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A BIBLICAL REFLECTION ON THE MORALITY OF CAPITAL PUNISHMENT IN CONTEMPORARY NIGERIAN SOCIETY

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Abstract

In the recent times, the rate of kidnapping in Nigeria has made some state governors, the national assembly and eminent Nigerians to agitate for capital punishment or death penalty for the kidnappers. Capital Punishment as suggested and stipulated in the Nigeria constitution is not limited to kidnapping but to other criminal offences such as armed robbery, murder, terrorism-related offenses and so on. It is to allow justice to take its proper course and serve as deterrence to others. Indeed, justice in all levels is the outcry of all and sundry in this nation but how is the capital punishment viewed within Christianity? What does the Bible teaches about capital punishment? Does capital punishment plays any constructive role in our criminal justice system? Can we justify the abolition/continuation of capital punishment in contemporary Nigerian society using the Bible as a foundation? What are the pros and cons of capital punishment? These and many other questions are answered in this research paper using historical-critical hermeneutical approach. Findings reveal that the execution of criminals by the state is not prohibited in the Bible but it must be executed carefully, prudently and sparingly because it is not something that Christians should exult.

Introduction

The long-standing debate over the Christian morality in support of or against capital punishment remains unsettled. Many Christians believe that the Bible condemns capital punishment. The ten commandments speak of respect for life and simply declare, “You shall not kill” (Exodus 20:13) but a number of Christians defend capital punishment as a legitimate part of the civil order, and point out that capital punishment is supported in the Bible. They say that one, who wrongfully murders another, must sacrifice his own life, because in killing a human being made in the image of God, the murderer demonstrates contempt for God’s Creation and for God himself. Genesis 9:6 in the Old Testament and Romans 13:4 in the New Testament are used to support the belief that civil governments have the authority and the responsibility to carry out capital punishment.¹ Nevertheless, as with other

topics, Christians need to know if the Bible sheds any light on the subject “capital punishment”. So, this paper examines biblical teaching on capital punishment in order that Christians and non-Christians alike may have right biblical perspective or understanding on capital punishment.

What is Capital Punishment?

Capital punishment according to can simply be defined as “extreme punishment involving putting a criminal to death by a legally constituted authority which is usually the civil government. The government of any land or nation reserves the right to exist, make laws and impose penalties on those citizens who violate or disregard the laws. By implication, the only recognized body that has the right to execute capital punishment is the state or the civil government and not an individual or an unrecognized authority.”²

Capital Punishment in the Old Testament

It is obviously clear that capital punishment was a welcomed practice in ancient Israel and its examples appear overwhelmingly in the Old Testament laws. For example, when Noah and his family came out of the ark, Noah immediately offered sacrifice on behalf of the rest members of the community. When the Lord smelled the pleasing aroma he issued a new covenant with Noah and his descendants. God Said, “everything that lives and moves will be food for you. Just as I gave you the green plants, I now give you everything”. This was followed by the decree that the taking of human life was to be met with the ultimate penalty, that is, “the forfeiture of the murderer's life”. And for your lifeblood I will surely demand an accounting. I will demand an accounting from every animal. And from each man, too, I will demand an accounting for the life of his fellow man. Whoever sheds the blood of man, by man shall his blood be shed; for in the image of God has God made man (Gen.9:5-6). This decree was issued because of importance and dignity of human life. Among all the creation, human beings alone are made in the image of God and endowed with the ability to reason, love and make moral decisions. As such he is made to have an eternal relationship with God. Therefore any murderous attack on him by another human is an attack against God who made him.³

In the Mosaic Law, murder was considered to be the highest crime and whoever murdered was not pitied for any reason. Show him no pity. You must purge from Israel the guilt of shedding innocent blood, so that it may go well with you. Apart from the act of murder, additional crimes considered

worthy of capital punishment according to Craig,^d include

i. **Hitting** one's parent - To hit one's parents or attack them is punishable by death.

This is undutiful behaviour of children towards their parents and it is a great provocation to God who is our common father, God said, such children must be put to death (Ex, 21:15)

ii. **Kidnapping** - Anyone who kidnaps another, man, woman or a child for the purpose of selling him or^l her to the gentiles (for no Israelite would buy him) must be sentenced to death (Ex. 21: 10)

iii. **Killing in unborn infant** - The Law of Moses took particular care of a woman with child that no harm should be done to her which might occasion her miscarrying. If there is no serious injury that is, if the child who is born prematurely survives, and the mother also is alive, the offender would only pay the fines that the husband demands. But if the injury claims the life(s) of either of the two or both, it was a matter of life for life (Ex. 21:22-25 1).

iv. **Witchcraft or sorcery** - sorcery simply means an appeal to supernatural powers on the basis of magical technique. This law was prompted by humanitarian considerations. This law implies that women especially were involved in sorcery. Such a woman, practice magic with the help of evil spirit must be considered a murderer and so must not be allowed to live (Ex 22:18)

v. **The worship of other god** - God has spoken from heaven and has proclaimed his uniqueness; no idolatrous image is therefore fit to stand in his presence. God has given them sufficient demonstration of his presence: they did not need any other rival god (Ex. 22:20). Anybody, a man or woman who violates this law must face death penalty.

vi. **Working on the Sabbath** - The instruction concerning the Sabbath was an effectual recognition of divine ownership. All the days of the week belong to God as did the whole of the creation and was to be acknowledged by sacrificing a part the whole in lieu of the whole. Whosoever breaks this law disregards the owner of all creation; he must not be allowed to live (Ex. 35:2)

The above listed were some out of many crimes that attracted capital punishment in the Old Testament. With that, one can conclude that our theoretical level of operation is far below the standard of the ancient Israel.

Crimes like adultery, working on the Sabbath and possibly witchcraft because it is not subject to empirical verification were not threats to society in a broader sense. The reason behind this may largely be traced to the fact that the contemporary society is more of individualistic rather than collectivist as it was practised in the ancient times.

In summary capital punishment or the taking of human life as punishment for the crime of murder is legally authorized by the Old Testament. Any attempt to

disapprove this claim is nothing but “hermeneutical homicide”. Those who try to base their agitation against capital punishment on the basis of biblical instances are biased and erroneous. The scholars in this group are interpreting the Bible out of context. Some of them refer to passages like:

1. “Thou shall not kill” (Ex.20:13). The commandment, “Thou shall no! kill” should not be interpreted as license that if you kill, you must go scout free, For someone to have taken the life of a fellow human being is an indication that he does not believe in the commandment that forbids killing. If that is the case murderer does not have any moral justification to benefit from the commandment he does not believe in. ‘! his reference lacks application 10 judicial execution. It must be disregarded.
2. “If any of you is without sin, let him be that first to throw *a* stone at her” (John 8:7), Some scholars based Their agitation on the judgment of Jesus concerning the adulterous woman claimed that Jesus did not endorse stoning of the adulterous woman. Here it must be understood that those who brought the woman lo Jesus wanted to tempt him. The Bible reveals that this woman's accusers were not friends of Jesus; rather they were members of the opposition party (John 8:3). The reply of Jesus was not an indication that abolish capital punishment, but an indication that all the accusers were guilt;¹ of the same offence. All of them deserved to be stoned to death, and since they did want it that way, the disappeared⁶.
3. **“Do not resist an evil person, if someone strikes you on the right cheek, turn to him the other also” (Mat. 5:39). The teaching of Jesus in this passage should be** treated and understood from the view point of personal relationship in the community. Jesus’ teaching to forgive one another or not to take revenge has nothing to do with judicial function. If a Jaw enforcement agent knows that releasing a criminal out of his chums will result into losing his own personal life, it would then be foolish of him to go ahead to release him in the name of forgiveness.⁷

Capital Punishment in the New Testament

In the New Testament times, capital punishment was a common part of the culture. In Roman Judea, the Jewish Sanhedrin was forbidden to execute criminals. That prerogative was retained by the Roman overlords as a sign of their supreme control over Jewish society. Roman citizens. such as the Apostle Paul, were given the right to be executed by beheading, for it was relatively swift and painless. Non-citizens could be tortured before death, mid were often executed by crucifixion, that is death on a cross. This

death could take up several days, as the criminal would eventually die by asphyxiation.⁸

The New Testament says very little about the capital punishment. This silence is instructive, as apparently the Lord Jesus and his apostles were unconcerned with the operations of the secular state, and more or less upheld the state's authority in all areas except where that authority expressly contradicted the revealed will of God (Acts 5:29). Christ never condemned capital punishment. He acknowledged Pilate's right to rule, even in matters of life and death (Jn.19:10-11). In fact capital punishment was unjustly carried out against him. If capital punishment was looked upon with disdain by Christ, he had ample opportunity to speak out on the topic. In Luke 23:41 the repentant thief said he and the other offender had justly received the death sentence but Christ was guiltless. "And we indeed justly receive the due reward of our deeds: but this man hath done nothing amiss". Christ could have said to the repentant thief, "It does not matter what you have done, capital punishment is wrong. It should be done away with". But, he did not say that when he had a golden opportunity to say it.⁹

That brings us to the second incident that can shed some light on Jesus Christ's view of capital punishment. Some anti-capital punishment scholars have interpreted John 8:1-11 as indicating Jesus nullifying the death penalty.¹⁰ But this passage deals with the Pharisee's sting operation relating to the adulterous woman. It was designed to trap Christ and make him reject the law God had given to Moses or the Roman law of the day. Christ did neither but in fact invited those without sin to throw the first stone. John 8:7 says, "So when they continued asking him, he lifted up himself, and said unto them, He that is without sin among you, let him first cast a stone at her". This is hardly a rejection of capital punishment because he still gave the grace to whoever is without sin to cast a stone at the woman. Again, Jesus called the accusers of the woman to account, as they were guilty of violating the strict standards of the law of Moses, which called for both parties to be subjected to the same punishment (Deut.22:22-24). Thus, the reference to capital punishment is not central to this account, nor does the account relieve civil government of the responsibility to punish wrongdoing. Jesus reply indicates, "If we are to enforce it this time, some of you are next". The constraints of Roman power were acknowledged though capital punishment itself was not thereby repudiated."¹¹

Romans 13 is Paul's treatment of church-state relations. In Romans 13:14, he states that the civil magistrate "does not bear the sword in vain", for he is "the servant of God to execute his wrath on the wrongdoer". This sword

refers to the one worn by the superior officers in the provinces who had the authority to inflict capital punishment. Paul does not say that the government should use the sword; he just acknowledges that the State uses it without condemning the State for doing so.¹² According to church tradition, it was the sword of the Roman government that eventually separated Paul's head from his body. In Acts 25:11, Paul states, "If I have committed anything worthy of death, I do not object to dying". In other words, he was not trying to get out of a just punishment. He clearly believed that some crimes were worthy of death, and that the rulers had the authority to exercise that penalty in those instances. Paul did not question the right or authority of rulers to require forfeiture of life. It was not an issue about which he was concerned.¹³ Meanwhile the prerogative of capital punishment is established in Genesis 9:6, developed in the Mosaic Law and reaffirmed in the New Testament. Therefore Capital Punishment is biblical. Nevertheless, we shall briefly discuss basic reasons for and against capital punishment by some Christians.

Common Reasons in Support of Capital Punishment

According to Robinson,¹⁴ most Biblical Scholars and Various Christian denominations support capital punishment because of the following reasons:

1. The Bible requires the death penalty for a wide variety of crimes such as murdering, kidnapping, and so on
2. Justice: Many people feel that killing convicted murderers will satisfy their need for justice. They feel that certain crimes are so heinous that executing the criminal is the only reasonable response.
3. Deterrence: Many people in the opinion of Stephen,¹⁵ feel that the death penalty will deter criminals from killing. This does not seem to be confirmed by an analysis of the available data. However, it feels intuitively correct for many people.
4. Respecting the Value of human Life: It is believed that by exacting the highest penalty for taking of human life that we affirm the highest value of human life because human beings are created in the image and likeness of God (Gen. 1:26).
5. Cost: Those who advocate capital punishment believed that once a convicted murder is executed and buried, there are no further maintenance costs to the State. This however appears to be invalid; the cost to the State paying for multiple appeals is generally greater than the cost of imprisoning an inmate.
6. Public Safety: Once a convicted murderer is executed, there is no chance that he will break out of jail and kill or injure another person.¹⁶

Common Reasons against Capital Punishment

- i. The Hebrew Scripture (Old Testament): Some Christians feel that they are no longer bound by the legal codes of the Hebrew Scriptures and that the death penalty is no longer required. This renders Old Testament useless and obsolete and it is never a welcome reason.¹⁷
- ii. Appeal to New Testament: Abolitionists often quote Jesus' treatment of the adulteress in the Gospel of John as support for their position. This as earlier discussed is a quote out of context. One must carefully distinguish between saying that the Bible mandates capital punishment and saying that it merely permits capital punishment.¹⁸
- iii. Lack of Deterrence: The death penalty has not been shown to be effective in the reduction of the homicide rate. There are some indications that executions actually increase the murder rate.
- iv. Unfairness: The mentally ill, poor, males and racial minorities are over-represented among those executed.¹⁹
- v. Chance of Error: Many convicted murderer are later found innocent, and have been pardoned. It is impossible to pardon a corpse.²⁰
- vi. Horror: Some consider capital punishment to be cruel and unusual punishment.
- vii. Uselessness: Killing a murderer does not bring his victim back to life. It achieves nothing but the death of still another person.
- viii. Sending a person to Hell: Some Christians believe that an individual who dies without being saved will go to hell for eternal punishment. By killing someone before the time when such would have naturally died, any chance that such might have for salvation has been eliminated.²¹
- ix. Cost: The costs to the State of funding appeals by convicted murderers would be more than paying for their permanent incarceration.²²
- x. New Testament Philosophy of Forgiveness: Those who believe that the death penalty should be eliminated do so because they believe in New Testament Philosophy of forgiveness and that God is the sole judge of man.²³

A Brief Overview of Capital Punishment in Nigeria in Recent Times

Capital punishment is a legal penalty in Nigeria.²⁴ The constitution of the Federal Republic of Nigeria (1999) does not prohibit its application. Section 33 (1) permits the derogation of the right to life “in execution of the sentence of a court in respect of criminal offence of which he has been found guilty in Nigeria.”²⁵ Methods of executions include hanging and shooting and capital crime include murder, rape, robbery, kidnapping, sodomy, blasphemy, adultery, incest, homosexuality, terrorism-related offenses, assisting the

suicide of a person legally unable to consent, perjury in a capital case causing wrongful execution, treason, some military offences like mutiny and practice of indigenous beliefs in states applying Shariah.²⁶ Indeed, no executions took place between 2006 and 2013 but in 2013, four prisoners on death row were hanged.²⁷ After that, there were no more executions until 2016, when Nigeria carried out three executions.²⁸ On 17 December 2014, after being found guilty of conspiracy to commit mutiny, 54 Nigerian soldiers were sentenced to death by firing squad.²⁹ The trial was held secretly by a military tribunal.³⁰

The number of death sentences handed down by courts in Nigeria rose from 171 in 2015 to a staggering 527 in 2016; making Nigeria the country with the second highest number of death sentences, behind China, Amnesty International has reported. There are fears also that a good number of people sentenced to death in Nigeria might actually be innocent of the crimes they were accused of, given the fact that the country recorded the highest number of exonerations within the year in review; a total of 32 persons were exonerated in 2016.³¹

According to official records provided by the Nigeria Prisons Service, Lagos state imposed the highest number of death sentences in 2016, 68 people, followed by Rivers State with 61 people. However, the number of people that were actually executed decreased from 43 in 2015 to 22 in 2016, in five countries in Sub-Saharan Africa, including Botswana, Nigeria, South Sudan, Sudan and Somalia. This represents a significant positive development when compared to 2015 which recorded 43 executions in four countries in Sub-Saharan Africa including Nigeria. On 23 December 2016 three death row prisoners were put to death in Benin, Edo state. “Their executions were carried out despite the fact that one of them, Apostle Igene was sentenced to death in 1997 by a military tribunal, and never had an appeal.”³² Amnesty International report revealed in its 2017 global review of the death penalty published on its website that no fewer than 2,285 Nigerians including four foreign nationals are on death row at the end of 2017. It decried that death sentences in the country have spiked massively over the past two years, with 171 and 527 death sentences recorded in 2015 and 2016 respectively. Amnesty International said Nigeria imposed the highest number of death sentences in the sub-Saharan Africa region in 2017. The Nigerian Prisons Service informed Amnesty International that 621 people were sentenced to death in 2017 alone although no executions were carried out during the year. It also reported that 17 pardons were granted, 28 people under sentence of death were exonerated and that 2,285 people were on death row, including four foreign nationals. During the year a total of 68

death sentences were commuted. In July, 2017 at the National Economic Council, state governors agreed to either sign execution warrants or commute death sentences as a way of addressing prison overcrowding. In August, the Ogun state government announced that it would no longer maintain an informal commitment to refrain from authorizing executions. Benue, Bauchi and Lagos states enacted laws providing for the death penalty for kidnapping. In the same vein, Oyo state in 2016 passed a law making kidnapping punishable with execution. In 2017, Bauchi and Lagos states passed similar laws. Similarly, in May 2016, discussions were also held in Nigeria's Senate about introducing a federal law that would make kidnapping a capital offense.³³

However, according to Amnesty International's Secretary General, Salil Shetty the organisation recorded a drop in the number of executing countries across Sub-Saharan Africa, from five in 2016 to two in 2017, with only South Sudan and Somalia known to have carried out executions while Botswana and Sudan reportedly resumed executions in 2018.³⁴ Going down the memory lane, former president, Olusegun Obasanjo as a result of the increased interest in and debate on the propriety or otherwise of the death penalty in Nigeria initiated a parliamentary debate on the issue which commenced on 13 November 2003. In furtherance of this process, the then Attorney General of the Federation and Minister of Justice inaugurated a panel of experts which served as the National Study Group on the death penalty with 12 members representing different aspects of the Nigerian society.

In July 2008, a bill for the abolition of the death penalty in Nigeria was unanimously rejected by the National Assembly. The sponsor of the bill, Friday Itula, a member of the ruling PDP from Edo State, had argued that capital punishment had failed to deliver on its promises: reformation, retribution or deterrence. But legislators, led by Sada Soli, from Katsina state in the predominantly Muslim north of the country, where Sharia law which prescribes stoning to death for such offences as adultery, described the bill as foreign and unacceptable.³⁵ Besides, prominent Nigerians also agreed that it was too early for Nigeria to abolish capital punishment. "Abolition could be considered in the future when the country becomes more enlightened and the avenues are created for people to make wealth."³⁶

Consequently, the state governors on 20 April 2010 at their meeting resolved to resume executing prisoners in a bid to decongest overcrowded prisons. The governors said the failure to carry out death sentence was mostly due to a lack of courage on their part. But they also blamed prison authorities for failing to recommend executions.³⁷ According to the then Abia state governor, Theodore Orji, the execution papers should be initiated from the prisons. He said “It is when the recommendation comes to the government that it can be implemented. Governors are willing to execute those found guilty of offences ranging from murder to kidnapping and armed robbery. We agreed that those people who have been condemned should be executed accordingly.”³⁸

In the recent times, the use of the death penalty in Nigeria has likewise generated varied opinions among people in society.³⁹ In October 2014, former Governor of Delta State Emmanuel Uduaghan pardoned three inmates who were on death row following the recommendations by the State Advisory Council on Prerogative of Mercy.⁴⁰ In 2017, the Nigerian government rejected the call by Amnesty International to halt the planned execution of some inmates on death row in Lagos State, and pointed that the death penalty was expressly authorized by section 33 of the Constitution of Nigeria.⁴¹ However, Amnesty International urged the Nigerian government to establish an official moratorium on executions with a view to abolishing the death penalty insisting that “there is no evidence to suggest that the death penalty deters crime more effectively than other punishments.”⁴²

Should Capital Punishment be Abolished or Retained?

As with most moral questions, the various faiths and individuals have their own ideas. Whenever issues like these arise it is “divided we stand”. Then how do we know which is the right one? Towards achieving this goal, we therefore make the following submissions from biblical point of view.

- i. Many Christians who forcefully argue and protest against capital punishment do so more out of philosophical reasoning or current related concerns, than because of scriptural teaching.
- ii. Capital punishment is a complex and controversial issue that raises profound questions concerning biblical interpretation, the nature of justice, and the meaning of life itself. On balance, the Bible favours the retention of capital punishment. The command given to Noah with reference to murder (Gen.9:6) is still binding on all societies in

the New Testament age because it underscores man's accountability for his actions. It serves as a grim reminder of the need to make peace with God when that opportunity yet remains.

- iii. Capital punishment, though, is a last resort it should be executed carefully, prudently and sparingly. As an editorial in *Christianity Today* (9/11/95, p. 19) says, "Capital punishment is, at best, barely tolerable punishment. It is not something that we should exult in".
- iv. Human governments according to Romans chapter 13 have the right to designate those civil crimes that will be punished, including the taking of the life of the criminal. This can be done to fulfill the government's role in administering the principles of Justice and to protect those it governs. Awful as it is, capital punishment is a definite acknowledgement of the terrible force needed to keep evil in check. However, individuals are not to get involved in personal revenge. Vengeance belongs to the Lord, and he will repay evil (Rom. 12:9).
- v. Loving our enemies (or the enemy of our human society) does not preclude the execution of duly appointed means of punishment. We may humbly intercede on behalf of a death row inmate, but understand that our rulers have the last word.
- vi. Gospel preaching, whether inside or outside of prisons, also has the preventive or proactive effective of reducing crime and lawlessness. Those who would truly desire most crime and capital punishment to end would better devote their time and resources to proclaiming the Gospel and disciplining new believers as this gets to the root of the problem- sin.
- vii. Capital punishment is an effective way to protect society. The criminal has been removed from the possibility of committing another crime. The saga is done, the person is no longer a threat but we have the same problem with administering it correctly. While we see life as sacred, we can agree that capital punishment is allowed and supportable but only in very specific situations and with absolute proof and where the purpose is to both administer justice and secure safety.
- viii. Worthy of note is Ecclesiastes 8:11 which state "Because the sentence against an evil deed is not executed quickly, therefore the hearts of the sons of men among them are given fully to do evil." This could

explain why capital punishment in Nigeria and all over the world has not served to deter crime very much. It has not been used consistently or executed quickly, still, crime call for punishment; and punishment not only punishes the guilty, but warns others about the cost of committing crime.

Conclusion

The execution of criminals by the state is not clearly prohibited in the Bible. In the Old Testament times, capital punishment was ordered for those guilty of certain crimes like kidnapping, murdering and host of other misdemeanors. Also in the New Testament, the officer of the state “does not bear the sword in vain, “he is appointed to “execute wrath on those who practice evil” (Rom.13:4b). But the Christian is not an agent of the State. Romans chapter 12 is addressed to the Christians and uses the pronouns “we” and “us” Romans chapter 13 refers to the officers of the state, and uses t ho pronouns “he” and “they”.

The agent of the state should always be careful in the use of capital punishment. By far, it has been observed that while the majority of those who take the last steps to the death chamber are poor and friendless, the rich often go free because they employ the services of competent lawyers. Sometimes the death penalty has been handed down unfairly, and innocent persons have gone to the chair.⁴³ As a result, many of us hold the view that while God permits the death penalty, he does not mandate it. And while the offender should be held accountable, preserving the life of the wrongdoer may provide opportunity for the remaining parties involved, to ultimately be restored into a right relationship with God. The whole exercise boils down to the fact the Bible allows capital Punishment but does not mandate it. The contextual grounding within which it was applied in the Bible is now different from what operate in modern society, and we must look at the issue accordingly. Hence, if any crime ought to warrant capital punishment, here we offer a definitive conclusion that its execution should be a last resort, and, as Ezekiel 33 suggests, repentance or contrition could commute the death sentence. Capital punishment should be executed with care.

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