and its punishment clearly stated. In Nigeria sentences range from fine, imprisonment, community service, death penalty depending on the gravity of the offence. Offences in Nigeria are generally divided into simple offences, misdemeanor, felony. When sentences are given, certain objectives are pursued and they include to:

1. Denounce the unlawful conduct
2. Deter the offender and other persons from committing those offences
3. To separate offenders from the rest of the society when necessary
4. Enable rehabilitation of the offender
5. Promote sense of responsibility and acknowledgement of the harm done to the community and the victims.

The importance and the sensitivity of sentencing is what makes the court consider the facts and the **circumstances** surrounding the case before pronouncing judgements. The supreme court laid down six basic principles to aid courts in reaching reasonable, just and fair sentencing for convicted criminals and they are:

1. Nature of the offence: In the Nigerian legal system, the nature of the offence committed by a convicted offender goes a long way in determining the extent of his punishment. For

instance, in cases of manslaughter, either by provocation or automobile accident there is a high tendency for the court to impose slight penalties in cases of automobile homicide as opposed to manslaughter by provocation. This can be seen in the cases of **Idoye v the state** and **Adekanmi v the state**.

In an appealed case for instance the nature of the offence can serve to mitigate or aggravate the sentencing, this can be seen in the case of **Adeyeye & others v the state** a case of robbery which was tried the high court of western state. The court imposed a sentence of 18 years on the accused. On appeal, the western state appeal court reduced the sentence to 10 years. The accused person unsatisfied with the decision 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.

2. Nature of the offender: in law, evidence of character is seen as admissible. thus, the character of an offender can serve as an aggravating or mitigating factor of his sentencing. In the previously discussed case of **Adeyeye v the state** part of the factors considered for the restatement of the 18 years by the supreme court was the fact that the accused had been convicted earlier of an offence. The principle behind this is that anyone with a previous conviction has lost out in terms of mitigating the sentence.

In the case of **R v state**, the fact that the appellant had been previously convicted for defilement led the court to increase his sentence from 18 months to 5 years imprisonment with hard labour.

3. Position of the offender among his confederates: in a crime committed by a gang or group of people, the court considers whether the accused played a major or minor role in the commission of the crime. The principle behind this guideline is that those who instigates should get a higher punishment than those instigated. In the case of **Enahoro v the queen**, a case of treasonable felony, Enahoro was sentenced to 15 years while late Awolowo, the leader got 10 years imprisonment. The supreme court reduced the Enahoro's sentence to 5 years and said that the sentence imposed on the lieutenant should never be more than the leader since he is the progenitor and moving force of the crime.

In the case of **Ihom & another v Tiv native authority** where the appellants were all involved in a rioting which many animals were maimed and destroyed, they all got sentences totaling 6 years except the 6th appellant who got 8 years imprisonment for being the moving force of the riot.

4. Rampancy of the offence: courts are of the belief that when a particular crime is rampant in the society, imposing severe punishments on the offenders will aid the elimination or reduction of the crime in the society. Rampancy of the offence is one of the most necessary considerations as it can be a mitigating factor as it can be a mitigating factor or mitigating factor. In the case of **R v Hassan & 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 stated that fraud on the customs are shockingly prevalent and forgery of the commercial documents strikes at the root all credit so the sentence was not reduced.
5. Statutory limitation: In Nigeria, there are two types of statutory limitation:

- i. Statutory maximum: when the statute has stipulated time of imprisonment, no court should exceed the statutory limit. In the case of **Queen v Eyo & others**, a case of unlawful assembly, the high court sentenced them to five years imprisonment, on appeal to the supreme court, it was decreased to three years because that was the maximum sentence stipulated by law.
- ii. Magisterial jurisdiction: No magistrate court can impose imprisonment of more than five years. In the case of **Mordi v C.O.P** the magistrate court sentenced the accused person to two years imprisonment and the high court later increased it to 10 years. On appeal to the supreme court, the supreme court reinstated the earlier imposition of 2 years because that was the limitation of the magistrate court.

The criminal statute of limitation also forbids prosecutors from charging someone with a crime that was committed more than a specified number of years ago

6. Concurrent and consecutive sentences: In Nigeria, the general rule is that whenever a court finds an accused person guilty of more than one offence, the sentences should run concurrently. The supreme court stated that whenever the offences are of similar disposition, then they should run concurrently. This can be seen in the case of **Nwaifo v the state**. A concurrent sentence is a term of imprisonment equal to the length of the longest sentence while consecutive sentence requires a defendant to serve two or more sentences back to back. Thus consecutive sentences are mostly given when the offences charged are disjointed for example, when an accused is convicted of forgery and rape.

In conclusion, while there are several laws and Acts which guide criminal proceedings in Nigeria. These laws determine what a crime and also stipulate the appropriate maximum punishment for the crime, it is the duty of the court (judges) to use their discretion along with these guidelines as provided by the Supreme Court to determine befitting sentencing for the offender.