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**MEMOIRE D'APPEL DE LA DEFENSE DE M. FIDELE BABALA WANDU
CONTRE LA SENTENCE PRONONCEE PAR LA CHAMBRE DE PREMIERE
INSTANCE VII (ICC-01/05-01/13-2123-Corr)**

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THE
SENTENCING
PROCESS

Martin Wasik

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The Sentencing Process

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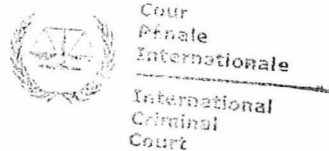
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LAWLESSNESS IN SENTENCING *

*Marvin E. Frankel ***

Sir Winston Churchill was obviously right when he made his frequently quoted observation:

The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country.¹

Consider, then, what it tells about us that in 1970 a high American court could say, correctly, beyond question:

What happens to an offender after conviction is the least understood, the most fraught with irrational discrepancies, and the most in need of improvement of any phase in our criminal justice system.²

The "phase" of our system thus characterized is by and large a bizarre "nonsystem" of extravagant powers confided to variable and essentially unregulated judges, keepers, and parole officials.

I claim no special competence to explain how a nation professing ideals like ours has contrived for so long to impose with such feckless cruelty what may be generally the harshest sentences

* This text was prepared, and used as the basis, for the Marx Lectures given on November 3, 4, and 5, 1971. With the permission of the Editors, I reaffirm here the pleasurable indebtedness of Mrs. Frankel and myself to the Dean, faculty, students, and friends of the Law School for their elegantly gracious hospitality on the days of these lectures.

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¹ As quoted in H. BLOCH & G. GEIS, *MAN, CRIME, AND SOCIETY* 557 (1962).

² *United States v. Waters*, 437 F.2d 722, 723 (D.C. Cir. 1970).