

Interaction between Theology and Punishment for Crimes in Reducing Recidivism in Southwest Nigeria

By

Adegboyega Ogunsanya Ph.D
Department of Religious Studies,
Faculty of Humanities, Olabisi Onabanjo University,
Ago Iwoye, Ogun State, Nigeria
gboyeoguns@gmail.com
08033711148

Abstract

Crime, of which recidivism is an integral part is increasing in Nigeria and negatively affecting the security of citizens and national economy. The situation where punishment is meted out to those found guilty by the courts and some of them reoffend after being released on completion of their terms needs to be attended to. The objective of this paper is to examine punishment theologically and as provided for under Nigerian laws and whether its goal of reformation, rehabilitation and reintegration in curbing increase in crime and recidivism is being accomplished. The study adopted the historical method of research. The paper found that the society and inmates' perception is that punishment is for vengeance on those found guilty. Facilities at the correctional centres are inadequate and some inmates fail to acquire any skill and cannot secure any employment nor start a business upon being released. Some new inmates are negatively impacted by older ones to continue the criminal lifestyle. Family members fail to identify with inmates even after their release and some inmates after being released reoffend and are returned to serve another term. The paper therefore recommends that there must be attitudinal change on how punishment is perceived by the society and inmates, facilities in the correctional centres must be improved, family must support the inmates, and first and minor offenders should not serve prison terms but carryout community service. Inmates should learn useful skills, while employment should be provided for them upon being released.

Keywords: Theology, Punishment, Crimes, Recidivism, Southwest Nigeria.

Introduction

Southwest Nigeria comprising of Lagos, Ogun, Oyo, Osun, Ondo and Ekiti States is part of Southern Nigeria where the Criminal Code Cap 77 Laws of the Federation of Nigeria 1990 applies. This has been made applicable since 1916 to the whole of Nigeria by the

British Government. However, in the north in 1959, Penal Code which was based on the Code of Sudan which had worked successfully in a Muslim community applied till date because of the predominantly Muslim population as opposed to the Criminal Code applicable till date to Southern Nigeria with predominantly Christian population. Gest (2020) avers that biblical texts influenced English law. This Criminal Code derived from the British Government provides in Section 2 that an act or omission which renders the person doing the act or making the omission liable to punishment under this code or under any act or law is called an offence. Ajibade (2011), avers that an act or omission can only become a crime when a specific law is violated stating a particular punishment for the crime. Therefore one of the parameters of what constitutes a crime is the punishment attached to it by law. There is no crime unless its punishment is prescribed by law.

Dambazau (2007) defines punishment legally as the infliction of pain or suffering or deprivation of something of value in relation to someone who has committed crimes, violated rules, societal norms or regulations. Bamgbose and Akinbiyi (2015) affirm that the term "punishment" means any fine, penalty, or confinement inflicted upon a person by the authority of the law and the judgment and sentence of a court for some crime or offence committed by him, or for his omission of duty enjoined by law. According to Ajiboye and Awe (2020), when punishment leads to the incarceration of the convict, the provision of the Nigerian Correctional Service Act, 2019 is to the effect that he or she must be trained, reformed and reintegrated into the society. The focus has shifted from punishment and deterrence to reformation and reintegration. However, Nwune, Ajah, Obiefuna and Egbegi (2018) aver that the situation in Nigerian prison system instead of reforming, rehabilitating and reintegrating the inmates, is on the other hand accused of breeding and enhancing criminal behaviours and recidivists because punishment is an integral part of the system and takes pole position above other considerations. Ugwuoke, Dauda and Otodo (2016) concur that the rate of recidivism in Nigeria is becoming worrisome and must be curtailed.

Theological Perspective of Punishment

Punishments in the bible ensure the offender is put in the shoes of the victim by being made to suffer what the victim suffered. This principle is called the *lex talionis* (an eye for an eye), which means that the punishment must fit the crime and not exceed it. In cases of murder, the offender must also be killed. Kaiser (1990) avers that the principle of punishment in Exodus 21:24 is that someone that commits murder will suffer capital punishment. In cases of stealing, the offender restores to the victim even more than what he stole as provided for in Exodus 22:1-3. It is understood as society taking vengeance on the offender in order to protect herself. Religion does make pronouncement on crimes and punishments and what is important here is that the wrongdoer does not go unpunished.

Anderson (1979) avers that punishment is about retribution and Galatians 6:7-8 states the fundamental basis for just retribution in that God cannot be deceived; a man reaps what he sows because every violation of the law receives just punishment.

Anderson (1979) declares that there are also examples in the Bible of God using punishment or the threat of it to deter men from evil. An example is in Deuteronomy 28 stating blessings that will result from obedience, followed by a catalogue of curses that disobedience attracts. In addition, Deuteronomy 17:12 – 13... The man who acts presumptuously, by not obeying the priest who stands to minister there before the Lord your God, or the judge, that man shall die; so you shall purge the evil from Israel. And all the people shall hear, and fear, and not act presumptuously again. Kalland (1992) in his explanation of these verses says the lawgiver as in Deuteronomy 13:11 also intend capital punishment to be deterrence to crime and that the general public will hear and be afraid because death penalty has been exacted for the offence. It follows that no matter the gravity of the punishment, it should be publicised to the general public. In Ecclesiastes 8:11, it is recorded that because sentence against an evil deed is not executed speedily, the heart of the sons of men is fully set to do evil. The intention of this verse is that punishment should be executed speedily before the society forgets about the criminal and the offence he committed; otherwise the punishment will not serve its purpose.

Punishment for the offences of stealing is restitution as provided for in Exodus 22:1 that any man that steals an ox or sheep and kills it shall pay five oxen for an ox and four sheep for a sheep. Kaiser (1990) opines that the “seven-fold restoration” in Proverb 6:31 is an expression meaning “full”, “complete” or “abundant” repayment, while Exodus 22:3 is also to the effect that when the goods have been sold or consumed and the thief has nothing with which to repay his crime, then he must be sold into servitude until he has repaid the debt. The punishment of restitution ensures that the offender in no way benefits from his offences.

In the New Testament, the use of punishment for vengeance on offenders did not abate. In the gospels, the violent arrest of Jesus Christ, his trial and conviction for blasphemy and his suffering on the way to his being violently executed attest to this. The case of Apostle Peter in Acts of Apostles 12:5-6 where he was bound with two chains with guards on both sides and at his prison door for an unspecified offence is not also different from that of Paul and Silas in Acts of Apostles 16:23-24, who were first beaten before their feet were chained in prison. Both confirm punishment as vengeance in the New Testament. No wonder, Jesus Christ in Matthew 25:35 commended those that visited prisoners in their suffering and condemned those who did not.

Justifications for Punishment

Punishments commonly applied in Southwest Nigeria include death penalty, imprisonment, fine, corporal punishment, remand, restitution, restoration and compensation. The justifications for their application are as follows:

Retribution: Dambazau (2007) avers that retribution in punishment follows the *lex talionis* doctrine of “an eye for an eye”. An individual deserves the punishment he gets because of the crime he has committed. He must be given the exact punishment prescribed by law; he must not be given a lesser one. According to Bamgbose and Akinbiyi (2015), the concept of retribution can be tagged negatively as “revenge”. Those who commit a particular crime should be punished in proportion to the gravity of the offence or to the extent to which others have been made to suffer. Proportionality is the key concept in the dessert theory. It is the society represented by the sentencer that takes the revenge, not the individual. They surmise further that one of the benefits of retribution is that the society takes revenge through the sentencer on the wrong doer and as such no one is above the law. Dambazau (2007) also identifies the benefit of retribution as “just dessert” which means that the amount of punishment is determined by the state and it does not exceed the crime such that it is the wrongdoer that suffers, not his family. He identifies a weakness of the theory of retribution as focusing only on past criminal behaviour by giving punishment to express condemnation of that behaviour and not having any aim of crime control and not addressing the “future” but the “now”.

Deterrence: Anderson (1979) argues that the view of the utilitarians who contend that the greatest happiness of the greatest possible number should be the sole criterion for public action supports the deterrence theory. They hold the view that the infliction of pain can only be contemplated in the interest of the greater good of the community. Dambazau (2007), surmises that this theory assumes that crime is committed on the basis that it procures certain advantages to the criminal. For punishment to be effective, then the harm it will cause the criminal must exceed the good he will derive from the crime. Bamgbose and Akinbiyi (2015) profess that deterrence is categorised into two- the specific and the general. The specific deterrence is targeted at the offender who is being convicted and sentenced so that he will not repeat the crime or commit any crime in future. General deterrence targets the general public who observes the punishment meted out to the offender and concludes that the cost of crime outweighs its benefit and will refrain from criminal activities. Unpunished crime will leave the path of crime open, not only to the offender in question, but also to all those who may have similar motives and opportunities for embarking on such a crime. Anderson (1979) and Dambazau (2007) identify some weaknesses of this theory in that it does not meet the needs of the mentally deficient, those

who committed crimes by mistake or on impulse without having time to calculate the gains. The delay in administering the punishment in cases like murder because of the extensive court processes and appeals ensures that the punishment does not act as deterrence because it is not promptly applied though it is certain and severe.

Incapacitation: Bamgbose and Akinbiyi (2015) contend that this theory is based on the assumption that the capacity to commit crime is removed by temporarily removing the offender and by putting him or her in a secure institution for a specified period of time or permanently by death. This theory focuses on the characteristics of the offender instead of the offence. Dambazau (2007) declares that the idea of incapacitation is to prevent or reduce the possibility of future crimes by those convicted of crimes. Temporary incapacitation is usually a term of imprisonment when the criminal is in no position to commit crimes since his liberty is curtailed, and he is on permanent supervision and surveillance. Other forms of incapacitation are life imprisonment for chronic, violent or habitual offenders; and death penalty for mu in order to completely eliminate the dangerous person from the society. The weakness of this theory is that convicts do commit crimes within the prison walls.

Reformation and Rehabilitation: According to Bamgbose and Akinbiyi (2015), reformation is a Court-ordered correction of an individual to bring about a better individual or a better result, correction or rectification. Rehabilitation is investing in and clothing a person with the capacity that enables him to stay away from crime as a means of existence. Dambazau (2007) avers that rehabilitation is the most appealing justification for punishment because the offender is treated as an individual whose needs and problems must be known and dealt with effectively. This theory is forward looking. It does not focus on how dangerous the criminal is but how amenable to treatment he is. Bamgbose and Akinbiyi (2015) on the factors that inhibit the success of this approach submits that Prisons, Borstal institutions, Remand and Welfare centres must be well equipped with facilities and training to make convicts obtain survival skills which will be useful after completing their prison terms. Unfortunately, operation of prisons in Nigeria is such that they are neither reformatory nor rehabilitative. Anderson (1979) affirms that the prisons are understaffed and the facilities are inadequate, leading to inhuman treatment of prisoners so that they become hardened criminals by their contact with other criminals. He posits further on the weakness of this theory which assumes that generally, criminals are not responsible for their crimes and that crime is only a symptom of some diseases necessitating curing the criminal.

Restitution, Restoration and Compensation: This theory considers the interest of the crime victim as paramount and adopts the approach that assuages the grief, torment and emotional disturbances he has suffered. Bamgbose and Akinbiyi (2015) claim that in Nigeria, the overall aim of sentencing is to reduce crime by making as many people as possible obey the laws of the land but where court sentences fail to deter criminals and criminality obtains, restitution, restoration and compensation becomes the issue. This scenario necessitates that the victim of crime be protected; imprisonment of the convict is not enough. Sections 270, 319-328 of the Administration of Criminal Justice Act 2015 have adequate provisions to meet the needs of the crime victims. Under these laws, properties used in committing offences or stolen and tendered as exhibits can be returned to the owner after the conclusion of the case.

Dambazau (2007) asserts that restitution combines justice and deterrence because the offender provides something of himself and also compensates the victim because the major concern is the damage done as a result of the crime committed on the victim and to redress that situation such that in respect of property offences, an accused person could be made to restore or replace the stolen or misappropriated sum or property. Bamgbose and Akinbiyi (2015) opine that strong emphasis is placed on restitution and restoration but compensation is down played due to lack of adequate legal provisions. The Administration of Criminal Justice Act 2015 can now address the issue of compensation along with the provisions for restitution and restoration. Compensation should be considered in cases of severe injuries and damage resulting from sex case of rape or aggravated assault because severe imprisonment of the offender cannot assuage the grief, torment and emotional disturbance the victims have gone through, and that rape and aggravated assault victims need to be compensated.

Impact of Punishment on Commission of some Selected Crimes.

Crimes of armed robbery, kidnapping and murder have death penalty as their punishment. Section 402 of the Criminal Code Cap 77 Laws of the Federation of Nigeria 1999 and Section 1 of the Robbery and Firearms (Special Provisions) Act 2004 provide that someone found guilty of armed robbery shall be sentenced to death. For kidnapping, Section 364 of the Criminal Code Cap 77 Laws of the Federation of Nigeria 1999 imposes a punishment of ten years imprisonment, but with the spike in the commission of kidnapping, the Senate in 2017 passed a Bill making kidnapping where death of the victim occurs punishable with death. Where no death occurs is punishable with life imprisonment. The crime of murder under Section 319 (1) of the Criminal Code Cap 77 Laws of the Federation of Nigeria 1999 attracts the death penalty.

The afore mentioned crimes are heinous in nature and frowned at by the society and severely punished by taking the culprit out of the society on a permanent basis through the death sentence. There is a consonance between the bible and Nigerian Laws on the punishment for these offences. The severity of the punishment has not resulted in the reduction of these crimes. On the contrary, the knowledge that the consequence of the actions of these criminals is the death penalty results in their commanding the armed robbery victims to lay face down during their operations or blind fold the kidnap victims to prevent being recognized. Where recognition has occurred, Ottuh and Aitufe (2014) aver, has resulted in the death of the victims. This ensures that there will be no witness to prove the case in court if the culprits are apprehended. The stiff punishment has made the criminals more daring and vicious.

The offence of rape in Deuteronomy 22:25 is punishable with death while under Section 358 of the Criminal Code Cap 77 Laws of the Federation of Nigeria 1999 it is punishable with life imprisonment. The stiff punishment in both provisions has not also translated into a reduction in the commission of the crime but some of the victims being raped to death in order for the offender to avoid arrest and prosecution.

The offence of stealing in Section 383(1) is punishable with imprisonment for three years, this is contrary to the biblical provision of restitution to the victim which ensures the criminal does not benefit from his crime. According to Ogunsanya (2016), the convict stashes away his loot in a safe place and after serving his imprisonment, begins to enjoy it. However, the Advance Fee Fraud and other Fraud Related Offences Act 2006, the Economic and Financial Crimes Commission Establishment Act 2004 and the Administration of Criminal Justice Act 2015 have been able to remedy the situation through the provision of restitution, plea bargaining and compensation in addition to imprisonment. This ensures that there is no loot for the criminal to enjoy because the loot is returned to the victim or confiscated by the government. It is too early to determine if depriving the criminal of the proceeds of the crime will translate into a reduction in the commission of these crimes.

Recidivism and its Causes

Reoffending by released inmates is called Recidivism which is usually used to describe repetition of criminal activity. Ugwuoke, Dauda and Otodo (2016) define it as a situation where some people will reoffend after they have been convicted, treated and/or punished for a crime. Esiri (2019) and Halid, Ogunboyo and Adebayo (2019) aver that recidivism is on the increase with high prevalence rate and constitute a menace to the Nigerian society and the Southwest is not left out. Recidivism is not a surprising feature because the

theological perspective of punishment has shown that punishment is retributive and is to exert vengeance on the inmate. This is further compounded by the inability of the government to adequately fund the correctional centres in order to make the stay of the inmates humane and decent. Therefore, they come to the conclusion that they have been sent there for punishment and with such mind-set coupled with lack of necessary facilities, released inmates reoffend, and are tried, convicted and sent back to the correctional centres, and under such condition it is doubtful if the objective of reformation can be achieved. Ajiboye and Awe (2020), surmised that as far as modern correctional service is concerned, the goal of incarceration is rehabilitation and the Nigerian system should not continue to be an exception. There is need for a move away from retribution and deterrence to reformation and rehabilitation of inmates. Some of the causes of recidivism are as follows:

- I. Perception of the inmates is that they have been sent to the correctional centre for punishment. This is reinforced by the conditions in the centres which lack necessary facilities and is further compounded by overcrowding of the inmates. The horrible conditions in which they have to live confirm they are being punished. Idowu and Muhammed (2019) confirm that the centres lack adequate facilities and the inmates live in mentally brutalized manner under which reformation or rehabilitation is difficult to achieve. Nwocha (2018) avers that the positive relationship expected to exist between the staff of the Correctional Institutes to enable them reform the inmates does not exist because of lack adequate welfare for the staff and facilities with which to carry out their roles of reformation, these results in harsh or inhuman treatment of the inmates.
- II. Neglect or absence of family support which is essential in the rehabilitation of the inmates. There is stigma associated with conviction and imprisonment such that the family of inmates abandon them and will not visit them nor assist them upon their release. Family members distance themselves from released inmates and this further compounds their problems. Obum, Yunusa and Galdi (2017) aver that with this situation of neglect, it is easier for the released inmates to reunite with their friends who are criminals and will welcome them.
- III. Lack of interest in skill acquisition which is also exacerbated by lack of facilities in the centres. This is responsible for the inmates being unemployable or unable to start a business after being released and according to Ajah (2018); it leaves them more frustrated and despondent. Ottuh (2015) avers that facilities for qualitative and formal education are also not available.
- IV. Failure to classify inmates as to separate first/minor offenders or juveniles from hardened criminals. Otu (2015) describe the correctional centres as places where

inmates with different characters are confined and they learn both negative and positive ideologies from one another and can be seen as a school of crime and breeding ground for criminal socialization. Ugwuoke, Dauda and Otodo (2016) opined that proper classification must be carried out so that first offenders will not be corrupted and recidivism will be reduced. Shobola and Ajeigbe (2015) suggest that pick pockets or night crawlers should not be housed with murderers. Alternative sentence of community service instead of imprisonment for first/minor offenders is the way out of this quagmire according to Idowu and Muhammed (2019).

- V. Failure to provide spiritual and rehabilitative counselling. Where this is not provided or inmates do not show interest, recidivism will continue. Ugwuoke, Dauda and Otodo (2016) posit that correctional centres must be overhauled as to be in position to provide spiritual and rehabilitative counselling in order to reduce recidivism through adequate training of the staff of the Correctional Service in proper handling of inmates.
- VI. Substance drug abuse. In centres where such manage to find their way in, it leads to recidivism according to Otu (2015) because the abusers are prone to violent acts.

Conclusion and Recommendations

The biblical provisions on punishment are replicated in Nigerian Laws. Theologically, punishment is to exert vengeance on the offender and the treatment meted out to the inmates coupled with the inadequate facilities reinforces this view and under such conditions, the goal of imprisonment being reformation, rehabilitation and reintegration are difficult to achieve. Hence increase in recidivism instead of reduction. This paper recommends as follows:

- I. Society and the inmates must embrace attitudinal change that punishment is not for vengeance on the offender but reformation, rehabilitation and reintegration.
- II. Facilities in the correctional centres must be improved for better treatment of inmates in order to change their perception that they have been sent there to suffer.
- III. Family of inmates must disregard the stigma associated with their condition and support them.
- IV. Inmates must be willing to and acquire skill or education while serving term.
- V. First/minor offenders should be separated from hardened criminals.
- VI. Alternative to imprisonment such as community service should be applied.
- VII. Employment should be secured for released inmates.

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