



RESEARCH ARTICLE

ECONOMIC VIABILITY AND GOOD GOVERNANCE: A PANACEA TO CRIME IN NIGERIA

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ABSTRACT

Every man in a particular society deserves survival. Survival in this sense is not just to be alive alone, but to be accorded some basic needs of life such as food, shelter, clothing, etc. Where this is lacking, then there is a threat to man’s life and survival and the end result is crime. Crime is part of the social configuration of the society and cannot be totally eradicated. The objective of this paper is to justify the fact that where survival is highly competitive, the rate of crime will be high. This is because the need to survive is non negotiable to every man. It is further argued that the above fact resulted in the failure of the theories and forms of punishment which are developed with the sole aim of reducing crime in the society. The methodology adopted is both doctrinal and empirical with primary source from relevant case laws and statutes. The secondary source includes internet sources, bible, articles in journal, books, data, etc. The paper concludes that the various forms of punishments enshrined in our criminal justice system are grossly inadequate in tackling crime and thus suggested that if government can create a good economic environment and good governance where men can survive with less competition and class struggle, the rate of crime will be reduced far beyond the adoption of penology.

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INTRODUCTION

Looking at Nigeria, one will no doubt conclude that Nigeria is blessed with a lot of natural resources such that if properly managed, can cater for the country’s population. Despite this economic prosperity, the country is still underdeveloped and be devilling with a lot of economic woes in which majority of its citizens live below poverty level with about 70% of its population living below poverty line, 69% of its population has no access to proper sanitation, 39% have no access to potable drinking water, 39% illiteracy rate, 24% unemployment rates and the country is categorised as a country with a “very high risk” of major infectious disease.¹ These have led to struggle for survival among the people and since a legit means of survival cannot be guaranteed or fruitful, the need for the people to resolve to an alternative means which is clothed with the toga of crime. This accounts for the reason why crime is on the high side in Nigeria. The irony of this is that the money spent by government to nip crime in the bud would have gone

a long way in improving the economy. Instead of doing the needful by preventing crime, we rather wait for the society to decay before putting effort in restoring it; effort which yielded no result. Jonathan administration was reported to have spent 2billion US Dollars in fighting boko haram while Buhari led administration spent 1billion US Dollars on the same menace without any meaningful result. This money put together, if ejected into the economy, would have provided jobs for millions of youths. This is one out of many crimes in the country. Multi millions of naira was also spent on various litigations on crime ranging from economic crime to other petty crimes. Milovanovic noted that if a society denies a high percentage of its citizens a decent wage and living condition, if it systematically maintains a high percentage of minorities in poverty, if it places impediments on certain groups in their ability to self actualize; it can be seen in harms of repression² which gives birth to crime. A keen look at the rate of crime in other jurisdiction as we shall soon see reveals that economic prosperity and even distribution of resources is imperative in curbing crime. This is another way of saying that the level of poverty in Nigeria contributed immensely to her rate of crime.

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Conceptual clarification of terms

Good Governance: The term good governance is not capable of a definitional sentence. According to Henwood, good governance should possess the following features:

¹ Central Intelligence Agency Report on Nigeria, available at <<http://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>> accessed on 2 June 2014 cited in Omoruyi, B. “Enforcing Socio Economic Rights to Adequate Standard of Living in Nigerian Lagos from South Africa

² Milovanovic, D. Definition of Crime and an Alternative View. *Annals*

*Government that prevents the occurrence of tyranny, anarchy, corruption, instability, paralysis, uninformed decision making, unaccountability and unjustified secrecy. Governance that result in good, stable and accountable government stemming from effective prevention of negative political trials. (sic)*³

Kale is also of the view that good governance should be characterized by

*Predictable, open and enlightened public policy with a bureaucracy that is imbued with professional ethos acting in furtherance of the public good, the rule of law, transparent processes and a strong civil society participating in public affairs.*⁴

The term good governance is relative and subjective, but despite these natures of the terms, it has been universally agreed by nation states in various international instrument that good governance can be achieved where socio economic, civil and political rights are made available to the people. The Nigeria constitution noted the above fact when it provides for the fundamental objectives and directive principle of state policy⁵ which is to be observed by all organs, authorities and persons exercising governmental powers.⁶ Ogah highlighted some of the characteristics of good governance to include: Accountability, Rule of law, Transparency, Effectiveness and Efficiency, Equity and Inclusiveness, Consensus Oriented, Separation of Powers, Participation and Responsiveness.⁷ According to Abdullahi, good governance is the process where public institutions conducts public affairs manage public resources and guarantee the realization of human rights in a manner essentially free of abuse and corruption and with due regard to the rule of law.⁸ He further said that the basic tenets of good governance is the degree to which it delivers the dividends of democracy: provision of quality education, portable drinking water, provision of employment, safe guard of fundamental human rights, cultural enhancement, provision of good economic atmosphere for development, and political and social rights⁹

Crime

The word "crime" has been defined from various perspectives. This is because defining crime seems to be a herculean task. Legally speaking, crime can be said to be the unlawful act or omission which renders the person doing the act or making the

omission liable for punishment. According to Sir Henry Maine, the only difference between tort and crime is that of degree. This is because once legislation provides that a particular conduct is a crime, then it becomes punishable as defined in the legislation. It is however possible for a particular conduct to be criminalize in a particular society and it may be an acceptable conduct in another society. An example is the issue of same sex marriage which is a prohibited in Nigeria¹⁰ but accepted as a normal practice in some other countries. Furthermore, Blackstone defined crime as a violation of the public rights and duties due to the whole community considered as a community.¹¹ Searjant Stephen opined that a crime is a violation of the right considered in reference to evil tendency of such violation as regards the community at large.¹² Crime from this definition is defined from the perspective of a public wrong. As a moral wrong, crime has been defined to mean those acts that go against social order and are worthy of serious condemnation.

Gaffelo defines crime to mean

*An immoral and harmful act that is regarded as criminal by public opinion because it is an injury to so much of the moral sense as is possessed by a community- a measure which is indispensable for the adaptation of the individual society.*¹³

It is doubtful whether an act is labeled crime because in the opinion of the public, such act ought to be condemned or it is just a mere opinion of the law makers or those who are capable of influencing them to legislate on an act to be criminal. Also, not all crimes are immoral act and vice versa. Immoral act such as fornication, smoking of cigarette, disrespect, disregard from suffering of others,¹⁴ etc are not criminalised and there are some harmless crime such as driving without license, vagrancy, loitering, etc.

Sutherland defines crime as

*A behaviour that is in violation of criminal law. No matter what the degree of immorality, reprehensibility, or indecency of an act, it is not a crime unless it is prohibited by criminal law. The criminal law in turn is defined conventionally as a body of specific rules regarding human conduct which have been promulgated by a political authority... and which are enforced by punishment administered by the state.*¹⁵

This definition seems to capture the reality of crime as it is been observed in various political society and it is in tandem with the Latin maxim *nulla poena sine lege* meaning there is no crime without law¹⁶

³ Henwood, R., Good Governance and the Public System. University of Pretoria, 2001, P.4.

⁴ Kale, op. cit P.11 cited in University of Maiduguri Law Journal, 5, 2002 "Democracy as a Cornerstone for Good Governance and Rule of Law" by Yusuf M. Yusuf.

⁵ The fundamental objectives and directive principle of state policy is contained in Chapter II of the 1999 Constitution. The fundamental objectives makes provision for various socio economic rights which includes: Right to general welfare and security, Right to suitable and adequate shelter, Right to adequate food, Right to reasonable national minimum wage Right against exploitation of human/natural resources other than the good of the community, Right to employment, Right to free education, Right to safe environment. However, the constitution expressly provides that the above enumerated socio economic rights are not justiciable under section 6(6)(c).

⁶ Constitution of the Federal Republic of Nigeria 1999 (As Amended). Section 13.

⁷ Ogah, C.C. The Challenges of Good Governance in Nigeria under Democratic System of Government: An Appraisal. Ekiti State University Law Journal. 5, 2013. P. 151.

⁸ Abdullahi, D. Good Governance as Panacea to the Socio- Economic Crises in Nigeria. Journal of Business and Management. 2(3) 2012, P. 36.

⁹ Ibid

¹⁰ Same Sex Marriage (Prohibition) Act. Section 1. However, countries like United State and United Kingdom have made law to legalize same sex marriage.

¹¹ William Blackstone, Commentaries on the Laws of England (1st ed.). Oxford: Clarendon Press. 1765.

¹²

¹³ Raffaele Garofalo, Criminology. Boston: Little Brown & Company. 1914,

¹⁴ See the case of ... where the court held that failure of the passerby to render an old woman who is caught with an inferno does not amount to crime per se as there is no duty of care to render such help placed on them by the law. The court however condemned such act as immoral though not punishable.

¹⁵ Edwin H. Sutherland. Principles of Criminology. New York: Rowman and Littlefield. 1947, P.

¹⁶ See the case of Aoko v Fagbemi (1961) 1 All N.L.R. 400. See also section 36(12) of the CFRN 1999 where it is provide that a person cannot be convicted of criminal offence unless that offence is defined and the penalty thereof is prescribed in a written law.

According to Russell,

*Criminal offences are basically the creation of the criminal policy adopted from time to time by those sections of the community who are powerful or astute enough to safeguard their own security and comfort by causing sovereign power in the state to repress conduct which they feel may endanger their position.*¹⁷

Austin differentiates between a crime and a tort by saying that a wrong which is pursued by a Sovereign or his subordinate is a crime (public wrong) while a wrong which is pursued at the discretion of the injured party and his representative is a civil wrong (private wrong).¹⁸ Durkheim sees crime as an integral and inevitable phenomenon in the configuration of the society.¹⁹ From these variation definitions, it shows that a crime is both a public and moral wrong which the state prohibits through legislation with sanction. It can as well be an omission. No matter how morally or publicly wrong a conduct is, it cannot be regarded as a crime if it is not prohibited by any statute. It is worthy of note that the various definitions of crime can be viewed from two different approach namely the legalistic approach and the sociological approach. The legalistic approach is concerned with the fact that behaviour cannot be criminal if no law exist which defines it as such and the offender must have in fact and in law committed the offence by proving the *mens rea and actus reus*. The legalistic approach is thus of the view that only those are criminal who have been adjudged as criminals by the court.²⁰ While the sociological approach of crime viewed crime beyond the definition of the criminal code and focused on conducts which are not expected as part of the configuration of the society and why the individual person behaves in such a social menace. It also viewed crime from the behaviours that are unacceptable to the social norms and order. It need be stated that the legalistic approach is a superficial approach. Milovanovic thus concluded that to embrace the legalistic approach of crime is to be imprisoned in state, politically dictated and legalistically dictated logic. A more sociological investigation would consider a broader understanding as to what in fact is 'harm'.²¹

Forms of crime

There are various forms of crime as defined in the various criminal codes. The concern of this paper is not the legal classification of crime but rather the sociological classifications. Crimes are classified according to their natures in the society. Criminologists commonly grouped crime into several major categories which are: Violent Crime, Property Crime, White Collar Crime, Organised Crime, and Victimless Crime. We shall further examine these classifications in seriatim.

Violent Crime: a cursory look at this classification, one thing that will come to one's mind is that such crime inflicts physical pains on its victim. No doubt that violent crime inflicts

physical pains. This kind of crime includes but not limited to homicide, rape, assault, armed robbery etc. It is commonly committed by male sex more than the female counterparts.

Property Crime: major property crimes are burglary, house breaking, motor vehicle theft, arson, larceny etc. These crimes are common in virtually all the communities in the world. Offenders can be classified into amateur and professional offenders. Most of the offenders are however amateur who are not skilled in committing the offence but sometimes, it is these amateurs that graduated to professionals.

White Collar Crime: the term white collar crime was coined by a sociologist, Edwin Sunderland in 1949. According to him, white collar crime is a crime committed by a person of respectability and high social status in the course of his occupation.²² This definition is not all encompassing of what white collar crime stands for in this contemporary age. It is not limited to persons of high status alone. White collar crime can as well be described as a non violent crime in which case the offender merely took the advantage of his office for his own personal interest. Though not violent, but its effects and repercussion is far and above violent crime. This is because of its vulnerability in the society. Example of white collar crime includes but not limited to embezzlement of public fund, production of fake products, bribery, financial crimes, fraud, kicked back, employee theft, professional fraud, etc. The toll of white collar crime, both financial and violent, is difficult to estimate, but by all accounts, it exceeds the economic loss, death and injury from all other forms of crime combined. It is worthy of note that despite the grievous effect of white collar crime, it receives little attention and lenient punishment than other forms of crimes.

Organised Crime: this refers to criminal activity by a group of people. It is a planned crime targeted at achieving certain end which in most time cannot be achieved legally. The purpose of the group is nothing but to commit the crime in order to achieve at a particular end. Organised crime is very difficult to tame because it involves mafias, godfathers and cabals some of which has infiltrated security agencies and apparatus. Organised crime due to its nature cannot be orchestrated by ordinary people; it is usually carried out by a group of intelligent and rich people. In most cases, those who masterminded the crime are not the perpetrators; they merely provide the necessary logistics for the commission of the crime. Example of such group is bokoharam, militant group, drug pushers, vandalism, kidnapping, suicide bomber, etc.

Victimless Crime: also known as consensual crime. It refers to behaviours which violates the law and in which people engage voluntarily and willingly. In most cases, these behaviours did no harm to anybody but the offenders. That is the reason why it is regarded as victimless crime. A time, it can be committed with the agreement of two or more persons such as prostitute. Other forms of victimless crimes are: illegal drug users, addiction, gambling, driving without license or seat belt, failure to obey traffic lights, etc. While critics of these crimes are of the view that prohibition of victimless crime caused more harm than good by opening a new vista of committing these crime. They opined that such crimes should not be prohibited, but proponents of victimless crime are of the opinion that prohibition of victimless crime, even though will

¹⁷ J. W. Cecil Turner, B., Russel on Crime. (12 ed.) 1.UK: Sweet and Maxwell Ltd. 1964, P.

¹⁸ John Austin, Lectures on Jurisprudence Status. The North American Review. 100 (206) 1865, Pp. 246- 253.

¹⁹ Emile Durkheim, Crime as a Normal Phenomenon. New York: Free Press. 1951, P. 3

²⁰ Tappan Paul, Who is Criminal? In Stuart Henry & Mark Lanier (eds), What is Crime? New York: Rowman and Littlefield Publishers Inc. 2001, Pp. 27-36. P. 31

²¹ Milovanovic, D. Op.cit.. P.85.

²² Edwin H. Sunderland. Op.cit.

Table 1.

Forms of Crime	Nigeria	U.S.A	Canada
Crime level	82.35	55.84	39.03
Property crime	77.94	59.73	46.5
Violent crime	44.12	33.55	21.24
Murder rate (per million people)	121.83		16.23
Problem, Corruption And Bribery.	90.28	42.45	32.31
Worries about being attacked	79.17	42.08	31.37

not reduce the crime, is an expression of society's moral values and as a means of reducing involvement in harmful behaviours.

Concept of punishment in crime

The origin of punishment can be traced to the bible when Adam and Eve disobeyed God's instruction.²³ Since then, punishment has been incorporated into the society as a sanction for disobedience. Stearns defines punishment as an evil inflicted upon a wrongdoer as a wrongdoer, on behalf and at the discretion of the society in its corporate capacity, of which he is a permanent or temporary member.²⁴ Douglas defines it as the binary compound of anger and positive self feelings.²⁵ The sociological origin of punishment is a reaction of annoyance or irritation expressed towards one who is in some way under supervision and control. Thus, punishment by society is an expression of irritation and annoyance at individuals who do not conform to the conduct pattern prescribed for the group.²⁶ From the above, it means that punishment can only emanate from an authority that is higher than the wrongdoers. There are various forms of punishments. Punishment is the authoritative imposition of an undesirable or unpleasant outcome upon a group or individual, in response to a particular action or behaviour that is deemed unacceptable or threatening to some norm. The unpleasant imposition may include a fine, penalty, or confinement, or be the removal or denial of something unpleasant or desirable. For Emile Durkheim, punishment is a passionate reaction of graduated intensity that society exercises through the medium of a body acting upon those of the members who have violated certain rules of conduct.²⁷ From the various definitions of punishment enunciated above, the following four conditions are considered necessary to describe an action as punishment. They are:

- a. It is imposed by an authority
- b. It involves some loss to the supposed offender
- c. It is in response to an offence and;
- d. The person to whom the loss is imposed should be deemed at least somewhat responsible for the offence.

Theories of punishment

There are various theories of punishment in criminology but our focus will be on Retribution, Deterrence, Incapacitation and Rehabilitation.

Retribution: The rationale for the theory of retribution as means of punishment is as a result of vengeance meaning an

“eye for an eye”. This theory is traceable to mosaic laws.²⁸ The essence of this theory is that punishment should be meted on individuals because they deserve it not because such punishment would benefit the society at large. The theory is embedded in the maxim that “we do not punish people for who they are, we punish them for what they do”.²⁹ More recently, a theory of retribution based on the notion of “mutual political obligation” has emerged.³⁰ The mutual political obligation is that through the criminal justice system, we mutually agree not to engage in certain behaviours, though sometimes it might be to my individual advantage to engage in such conduct. I defer to the law knowing that you will also do so in the instances when violating the law would be to your advantage. Thus, we cannot tolerate those who take advantage through violating the law while the rest defer taking such advantage. One of the problems of this theory however is that, it is difficult to measure the standard of punishment that is commensurate with a particular crime except in murder cases. This is because our perception about crime differs. A prostitute may not see rape as a serious offence to warrant life imprisonment whereas someone who is religious will see it as sacrilegious which ought to be meted with capital punishment. Another thing is that retribution is borne out of desire to inflict pain similar to the offence committed on offender without recourse to the society.

Deterrence: The theory of deterrence rejected retribution as a theory of punishment. According to H.L.A Hart “social protection” was the only valid basis for punishment. In his view, the actual distribution of punishment to a particular offending individual became an instrumental matter in which even the overarching justification of deterrence might or might not be appropriate in the particular case.³¹ According to Bentham, the real justification of punishment is the general prevention of crimes. Deterrence is the view that punishment is made to be swift and severe enough so that people in general population will not want to commit crimes and that the prevention of criminals act in the society can be gained by the imposition of punishment on persons convicted of crimes.³²

Durkheim noted that

Punishment of offenders serves to clarify and reinforce the collective sentiments of society in non-offenders. The aim is

²⁸ See Deuteronomy 19 v.. which says that if any man hate his neighbour and lie in wait for him, and rise up against him, and smite him mortally that he die, and fleeth into one of these cities: then the elders of his city shall send and fetch him thence, and deliver him into the hand of the avengers of blood, that he may die...

²⁹ John B. Mitchell. Crimes of Misery and Theories of Punishment. New Criminal Law Review. 15(4). 2012, P.485.

³⁰ Nicole Lacey, State Punishment: Political Principles and Community Values 2. 1988.

³¹ George P. Fletcher, Rethinking Criminal Law. 1973.

³² Bentham, J. Principles of Penal Law” In J. Brown (ed.) The Works of Jeremy Bentham. 1834, P.380.

²³ Genesis 3 vs 13- 19.

²⁴ Stearn, A. W. The Evolution of Punishment. Journal of Criminal Law and Criminology. 27(2), 1936. P. 219.

²⁵ Douglas, Husak, Kinds of Punishment. New Jersey: Rutgers. 2017.

²⁶ Stearn, A. W. Op. cit.

²⁷ Emile Durkheim. Op. cit.

not merely to punish the offender, but to instruct others in the meaning of society. This is a form of general deterrence, where non-criminals are warned from becoming criminals.³³

Incapacitation

The idea of incapacitation is to prevent or reduce the possibility of future crimes by those convicted of crimes. The incapacitation may be temporarily or permanently. It is said that incapacitation is a prediction oriented theory, that is, the personality of the individual criminal is assessed on the basis of the crime he committed thereby predicting the likelihood of him committing similar crime by rendering him incapacitated through imprisonment, amputation, etc.

Rehabilitation

The essence of rehabilitation is to change the personality of each to a better person. According to Packer, rehabilitation theory teaches us that we must treat each offender as an individual whose special needs and problem must be known... in order to enable us deal effectively with him.³⁴ The theory is forward looking; that the inquiry is not into how dangerous the offender is, but rather into how amenable to treatment he is. Hence, offenders may be rehabilitated through correctional centres, re orientation etc in order to ensure that he does not commit similar offence.

Forms of punishments in criminal justice system

In Nigeria Criminal Justice System, there are lots of punishments enshrined in our criminal laws. It is however worthy of note, that any forms of punishment which are not contained in statutes cannot be enforced in Nigeria.³⁵ Punishment can be classified as: Capital punishment (death penalty), Corporal punishment (such as flogging, branding, mutilation etc) and Non capital punishment (such as imprisonment, fine, community service etc.). These forms of punishments are enshrined in such laws like: Criminal Code, Penal Code, EFCC Act, NDLEA Act, CAMA, NESREA, PITA, CITA etc. The following forms of punishment can be highlighted. They are: Death Penalty³⁶, Imprisonment,³⁷ Fine,³⁸ Canning, Haddi- Lashing³⁹, Plea Bargaining⁴⁰ and Forfeiture.⁴¹ Others include Deportation, Committal for trial, Costs, Probation Order and in the recent time, Community Service, Parole etc are forms of punishments that can be found in other jurisdictions. The essence of these punishments is to curb

crime in the society but whether they are actually effective is another question begging for answer. We shall examine these punishments in seriatim.

Death penalty: It is also called capital punishment. It is as old as history and can be traced to the *lex talionis* doctrine of an "eye for an eye". This method of punishment includes hanging, shooting and stoning. It is carried out on crimes ranging from murder, terrorism- related offences, armed robbery, kidnapping, treason, and mutiny. Arguing in favour of death penalty, James Fitzjames Stephen in 1864, said that:

*...no other punishment deters men so effectually from committing crimes as the punishment of death. Believing that death penalty was the supreme deterrent to murder, he observed that this fact didn't need any proof, since it was obvious.*⁴²

George Bernard Shaw, the famous 1925 Laureate in literature described the death penalty necessity against murderers in just the same manner we react to mad dogs, and other dangerous animals. Accordingly,

*Dogs are friend of Man; but an exceptional dog sometimes goes mad and runs amok through the street, baiting and infecting everybody it comes across. Fond as we may be of dogs, we must kill it on the spot.*⁴³

Argument against death penalty is hinged on the possibility of human error; to the extent that an innocent person could be executed knowing that death is irreversible. Also is the view that death penalty is lacking in ethical purpose – that there is no evidence that it accomplishes anything other than the death of the executed. This raises a strong query on the purpose of death. It has been described as taking two lives for one.

Imprisonment: It means the loss of liberty and autonomy as well as many material comforts, personal security and access to heterosexual relations. It is perhaps most recognizable form of punishment used today. Imprisonment is the judicial sentence available for a convicted offender of adult age, involving incarceration in prison for either life or a specified period of time.⁴⁴ Early system of imprisonment has two versions- the Pennsylvania system and the Auburn system. Pennsylvania system was based on solitary confinement, accompanied by hard labour. The prisoner was denied contact with the outside world, access to reading materials and visitors. The prison was designed to make solitary experience possible with the hope of rehabilitation. Auburn system allows the inmate to work and eat together but under the strict code of silence. It has similar features with Pennsylvania system.

Community supervision: This is an alternative to incarceration that permits offenders to live and work in the community, support their families, receive rehabilitative services and make restitution to the victims of their crimes.⁴⁵

Probation: It is a court ordered period of correctional supervision in the community; generally as an alternative to incarceration.

³³ Durkheim, E. *The Division of Labour in Society*. New York: Macmillan. P. 94.

³⁴ Packer, H. *The Limits of Criminal Sanction*. Stanford: Stanford University Press, P. 50

³⁵ *Aoko v Fagbemi* (supra); See also Section 36 (12) of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

³⁶ See the case of *Olowofoyeku v State* (1984) 5 SC 192 where the accused was convicted of murder, he appealed against the conviction on the ground that the sentence of the court was not pronounced in the form stipulated in Section 367(2) CPA. The Supreme Court held that the record of the trial of the proceeding showed that the trial judge stated that sentence of death was pronounced on the accused and that this was sufficient compliance with the law. See also *R v Bangaza* (1960) 5 FSC 1

³⁷ Penal code, Section 303, *Ekpo v The State* (1976) All NLR 312

³⁸ Criminal Procedure Act, Section 391,

³⁹ Penal Code, Section 387- 404

⁴⁰ Section 270 of the ACJA; Section 76 of the ACJL.

⁴¹ *Obilade, A. O. Nigeria Legal System*. London: Sweet and Maxwell. 1977, P. 262 - 269, he opined that the unlawfulness importation of prohibited publication, possession of instrument and materials for forgery, sales of obscene books etc can leads to forfeiture.

⁴² *Dambazau, A.B. Criminology and Criminal Justice*. Ibadan: Spectrum Books Ltd. 2011, P. 329

⁴³ *Ibid*

⁴⁴ *Ibid*.

⁴⁵ Wikipedia (2016) Community Supervision. Retrieved from <http://www.wikipedia.org/community service>. on 20th May, 2016.

Parole: On the other hand is a conditional supervised-release in the community following a prison term. It includes parolees release through discretionary or mandatory supervised release from prison.⁴⁶

Fine: The word 'fine' originated from Latin word, *finem facere* meaning "to put an end to". It originated in England in 1275 when the Courts began to allow convicts to be released on payment of a required amount of money. It can be defined as money paid usually to government authority as a punishment for a crime or other offence. One common example of fine is money paid for violation of traffic laws. Under the Nigerian legal system, the Criminal Procedure Act has allowed the court to exercise discretion in imposing fines in place of imprisonment even in case such provision is not made. Thus according to section 382(1)

*...subject to the other provisions of this section, where a court has authority under any written law to impose imprisonment for any offence and has not specific authority to impose a fine for the offence, the court may, in its discretion, impose a fine for the offence, the court may, in its discretion, impose a fine in lieu of imprisonment.*⁴⁷

Plea bargaining: Plea Bargain (also known as plea agreement or plea in litigation) has been defined as:

*Any agreement in a criminal case between the prosecutor and defendant whereby the defendant agrees to plead guilty to a particular charge in return for some concession from the prosecutor. This may mean the defendant will plead guilty to a less serious charge, or to one of several charges in return for the dismissal of other charges or that the defendant will plead guilty to original criminal charge in return for a more lenient sentence.*⁴⁸

Plea bargaining has been defended as a voluntary exchange that leaves both parties better off, in that defendants have many procedural and substantive rights, but by pleading guilty, defendant sells these rights to the prosecutor, receiving concessions that they esteem more highly than the right surrendered. It has however been argued that plea bargaining benefits society by ensuring that the guilty are less likely to be acquitted. It has been criticized on the ground that its close relationship with rewards, threats and coercion potentially endanger the correct legal outcome. Also is the fact that the recognition of the doctrine of plea bargaining in any legal system will encourage commission of white collar crime such as embezzlement and mismanagement of public fund etc. This is because the defendant will in a way still benefit from his crime knowing well that the doctrine will avail him.

Effectiveness of various forms of punishment in curbing crime

A critical examination of the various forms of punishment and the rate of crime in our society will reveal the effectiveness of these punishments within our criminal justice system. For instance, in the United State, it was reported that most ex-offenders however eventually end up again in prison. Recent study on recidivism shows that within five years of release,

nearly three quarter of ex-offenders released in 2005 came into contact with the criminal justice system and more than half returned to prison after either being convicted for a new crime or for violating the condition of their release.⁴⁹ This report shows the ineffectiveness of punishment in curbing or reducing crimes in the society. It should be noted that crime remains part of the society; hence it cannot be totally eradicated. The various forms of punishments discussed above have contributed to the reduction of crime in the society. To say punishment is ineffective is to admit of disorderliness and total breakdown of law in the society, but beyond the concept of punishment, crime can be better curbed or reduced to the barest minimum.

As regards the issue of plea bargaining as a form of punishment, it has little or no effect as far as white collar crime is concerned. The law should be severe on this kind of crimes; this is because the need to fight corruption should be taken seriously as it remains a clog in the development of every nation. As regards death penalty, it seems to be of no effect. This is because despite the various executions carried out in order to deter other people from committing crime, statistics has shown that the rate of murder is still on the increase. There was no evidence in support of the long widely held belief that the inclusion of death penalty provisions in the penal codes was capable of preventing the commission of crimes with higher gravity or altogether reducing the commission of grievous crimes. Assuming without conceding that there are even less crimes and a decline in the commission of serious crimes like murder in the few exceptions where capital punishment is retained as punitive measures for violent crimes and similar offences, how are we sure that such decline is a result of deterrent effect of death penalty or death penalty alone and not a function of a better standard of living, peace and national happiness?⁵⁰

Ayo, a learned writer submitted that:

*Death penalty is not just a bad relic of humanity's dark past, but an uncreative, quick fix effect- treating, causation-neglected solution by passionate and overzealous parliamentarians as a fast panacea to reducing monumental crime rates in countries rather than addressing fundamental issues of poverty, corrupt national mentality, lack of national direction, orientation of pervasive corner cutting, national tension proliferation of arms, miscarriage of justice and challenges of ineffective criminal justice administrative system.*⁵¹

It is our submission that the various forms of punishments fail to fulfill any of the five traditional purposes of punishment. This view was observed by Mitchell when he opined that

*We are in effect saying that there is nothing that deserves denunciation or blame (retribution); no action we care to and/or can deter (general deterrence); no individual we want to and/or can deter (specific deterrence); nothing that can be gained by isolation and/or no individual we can isolate for more than a deminimis (sic) time (incapacitation); and we are not going to try to change individual (rehabilitation).*⁵²

⁴⁶ Daniel, K (et al) Probation and Parole in the United States, 2014. Bulletin from U.S Department of Justice, Office of Justice System

⁴⁷ See section 321 of Criminal procedure Act.

⁴⁸ <http://www.en.wikipedia.org/plea-bargaining/>. Retrieved on 30th June, 2016

⁴⁹ Lauren, E(et al)(2014) Correctional Population in the United States, 2013. Bulletin, U.S Department of Justice, Office of Justice Programs. P.

⁵⁰ Tosin, E. Ayo (2016) Capital Punishment As A Deterrence for Crime: A Myth or Reality. Ekiti State University Law Journal, Vol.7, P. 536- 554 at P.547

⁵¹ Ibid

⁵² Mitchell, J.B. Crimes of Misery & Theories of Punishment. New Criminal

Curbing crime in Nigeria: Way forward

The effectiveness of various forms of punishment as examined above reveals that the forms of punishment imposed in Nigeria has no correlation with curbing the same crime committed in the society. For instance, despite the fact that armed robbery attracts death penalty, it has not reduced the rate of armed robbery from the time the punishment for armed robbery was not death sentence. However, the essence of criminal justice system is to reduce crime in the society and if this is not done, it shows that the system has either failed in its responsibility or it has derailed from same. There is however the need to look inward and discover what is actually wrong with the system and how it can achieve its aims and objectives. Looking at the Nigeria situation, one will no doubt conclude that crime thrives over justice. There is however two things that are responsible for this menace inter alia. They are: poor economic situation cum bad governance and weak criminal justice system. It is our argument that effort in curbing crime will only amount to chasing shadow exercise where survival is highly competitive. A situation where some few people in the society are living extravagant lives while the vast majority lives in penury is a veritable environment for crime to thrive. However, one of the ways Nigeria government can fight against crime is to create enabling economic environment where the people can survive with less competition. It is submitted that even without much security effort, crime will drastically reduced where there is economic improvement and even distribution of resources. A comparative analysis of nation states where there is improved standard of living show that economic viability and good governance is a better option to curbing crime than penology. The below table is an expression of our humble view. The table examines the rate of crime in United State of America, Nigeria and Canada. Aigboro and Eidenoje observed that most of crime problem in Nigeria results from poor governance and that corruption is the key to culprit of poor governance which has led to social disequilibrium. Corruption, according to them, is therefore implicated as a major cause of crime. They further submitted that there is the need to reduce the rate of corruption if the crime problems be devilling the country are to be successfully tackled.⁵³ Ajayi also noted that armed robbery offenders are mostly young males who are under societal pressure or strain to achieve success by all means. Such offenders apparently indulge in robbery in an attempt to gather enough funds to transform themselves into successful people like capitalists. He concluded that armed robbery would be effectively curbed by pursuing praxis socialism and ensuring that economic power is not concentrated in a few.⁵⁴ It need be stated that crime such as pipeline vandalization, kidnapping, militant, bokoharam, suicide bomber, etc. are not natural phenomenon or occurrence but an expression of frustration which is as a result of economic hardship experienced in some communities. However, these crimes have come to stay due to carelessness and lackadaisical attitude of our government to prevent same. Effort and resources which ought to have been deployed to reduce economic hardship in those communities are now being used to fight crime and insecurity with no result.

Suggestions and recommendations

The application of penology in the Nigeria criminal justice system has brought to the fore, its glaring defects and ineffectiveness thereby making reformation imperative. Thus, it is suggested that economic viability and good governance be adopted. To this end, the following suggestions are recommended. They are:

- a. Bridging the gap between the rich and the poor through the viable taxation policies
- b. Justiciability of socio economic rights as contained in the constitution and other international instruments such as ACHPR, Child Right Act, etc.
- c. Creating enabling environment for actualization and realization of dreams and goals.
- d. Improved and better standard of living for all masses.
- e. Reduction of unemployment most especially among youths.
- f. Jobs and other opportunities for social and economic advancement should be made available to all regardless of social class.

With these recommendations, it is believed that the rate of crime in Nigeria will be reduced.

Conclusion

Crime is one of the social menaces be devilling every human society. More importantly is the effect of crime as it threatens human survival. Though crime is inevitable as long as there are more than two people in the society, but its degree must not be on the high side. This paper has thus examined the various kinds of crimes and various punishments in the Nigeria criminal justice system and beyond. The various approach adopted in handling crime has also been examined. Crime is deeply rooted in poverty, hopelessness, frustration, unemployment and illiteracy. If we do not shun chauvinism and unhealthy rivalry, if we do not shun despotism and if we do not shun ethnocentric tendencies and work hard enough to get the poor and the less privilege off the street, we will create room for these ones to be used as an agent of terror. If we do not help them, someone else will help these ones for the cost of terrorising us all. It is thus our conclusion that the various punishments adopted are not effective in curbing crime and that a legalistic approach to crime will not serve the interest of the society. If truly our government are serious in fighting crime to a standstill, good governance and economic viability should be put in place so as to make survival less competitive. Attempt to depend only on penology and legalistic approach as a means of fighting crime will always open a new vista of crime which is alien to the society and capable of fighting back the system. The time is now to take the bull by the horn.

Law Review. 15(4) 2012, Pp. 465 –510 @ P. 468.

⁵³ Aigboveo, O. & Eidenoje O. Theorising Nigerian crime Problem. MIZAN Law Review. 10(1). 2016. P.241.

⁵⁴ Ajayi, Crime & Security” Bombs, Grenades, bullet proof vehicles and small machineguns have been used by robbers especially after the year 2000. Most targets were banks and Bureau De Change.