

KANT'S CONCEPTION OF CAPITAL PUNISHMENT AND ITS IMPLICATIONS ON NIGERIAN CONTEMPORARY CULTURAL SOCIETIES

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Abstract

The fact that most societies across the globe agree that breaking the law will have repercussions is an indisputable fact. However, opinions diverge when it comes to determining the proper punishment, particularly for heinous crimes like murder. The capital punishment, also referred to as capital punishment or execution, is one of these variations that have frequently spurred debates and arguments among its supporters and opponents. For heinous crimes, many countries are presently searching for alternatives to the death penalty, like life in prison. The paper makes an effort to analyze the idea of the capital punishment from Kant's perspective. The paper uses a analytical method to look at Kant's ideas about retribution and his opinions on the death penalty, both of which are acknowledged ethical schools. Given that Kant had a significant influence on Western philosophy, discussed the death penalty extensively, and his theories form the basis of most modern arguments, the researcher focused on his thoughts. We also explore the relevance of Kant's philosophy of the capital punishment penalty in contemporary Nigeria. In conclusion, it will provide an individual's viewpoint on the subject and go over how to draw conclusions that will help us make better decisions about the use of the capital punishment.

Keyword: Kant, Capital Punishment, Retribution, Nigeria

Introduction

Human society is governed by moral principles and legal laws that regulate the interactions and behaviors of its members. A principle states that wherever a community is present, an ethico-judicial order needs to be formed, maintained, and encouraged. When lawlessness and criminal activity disdain, violate, and take advantage of order, the state uses punitive measures to bring it back. This further demonstrates the point that there is no punishment in the absence of crime. Due to the many roles that various people and schools of thought have assigned to punishment; numerous theories have been formed. They are retaliation, deterrence, and reformation. It is undoubtedly wrong to take another person's life, but it is even truer that the punishment for the offense should be appropriate. The capital punishment is a legitimate punishment that encourages crime retaliation and moral disgrace for those who take human life. It also serves to keep society's worst offenders from committing new crimes and to bring justice to the victims whose lives were taken without warning. Capital Punishment or the death penalty, have been used for many years dating back in history for millennia. Being used as punishment for wrongdoings that seemed fit for criminals that have done inconceivable acts. Nowadays in the modern area, capital punishment is only reserved for certain specific crimes with the most common being murder and terrorism and in some countries, even extending the crimes ranging from

adultery to drug trafficking. Throughout the years, public opinion about the capital punishment seemed to be on the fence, probably depending on the situation or crime. For crimes that were too severe that it was felt that a sentence of life to jail wasn't enough, it was assumed the best course of action would be the death penalty, however on the other hand, people have been questioning that if this punishment is a violation of a person's right to life. A person's right to life is a moral belief that every person has the right to live and should not be killed by another person or in this case, the government. Such is the same mentality, for example, when it comes to another contentious issue being the abortion of an unborn baby.

Whether it was right for a mother to abort her child if she was a victim of rape when the unborn baby has been gifted the chance of life. These issues have changed drastically over the years pertaining to public opinion and have garnered vast opinions changing different laws, how it should be performed, etc. Kant's philosophy pertains to these issues, for Kant believes in equality in terms of crimes. The purpose of this essay is an exposition of Kant's ideas regarding the capital punishment. The capital punishment is linked to the crime by "the Law of Retribution," the old maxim *lex talionis*, which is based on "the principle of equality." Murderers must die for their crimes, and social repercussions are completely irrelevant. Kant is a prime example of pure retributivism when it comes to the death penalty. Kant's opinions on the capital punishment seem highly ironic given that the majority of his theories and beliefs center on an individual's behavior and character, specifically on their ability to distinguish between right and wrong and under what circumstances. However, his belief in good morality also makes sense, as people must strive toward it in order to achieve that "good will." Since doing what is right can lead to achieving this, as it is the morally correct thing to do. If we decide to do anything different, we are essentially heading down the incorrect route, and the main cause of this is our personality or the decision we made. As a result, there will be consequences.

Kant's Views on Capital Punishment

Kant presents what is arguably the clearest (if not the purest) explanation of the retributive theory of punishment. In a nutshell, the premise is straightforward: punishing someone for practical reasons is wrong. Punishment by law must always be an answer to guilt. The individual being punished is harmed; their humanity has not been honored, if the main goal of the punishment is to prevent others, to safeguard society, or to set an example. As a result, punishment must always be meted out in response to guilt. However, Kant effectively goes one step further, suggesting that punishment for the guilty must occur in order to uphold justice and equality, which are the only legitimate pillars of the law. This reading seems to support both of these ideas. The guiding idea when choosing a penalty is equality. Kant employs a simile. According to Stairs (1992:6), the equality principle is the means by which the justice scale's pointer is made to incline equally to both sides.

Kant's explanation of this involves two concepts, according to Stairs. A common notion is "an eye for an eye." The severity of a wrongdoer's punishment should be determined by the evil that they have caused. Kant notes that, for example, we do not have to demand that those who are abused continue to be abused. All that has to happen is that the pains the victim experiences must be equal to the pain the offender experiences. That's one aspect of the right to retaliation, or *jus talionis*. The second component is the conundrum expressed in a quote such as "if you steal from another, you steal from yourself" (Stairs, 1992:6). The idea here is that thieves generally undermine the security of property by taking it. Their motivation would jeopardize their own property if it were applied to everyone. As with the last example, those who defame others undermine their own reputations because they live

by a rule that, if applied to everyone, would allow anyone to defame anyone, including themselves. The relationship between this and the right to retaliation appears to be this: it demonstrates that, for example, the wrong of stealing is the kind that, should his maxim be applied universally, the thief would experience personally.

That demonstrates why it is especially fitting that he be punished by having his possessions taken away. It draws the proper moral conclusion about the relationship between crime and punishment. How this leads to the conclusion that the penalty must be commensurate with the crime is less obvious. We appear to rely on metaphor in this situation: justice has not been done and something is out of balance if the criminal is not punished. Regarding the death penalty specifically, we see that Kant believes it to be both lawful and necessary in cases of murder. According to Stairs (1992:6), the only punishment that is appropriate for the crime of killing someone else is the murderer's execution. The execution of the murderer is the only thing that is commensurate with the crime of killing another person. In fact, he tells us, "the last murder lying in prison ought to be executed" before the society disintegrates itself if it had murderers on death row and was about to collapse. Why? For two reasons: (1) "That blood guiltiness may not remain upon the people," and "that everyone may realize the desert of his deeds" (Query: What does this mean in simple English?). Kant continues, saying that "if not, they might all be seen as participants in the murder as a public violation of justice" (Stairs, 1992:7).

It is debatable to what extent the retribution principle is applicable. Let's say a murderer subjected his victim to excruciating torment before killing him. It would appear that the law talionis leads us to the conclusion that the murderer ought to suffer torture before being put to death. In reality, some people really think this. However, we would much rather not have these individuals in positions of authority or close to my kids. Individuals that take such a philosophy seriously might be able to adhere to it consistently. However, one believes they lack a proper feeling of horror. It is inhumane to torture. Torturers are displaying their inhumanity to us.

However, by acting in their manner, even in retribution, we descend to their level and allow the very evil to taint our morality. It is noteworthy that Kant acknowledged this broad point in effect. He is adamant about the death penalty for murderers. But he writes (Stairs, 1992:7), referring to the convicted individual. As Stairs notes, it's unclear exactly what Kant intends by this. However, the basic premise seems to be rather obvious: even a murderer deserves some dignity because they are still human beings and have value in and of themselves. Penalties that disregard the humanity of the offender are morally repugnant. They are blatant, plain retaliation; they are not justice. Furthermore, it would be incorrect to conflate revenge with Kant's definition of "retribution". Retaliation instincts are natural, as anyone who has spent time with small children will attest, as is the tendency to take things that we desire but do not legally belong to us. However, morality demands that we transcend our basic instincts. That's why leading a moral life can be challenging. Furthermore, morality demands that we recognize the other person's humanity when it comes to punishment. Inexperienced eyes may think that this is not conceivable (Stairs, 1992:7). It would not be proper to punish the criminal by putting him through the same process, as Kant would (or should, in all consistency) insist. We do not have the right to deprive the criminal of his humanity only because he did not respect the humanity of his victims. If this is the case, however, one may ask how the death penalty might be justified. The state assumes the role of taking a murderer's humanity away from him in the most severe manner possible by executing him. Thus, it is reasonable to wonder if the death sentence could actually be allowed under a legal system that truly takes the categorical imperative seriously. Why is execution still a legal form of punishment if psychosurgery

and torture are not? (Stairs, 1992:7).

An Exposition of Kant's Conception of Capital Punishment

For the classical school of criminology, deterrence-based public policy, abolitionism regarding the death sentence, and liberal notions of legality and the rule of law, Beccaria's *On Crimes and Punishments* has served as a stand-in throughout the ages (Harcourt, 2013:2). According to Beccaria, the use of punishment is only permissible when it is absolutely required to protect the common good. As Beccaria states, "experience shows that the common run of men does not accept stable principles of conduct," therefore in this sense it is an evil that is necessary insofar as it is the only means of controlling the passions (Harcourt, 2013:2). Beyond what is strictly required to restrain men, every punishment is "tyrannous": "Any punishment that goes beyond the need to preserve this bond is unjust by its very nature" (Harcourt, 2013:8). Yet, Beccaria maintains that the only true measure of criminality is the harm done to the country, so those who think that the true measure of criminality is the malefactor's intention are mistaken (Harcourt, 2013:8–9). Punishment must also be commensurate with the harm caused by the criminal offense, and Beccaria measures harm by the harm to society rather than the offender's evil intent.

Based on these arguments, Beccaria argues that the appropriate severity of punishment is just that which is required to stop similar crimes from happening in the future—what we would now refer to as "specific deterrence" of a specific offender from committing crimes in the future and "general deterrence" of other potential offenders. Beccaria underscores that the goal of punishment is not to go back and repair a crime that has already been committed. Beccaria states that one cannot "undo what has been done and turn back the clock" with the lamentations of a wretch (Harcourt, 2013:8). As a result, the sovereign's ability to punish others is severely limited.

In his work, Beccaria incorporates a limiting concept that can be summarized as follows: "To be effective, a punishment must cause more harm than good to the offender." The computation of this balance must also take this into account. Anything beyond this is tyrannous since it is unnecessary (Harcourt, 2013:9). This restriction on punishment introduces a potent dose of proportionality into the analysis- a defining and defining quality of Beccaria's work. The creation of a "lasting association in the human mind between the two ideas crime and punishment" is what guarantees the appropriate operation of punishment (Harcourt, 2013:9). Beccaria gives proportionality a retributive quality while maintaining a utilitarian lineage. As Beccaria states, "the punishment should, as far as possible, fit the nature of the crime;" this "serves admirably to draw even closer the important connection between a misdeed and its punishment" (Harcourt, 2013:9). Beccaria contends that there should be a "fit" between the crime and its punishment and that this fit is necessary to cement the association.

As Harcourt puts it: Beccaria's treatise gained notoriety largely because to his early opposition to the death punishment. Once more, his argument sounded like a social contract: people only gave the sovereign the barest minimum of freedom in order to ensure security, and this could never include the sovereign's authority to kill a subject. Not a tiny amount of freedom, but life itself is the greatest good of all. Beccaria contended that giving this prerogative to the sovereign would be absurd. "Whoever gave others permission to kill him did so voluntarily?" (Harcourt, 2013:12).

Beccaria argued that if men do not even have the right to commit suicide, how could they grant another person the authority to execute them as a kind of punishment? Beccaria argued that the death sentence belonged in the province of war, which has its own set of requirements and purposes, rather than the realm of the right and just. But even in that area, Beccaria maintained that the death penalty was neither required nor beneficial. Not required as more effective and frightening than the sudden shock of death are drawn-out penalties like life in prison or slavery:

The powerful and often repeated thought that I, too, would be reduced to such a gloomy and pitiful state if I do comparable acts is far more compelling than the idea of death, which men always perceive as nebulous and distant (Harcourt, 2013:12). Bentham supported Beccaria's position and even went so far as to say that Beccaria had covered all the ground that needed to be covered. Bentham stated that "one will be inclined to adopt the opinion of Beccaria- that it ought to be disused- the more attention one gives to the punishment of death." His book covers this subject matter in such a skillful way that treating it after him may be unnecessary (Harcourt, 2013:12). Hegel and Kant, on the other hand, both severely criticize Beccaria's position. Kant accused Beccaria in *The Metaphysics of Morals* of "pure sophistry and distortion of the principles of right." Kant maintained that the right to the death penalty was a fundamental component of his retributive theory of punishment and the concept of *lex talionis* (Harcourt, 2013:12).

Though there was no empirical support for Beccaria's main arguments against the death penalty- that is, that life sentences are a more effective deterrent than capital punishment- both he and Bentham would have followed their gut feelings and opposed the death penalty regardless. Beccaria's arguments were based on facts rather than theory. On the other hand, their heirs at the University of Chicago, Gary Becker and Richard Posner, would voice opposing intuitions and support the death penalty more than two centuries later, still in an empirical vacuum (Harcourt, 2013:13). In that 1764 article, Beccaria attempted to calculate the possible amount of contraband that a merchant would need to smuggle in order to break even- that is, to keep the same amount of capital in his merchandise- given various tariff rates imposed by the sovereign authorities and the likelihood that he would lose some of his contraband. In essence, Beccaria was attempting to determine for the sovereign how to set the tariff at the most beneficial level in order to optimize the treasury's return. Beccaria had a significant impact on the theoretical framework of the modern economic approach to crime and punishment that was pioneered in the mid-1900s by academics like Richard Posner in law and Gary Becker in economics at the University of Chicago. "We are trying to determine how much a merchant ought to defraud the king's right, in terms of the value of any given commodity, such that, even if he loses the rest, he ends up with the same amount of capital as before," Beccaria said (Harcourt, 2013:14). The foundation of the contemporary economic model of crime is the theory put forth by Beccaria and Bentham, which holds that people act in their own best interests by attempting to avoid suffering and pursue pleasure, and that people maximize their overall happiness or utility by selecting opportunities that best suit their preferences (Harcourt, 2013:14). Beccaria attacked the common excuses for punishment while simultaneously criticizing the modern customs he was acquainted with. Beccaria's opinions were sharply at odds with those who opposed the implementation of governmental punishment across Europe based on the notions of public wrath and retribution (Draper, 2000:180).

In the name of punishment, the offender's body was subjected to a long list of cruelties, including limbs seared by boiling sulfur, flesh torn with red-hot pincers, and bodies

torturously dissected and burned (Draper, 2000:180). These acts were the consequence of penal ideas that required the state to take bitter revenge. The customs of torture by judges and the necessary exaggerations in the imposition of death highlighted the widespread belief that punishment is the result of sin's expiration. Such violent excesses demonstrated the state's desire to deprive criminals of their individual human dignity piece by physical piece while also exalting the sovereign authority's supreme power. Above all, people were confined for the longest durations of time possible in the most severe ways imaginable by the approved court authority, negating any notion of a natural or human right, not even to self-defense. Beccaria protested against this combined idea, believing it to consist mostly of "premeditated pomp and slow tortures" (Draper, 2000:181). Such acts of severe violence have no legitimacy in Beccaria's mind. A significant portion of the appeal of his little work stemmed from the way it fundamentally challenged these conventional notions.

Regarded by many as "the protest of evident justice and humanity against an archaic, cruel and repressive system," *On Crimes and Punishments* remains relevant today. Some, on the other hand, have been harsher, denouncing the awestruck iconoclasm of his so-called "enlightened" ideology. Therefore, Beccaria's guiding principles were that punishment should always aim to deter future crimes, that this implied a complete separation of crime from ideas of sin, and that the value of punishment must be evaluated by weighing the harm an offense causes to society as well as its potential to prevent future crimes of a similar nature. the notion that "the greatest happiness shared among the greater number" should be the goal of all society (Draper, 2000:181). Beccaria offered a contractarian perspective on civic organization as well. He claimed that everyone should be treated equally under the law, that every person had inherent rights, and that signing a contract did not give one's permission to impose the death sentence or torture in court. The standards for punishment were set so that, in the process of deterring, the human decency of both the guilty and the innocent parties who witnessed their penalties should be honored (Draper, 2000:181).

Social and political theories were easily disseminated throughout eighteenth-century Europe thanks to the ease international transfer of ideas. It is therefore not surprising that the English study of punishment was closely related to discussions on the continent. Beccaria's theories were swiftly and extensively adopted into the English penal theory discourse. As people from all political persuasions welcomed Beccaria's ideals for advancement, it is difficult to unravel the trajectory of his influence given how quickly he became the leading authority on reformist thought (Draper, 2000:182). *On Crimes and Punishments* met with a quick and generally positive welcome in England, as it did throughout the European continent. The most notable 1760s acceptance of his ideas was in William Blackstone's writings, which directly cited Beccaria in his fourth and last book of *Commentaries on the Laws of England*, so endorsing a number of his positions. But while Beccaria's inclusion in Blackstone's writings undoubtedly shows how deeply his views had permeated the English elite, it does not follow that all of Beccaria's core beliefs were adopted. It has actually been argued that the use and exaltation of Beccaria in England was misleading in certain quarters, with significant positions highlighting his contractarian, rights-based protection for individuals going unmentioned and much emphasis on his early utilitarianism (Draper, 2000:182). A debate of Beccaria's, or Beccarian-inspired, theories of punishment may be found starting in the late 1700s and going on very much in the same direction until 1770.

The main argument raised in these public debates is that, although deterrence was undoubtedly the goal, there were a number of elements of the English penal system that

were widely seen as being defective and in urgent need of reform. Specifically, there was less evidence to bolster the claim that Beccaria's theory was reflected in common English practice on matters like leniency, equality before the law, certainty, and celerity. Despite the fact that the English penal system clearly aimed to deter, it did so in a manner very different from that proposed by Beccaria, and the enthusiastic reception his little book received serves as a vivid example of how dissatisfied people were with the way punishment was applied in England (Draper, 2000:184).

Retributivist Theory of Punishment

The retributivist view of punishment argues that only those who have broken the law should be punished. As such, it can never be used to support the punishment of an innocent person. Furthermore, punishing just those who merit it is justified by retributivism. This means, first and foremost, that everyone who deserves punishment needs to receive it. People of this kind will not get what they can be called to "deserve" if we do not punish them. Second, this viewpoint holds that the seriousness of the criminal offense these people committed should be reflected in the length of the sentence they receive. Third, the value of this offense comes from the criminal's own actions alone, not from outside sources. Retributivist theories thus support the imposition of penalties on deserving individuals commensurate with the seriousness of the criminal's own act, as established by this act: "the deed brings its own retribution with it" (Brooks, 2002:2). This interpretation of retributivism is neither new nor debatable. Retributivism is actually "a very straightforward theory of punishment," which contends that "we are justified in punishing because and only because offenders deserve it." It may surprise us, given this widely held view of retributivism, how frequently philosophers and theorists attempt to offer a "retributivist" theory of punishment that is, in reality, internally incompatible with the defining characteristics of retributivism (Brooks, 2002:2-3).

Let us first acknowledge that, in strict terms, a retributivist theory of punishment only supports the punishment of all offenses. Retributivism is incompatible with the idea that any criminal should go unpunished for their actions; everyone who commits a crime deserves to be held accountable. Therefore, pardons and forgiveness without punishment are not ideas that retributivists can consistently support. This is not to argue, for instance, that pardons in and of themselves are always inappropriate. Rather, my contention is that retributivism cannot be entirely reconciled with any theory of punishment that endorses pardons. One of the most defining characteristics of retributivist penalties is the concept of "desert," which holds that all offenders should be punished. Everyone who commits a crime must be punished since, by doing so, they earn the right to be punished and acquire punishable desert. A pardon, sometimes known as an act of clemency, spares someone who merits punishment. Because all criminals possess desert, retributivists must punish all criminals (Brooks, 2002:3). Of course, the idea of the desert (and accountability). Retributivists need to insist that we exercise appropriate responsibility. We cannot own the desert if we are not. We only punish those who deserve it. It is impossible to apply retributivism if there are no such people. However, there are a few fundamental points we might make about what a retributivist understanding of the desert has to include. First, a person is only considered deserving of punishment if she has committed a crime. Secondly, an individual who violates the law is not only entitled to a general penalty but also a specific type of punishment, namely one that is commensurate with the seriousness of the offense committed. Then, retributivism would not support punishing someone for any reason other than that they are deserving of punishment. Furthermore, penalties are meted out to those who merit them, at least in part. Desert, then, is a prerequisite for all

retributivist penalties, both necessary and sufficient. Eventually, the only similarity between a crime and its punishment is their worth. This does not negate the possibility of the death sentence being a fair punishment for murderers (Brooks, 2004: 188). If capital punishment is to be supported by retributivism in any situation, it must be justified only as a "value" equivalency and not as "an eye for an eye." Because of this, numerous punishments might be suitable for a single crime. The theory of retributivism rejects the idea that there is a single, acceptable form of punishment. Rather, their contention is that punishment must be meted out according to a single, unchanging value. If two different punishments are applied equally, then both may be justifiably imposed. The desert is used by retributivism in a very personal way (Brooks, 2004: 188). It is strictly incorrect to state, as some theorists have that "the production of good consequences is an insufficient basis for determining" retributivist punishment. This is because consequences serve no purpose other than to be an insufficient basis for determining punishment.

With regard to retributivist views, repercussions have no place at all since they can only happen after a crime is committed. This is especially true if the theory maintains that a person may be legitimately punished for committing a crime alone. Yes, it is true that a criminal conduct that merits punishment could have unintended or recognized repercussions. Yet as they are not a component of the act itself, repercussions cannot, strictly speaking, be included in retributivist theories. Just an individual's desert matters. Not our opinions of her desert or the fallout from punishing a worthy individual to the extent that she merits. The idea that punishment serves as a means of expressive communication between the offender and his community is not entirely compatible with retributivism (Brooks, 2004: 188). The issue here is that retributivist punishment is only acceptable when the offender merits it, not when it satisfies the expectations of other people. Our assessment of what the offender "deserves" is not always retributivist as we cannot ensure that the value of our condemnation will match what the offender "deserves." There is an associated issue. Expressivist ideas and perspectives on punishment as a kind of communication demand that we make a reasonably certain assessment of a criminal's desert. This seems like a challenging, if not impossible, task: it requires us to read other people's brains in order to determine exactly what their own deliberate, guilty tendencies were at a particular historical moment. The true value of their desert may be somewhat different from our perception of their dispositions. To the extent that punishment deviates from its true value, it is unreasonable. Furthermore, this broad perspective on punishment makes the assumption that there is a gold standard for what constitutes "desert" that we can evaluate. Any criminal has access to desert. More deserts exist in certain places than others. Generally speaking, a criminal's desert increases with his or her degree of moral responsibility or culpability for the offense.

The severity of a criminal's punishment is determined by their desert level. We must be able to ascertain a criminal's desert, or his moral responsibility for a criminal conduct, before we can choose how to punish them. The theory is unrealistic and will fail if we are unable to arrive at these conclusions. There is one more concern, though. Finding the ethically responsible course of action becomes significantly more difficult if there are multiple perspectives on morality and what it requires of us. It's possible that one moral perspective favors a particular type of behavior over another. Holding individuals to comparable, if not identical, standards would seem right.

Reward systems based on moral desert theory may approach similar instances differently if there were multiple moral theories. Criminal desert determinations may not be based on the deliberate actions of offenders, but rather on the standard that is applied. In order to

prevent this concern, we can only have one moral standard. Nonetheless, various peoples do not arbitrarily adhere to disparate lifestyles and moral standards in this day and age of value pluralism.

Retributivism sticks to precisely such a gold standard of morality, and we cannot embrace a theory like it unless we are willing to argue that one moral perspective is superior to others (and that one moral perspective can be used as a gold standard for determining penalties) (Bennett, 2002:153). It is believed that retributivist penalties "fit" with crimes. There are varying opinions about how retributivism does this. Retributivism, according to one perspective, should be viewed as a system of repayments in which offenders "payback" a debt they have accrued as a result of their crimes. Assume for the moment that the criminal receives punishment that is intended to "pay back" her victim and society for the wrongdoing that she committed. What meaning does this metaphor have for us? It is undoubtedly difficult to see how a criminal who has been imprisoned for six months "pays back" someone else, particularly if the sentence is justified because the offender committed a crime without harming anyone. It is unclear how much someone could be considered to "owe" in these situations (Sadurski, 1989:360). For one straightforward reason, this view of retributivism is incorrect: to whom must the offender make restitution? Retributivism simply means that this specific offender will be punished to the extent that the crime and the punishment have the same "value." The offender has no obligation to repay anyone, least of all the community. Retributivism, on the other hand, demands that this criminal pay a price for committing a specific offense. It is totally a personal matter in this sense. The idea that retributivism should be interpreted as an attempt to right an injustice that was unjustly upset by an offense presents a similar challenge (Michael, 1992:174).

In other words, retributivism is unaffected by the need to bring society back into harmony. Only the criminal's desert may be used to decide retributivist sanctions; other considerations, including the equilibrium of society, are out of the question. Only crimes are subject to punishment. This viewpoint can initially appear problematic since it implies that those who are subject to punishment are only deemed worthy due to their legal, rather than moral, transgressions. Is it possible to argue that someone who breaks an unjust rule should be punished? It is true; for starters, that retributivism is most often associated with some sort of moral desirability argument (Michael, 1992:174). A person must carry out a criminal act in a substantively responsible manner, according to retributivism, which means that the criminal must possess a punishable desert. Put differently, an action must come from the heart and cannot be forced or motivated by fear. Many theorists, including C. S. Nino, who states that "the justification of punishment... relies on the consent to assume the liability to suffer punishment involved in the voluntary commission of an offense with the knowledge that that liability is a necessary consequence of it," also hold this view. From this perspective, it is imperative that the offender acts voluntarily and with full awareness that he may face consequences for committing the crime. Only when an individual bears personal responsibility for their conduct can retributivism justify punishing them. Innocent people or small infants are examples of people who lack such responsibility and cannot be worthy of retributivist punishment (Michael, 1992:174). Retributivism also makes it difficult to distinguish between morality and the law, which is another issue with this point of view. Criminals are subject to punishment since they are guilty of crimes. This desert represents a particular kind of moral transgression. Naturally, some moral transgressions- like telling white falsehoods and the like- do not usually result in punishment. The state only enforces punishments for moral transgressions that are crimes.

Retributivists, however, erroneously contend that the criminal code, which authorizes penalties, is morally sound. First, it is unclear whether there is a single moral philosophy that, at least in a meaningful way, unifies the criminal code. Second, there is the issue that a large portion of the offenses listed in our criminal law are not immoral—at least not in the most evident sense (Michael, 1992:175). Ultimately, it is evident that being law-averse is not a happy place. In other words, there is nothing unique about retributivism that requires criminals to be aware of the potential consequences of their actions. What matters is that individuals are accountable for carrying out a specific conduct; it doesn't matter if they are aware of the act's illegality or potential consequences. Of course, there are strong arguments in favor of considering justice as something that is public, meaning that someone should only be held accountable for their actions if they are fully aware that their actions could have criminal repercussions. Nevertheless, retributivism would determine that a murderer was worthy of punishment regardless of whether he was aware of the proper punishment beforehand. It might even conclude that someone who is unaffected by the results is more worthy of punishment than someone who considers the advantages and disadvantages beforehand.

The idea that retributivism establishes punishments in proportion to crime—albeit in a specific way— is one that theorists frequently advocate. They contend that crimes and punishments ought to be ranked differently based on their respective "values," with the lowest-value crimes receiving the lowest punishments, and so on (Michael, 1992:10). Retributivism does, in fact, permit severe penalties like torture and execution, but by definition it cannot support excessively severe retributivist penalties. Rather, it only supports sentences that are commensurate—that is, neither greater nor less— with the seriousness of the connected offense. It is now clear that most, if indeed not all, contemporary 'retributivist' theories of punishment are inconsistent with our common understanding of what retributivism entails. There is, however, one final difficulty we need to address. Retributivism justifies the punishment of criminals in equal value to the gravity of their offence in itself and not any consequential considerations. The problem for retributivism is that it appears impossible to determine the value of a criminal's individual desert stemming from his act. Not only would we have to understand the criminal's mindset when performing the act, but we would have to go back in time to the moment the act occurred.

Naturally, we could reasonably infer something "beyond reasonable doubt" about the individual's thought. We cannot guarantee that our assessment of a criminal's desert is accurate, though. Since "no perfectly just judgments can be passed," according to Kant, we can never be certain that the penalties we impose are totally in line with retributivism (Kant, 1963:475). Retributive considerations are, in fact, often combined with those of other theories of punishment in a number of noteworthy initiatives to accomplish this exact goal. All plausible theories, it seems, must contend that people should be punished according to the seriousness of their crimes. Dispute this position is not my intention here. My purpose is to alert us to the fact that, strictly speaking, retributivism requires us to make decisions regarding things like proportionality and the desert when we cannot be certain of our accuracy. It is impractical, if not impossible; to execute retributivism as such, if all of our judgments regarding desert and proportionality are our own and may not always align with what is rightfully due (Wood, 1002:301).

Implications of Capital Punishment for the Individual

The debate over the capital punishment suggests that Nigerians as a whole should show, via analyses of the arguments derived from a practical view of challenges and modern life, how they have been challenged, enlightened, and positively impacted on moral attitudes, aspirations, and decisions guiding their life in Nigeria. In Nigeria, the death penalty is a severe punishment that people who are affected by must endure. It is frequently used to either promote conformity and obedience to cultural values in Nigeria or discourage various forms of cultural norm transgressions in Nigeria. Social control, both formal and informal, may be used to enforce these penalties. Beyond chuckles, smiles, eyebrow raises, and mockery, it is noted that this situation involves a different kind of informal social control (Uche & Udezo, 2011:430-31). The way that the death penalty deters people is by turning them into social outcasts, antisocial elements, and other social outcasts who are shunned and isolated by their community, their religious institutions, and society at large. Some become victims of the situations they find themselves in, in addition to being victims of crimes. In this sense, a select few have emerged as heroes in their local communities, while the unfortunate majority have become socially, politically, and economically estranged within Nigerian society. Everyone detests constitutional violations, nepotism, corruption, and a lack of the rule of law. In an ideal world, most Nigerians would like to see their country progress, but in reality, most are infamous for their icy inactivity and silent indifference to the oppressive circumstances that can inspire treachery. Many Nigerians seem to have developed unflattering views, which have led to mistrust and distortion of the truth in the country. Combating societal evils like corruption without embracing the difficulties this cankerworm presents is a meek attempt to stave off the social cancer. In a similar vein, people who openly pursue political office by putting an end to treachery are hailed as national heroes and heroines, while those who have the best interests of the country at heart are called dissidents, criminals, and murders (Uche & Udezo, 2011:431). They might be denied the right to live as free citizens and seek political refuge abroad. Since they are shunned, they don't seem to fit in in marriage or other social connections. As a result, they are surrounded by a kind of terror. Due to their status as members of an accursed group, those convicted of capital punishment appear to bear a transferable curse that is thought to cause them to experience failure, misfortune, and regression in all areas of their lives.

Lessons from Capital Punishment

It has always been understood that those who murder another person will ultimately suffer the consequences. It is the responsibility of society to shield law enforcement personnel and civilians from aggressive individuals who lack self-control. Everybody who has killed someone deserves to be killed. Justice is served here. Some criminals will only perceive the death sentence as a kind of deterrence. There are criminals who would far rather die in prison than serve out their entire lives behind bars. Justice has been served unfairly in certain cases. Hangings of innocent persons have occurred. The death sentence is ineffective as deterrence. Murders continue to occur in locations where the death penalty is in existence. It is an affront to the sanctity of life, which the government is charged with defending. Most individuals agree that a society that upholds citizens' rights to "life, liberty, and the pursuit of happiness" is just (Higher Still, 2000:144). Since punishment exacerbates suffering, it appears to be evil in and of itself. In what way is this justifiable? This clarifies the Utilitarian perspective on the appropriate range for punishment, but it doesn't address the question of why they believe it to be a good idea in the first place. Recall that utilitarian's must consider a wide range of outcomes when determining what course of action to take. They contend that the benefits of punishment will exceed the drawbacks.

The only positive aspect of punishment is the results it produces; it is not beneficial in and of itself. It's a necessary evil. When considering the ramifications of the death penalty, utilitarian's has various options. It is necessary to consider some of the negative outcomes that could occur. Perhaps as many lives are spared from execution as from others being deterred. Think about the anguish experienced by the criminal who is awaiting execution; compare that sorrow to the victim's family, who had to learn later of their loved one's death. This may cause us to place a lesser value on human life because of the chance of executing an innocent individual. According to utilitarianism, it is likewise impossible to simply eradicate criminals. Locking them all up and discarding the key is not an option. It is reasonable to endeavor to ensure that, upon their reintegration into society, formerly incarcerated individuals change for the better. According to Higher Still (2000), reform is advocated as a way for utilitarianism to acknowledge this. Retributive retribution theory is what Kant advocated. According to this theory, the offender should bear the consequences of their unfairly obtained goods or services from society. From this perspective, criminals are viewed as leeches on society, wanting to take use of its benefits but refusing to follow the laws that are necessary to maintain it.

According to this theory, the sole requirement for punishment is that the offender was the one who really committed the offense. Furthermore stated is the idea that the penalty ought to be appropriate for the offense. (Instead of two eyes and an arm, it ought to be one eye for one eye!) (Slightly More, 2000:50). Kant is in favor of the death penalty. According to him, the only reason criminals should be punished is if they killed someone; if you kill someone, you should be killed. It also indicated that he believed that justice could not be served unless all capital sentences were carried out. Kant uses the decision of an island population to disperse and relocate as an example. Kant declared that it was their responsibility to put an end to every last murderer before they went. People's feelings are in line with the notion that only those who have truly committed crimes should face consequences and that offenders should be held accountable. When victims of crime hear the sentence meted out to the offender, they frequently say things like, "They only got what they deserved." Furthermore, it bothers individuals to learn that someone is incarcerated for crimes they did not commit. We wouldn't require the massive amount of proof that we do now in order to convict people if they didn't mind (Higher Still, 2000:50). Consider that Kant thought there was inherent value in people. Do not forget that he held this belief because he considered us to be rational beings capable of utilizing reason to make our own decisions. According to Kant, incarcerating criminals serves the public interest by using them as a means to an end—that is, by utilizing their confinement to increase public safety. Because you are not allowing these people to be who they truly are, trying to rehabilitate and reform criminals also treats them as means rather than as ends in and of themselves. It seems like you're attempting to shape them into what you think society desires. While this clarifies Kant's perspective on the appropriate boundaries of punishment, it does not address his initial belief that punishment of any type is warranted. Recall that treating someone like a means instead of an end is treating them like a rational creature according to Kant. To do this, one must regard them as individuals accountable for their own deeds. Should you bear accountability for your deeds, you may receive recognition or condemnation accordingly. According to Higher Still (2000), punishment is a means of ensuring that individuals are held responsible for their deeds.

Conclusion

The capital punishment is still a contentious issue today. It is unlikely to go away, regardless of whether a nation uses this type of punishment or not. Because the reasons for

and against the death penalty are plausible and appear to be in the best interests of humanity, the criticism of the death penalty is not implausible. When it comes to punishment, utilitarianism aims to maximize positive effects on society, such security and safety. By permanently removing the offender from society, the capital punishment does manage to protect society from the convicted criminal, but life in prison without the chance of release provides an equivalent level of defense. On this point, life imprisonment achieves the same result, hence there is no utilitarian argument for the death sentence over the equally effective alternative of life in prison.

It is well known that utilitarianism's singular defense of the capital punishment as the ethically appropriate form of punishment is deterrence (Rezendes, 2002:2). According to the utilitarian viewpoint, the death penalty protects society in a major way that life in prison cannot since it deters potential killers and prevents them from killing again. This is in addition to eliminating the offender from society. Treating individuals as ends was taken into consideration in Immanuel Kant's idea of retributive punishment, which was predicated on the criminal's guilt. Kant thought that all persons, even criminals, should be treated as means to an end and punished for their crimes because they are guilty; the just should also benefit from this. Just desert imposes an obligation on society to punish the offender proportionately to the offense. Kant advocated a retributive philosophy of justice and punishment. Because the offender committed a crime and should get justice appropriate to the offense, they should be punished. A moral community should, it would seem, have the right to stop killings when it can. Since the killing of another person is the greatest of all crimes and should be punished to the death, society imposes such severe penalties as the death sentence on certain murderers. However, wouldn't it be better to reject murder's inherent immorality from the outset by society's refusal to engage in such behavior, even in merely desert scenarios?

Although the life sentence still honors human life or at least abstains from murder, the death penalty shows a determined desire to take a life when there is a valid reason to do so. One may wonder if life in prison is a severe enough penalty for those who commit murder. These conditions undoubtedly apply to both the death penalty and the life sentence. The guillotine, firing squads, and hangings are all thought to be more painful than lethal injections, but society has gradually moved away from these forms of execution since they are now seen as unneeded for the purpose of punishment and as primitive and barbaric. Not all murderers are executed these days, and those that are done in secret, seen to just a select few. In the past, we executed a far higher number of murderers- as well as other types of criminals- in a way that was visible to all. Nowadays, lethal injection is used for the great majority of executions. Criminals used to be drawn and quartered, shot, hanged, or electrocuted for a short while. The idea that the death penalty is not the most ethically acceptable type of punishment for a civilized society to use appears to be slowly but surely gaining support. Consequently, there are now fewer crimes that incur the death penalty, fewer execution sites are available, and more painless means of execution are employed.

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