

Roles played by different stakeholders during sentencing

The 20th Annual Judges Conference, Munyonyo, 23 Jan 18

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1/23/2018

Introduction

- ▶ Sentencing—formal legal consequences after a conviction.
- ▶ Synonyms to sentencing include:
 - ‘decide punishment’,
 - ‘blame’,
 - ‘condemn’,
 - ‘confine’,
 - ‘imprison’,-‘incarcerate’,-‘send to prison’
 - ‘jail’,
 - ‘penalize’,
 - ‘punish’,
 - ‘judge’

Scope

- ▶ Introduction
- ▶ Scope
- ▶ Role players
- ▶ Factors which influence sentencing
- ▶ Conclusion
- ▶ Recommendation

Role players / stakeholders

- ▶ Judges—different levels.
- ▶ Judges and Jury
- ▶ Hybrid system e.g. Military Tribunals/Courts Martials (Judge Advocates, guiding on legal matters, lay persons (Members of Courts) sentencing.
- ▶ Local Council Courts members
- ▶ Society/family members (e.g. in family courts)

Factors that influence sentencing

- ▶ The law.
- ▶ Training background/lack of training on the law relative to sentencing.
- ▶ Courtroom environment.
- ▶ Ideology—prevailing state paradigm— National interest, politics.
- ▶ Societal considerations—prevalence of crime in society—deterrence theory e.g. human sacrificing.
- ▶ Retribution—why did he or she act criminally— judge's temperament .
- ▶ Cultural relativism.

Factors that influence sentencing cont.

- ▶ The convict—his or her mental status, age, remorsefulness e.t.c.
- ▶ Human rights thinking/paradigm e.g. death penalty.
- ▶ International relations e.g. death penalty
- ▶ Gender considerations:—
 - Wife
 - Husband
 - expectant mother
 - Breadwinner
 - orphan,.....

Italian court rules food theft ‘not a crime’ if hungry

3 May 2016



The court found that the homeless man was acting ‘in a state of need’ so his actions could not be considered offence.

Ignored during the sentencing stage!!!

‘These laws forced judges to look at their calculators instead of into the eyes of the defendants they were sentencing.’

Conclusion

- ▶ Sentencing is a legal process—Judges should not lose focus of the law.
- ▶ It is, however, not a preserve of trained judges.
- ▶ Various stakeholders have a role to play in sentencing.
- ▶ Various factors are taken into account in sentencing a convict.

Recommendation

- ▶ Professional Judges must be mindful of the law while considering the sentence to impose on a convict.
- ▶ They should, however, in particular circumstances, be helped by other stakeholders e.g. psychiatrists, to arrive at a suitable sentence for a convict.
- ▶ Non-professionals who are legally empowered to impose sentences should be given preliminary training on the purpose of sentences.

Any Questions?



Mitigating factors on appeal???



Classroom behind bars



Dangerous to self and others!!!



Prisoners' choir



Regrettable



Gender roles behind bars



Recreation activity behind bars



Career progression behind bars



Not the end of life



God is a better judge



Family re-union in prison

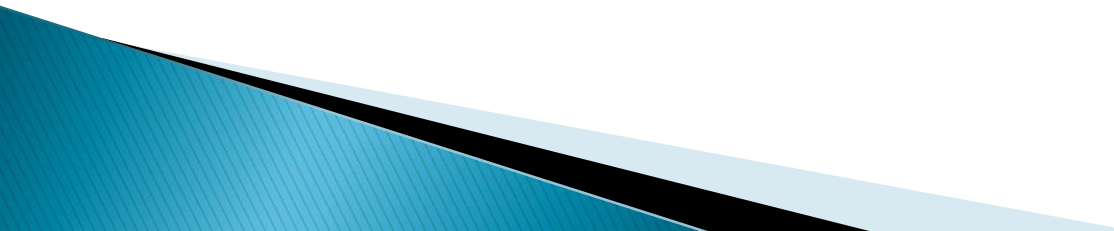


Retooling



Antenatal Care





Birthday cake in prison



We were wrong—let us reform



Life continues even behind bars



Reflections of Life outside prison

