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## REVISITING THE DEATH PENALTY QUESTION

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There is a raging debate in Nigeria on the abolition/retention of death penalty. It has been vigorously campaigned that the abolition of death penalty will give rise to a high crime rate. Some people perceive death penalty as the panacea for the escalating crime rate in the country though the veracity of this assertion has not been scientifically proven. The popular view of Nigerians is that death penalty should be retained. The recent opinion poll conducted by Daar Communications owners of Ray power FM and African Independent Television indicates that more than sixty percent of Nigerians favour the retention of death penalty. The reasons are not far fetched; there is always this tendency in human beings to avenge death and to repay evil with evil. The very destructive and heartless attitude of robbers in this country is also a source of worry. It is necessary at this point to look at death penalty as applied in Nigeria and also examine the environment and what accounts for rising crime rate in the country.

Five issues arise in the application of death penalty viz the institutions that prosecute and convict the criminal (criminal justice sector); the death row condition; the mind of the convict; the mode of carrying out the sentence; the state of the nation that carries out the death sentence and the validity of the death sentence. These issues will be addressed one by one.

### **The Criminal Justice Sector**

This includes the police, the judiciary, ministries of Justice and the prisons. There is a general agreement in this country that the police are inefficient. The inadequate training, bad pay pack and very bad conditions of service have made the police a laughing stock of the nation and the synonym of incompetence. The manner of arrest as carried out by the police portrays lack of diligence and carelessness in investigations. Many at times, innocent Nigerians are arrested and will have to come up with thousands of naira to purchase their freedom. Sometimes some of these individuals who are not able to come up with bribes metamorphose to suspects and find themselves arraigned in court by overzealous policemen for crimes they do not understand. Incidence of armed robbery in Nigeria occasions mass arrest by the police. The writer is not suggesting that the police do not make proper arrests but

there are proven cases of the wrong ones in the dock due to police ineptitude. The various Justice Ministries in the country who are supposed to advise the police in very serious matters are sometimes not so diligent in the examination of files and even in the prosecution of cases. There are cases where the Ministry claims that files were not presented to it. The point being made here is that our justice system does not guarantee that the proper persons are kept in the dock.

The trial process is another defective aspect of our criminal justice system. What counts most time is not the innocence of the victim but the soundness of the defense team. A bad lawyer can send an innocent man to the gallows. The unavailability of evidence, absence of witnesses and even the disposition of the Judge are the variables that determine who dies or lives. Such a system is not good enough to be trusted with such a sensitive duty of determining who goes to the gallows. History has indicted the justice system not just in Nigeria but also the world over for taking the lives of the innocent because of error in judgment. Bad enough when such mistakes are made they are irreversible. No amount of damages awarded can bring back a life.

### **The Death Row Condition**

It is a very heavy psychological burden for one to be made to realize that he is so evil that the nation and his people find him not only irredeemable but also unfit to live. The death row condition is a very touching one. Men and women waiting endlessly for the hangman's rope, not knowing when the call will come. Living in perpetual fear of death for a crime, which the society pushed them on to. The treatment meted out to death row prisoners and the attendant psychological torture amounts to inhuman treatment and the Supreme Court in the case of Peter Nemi v The Attorney General Lagos State said that a death row prisoner has fundamental rights. The point here is that death row condition as practiced in Nigeria is an indictment on Nigeria and really makes a mockery of the argument in favour of death penalty.

### **The Mind of the Convict**

Capital offenders are seen as societal miscreants. Devil incarnates who are only good for the gallows. The argument about the death penalty has not adequately addressed the remote and the immediate cause of the actions of the capital offenders. The Nigerian environment holds much hardship. The economy is bad and the future looks so bleak. Unemployment, bad educational system and absence of social welfare are our constant companions. Yet the class of Nigerian leaders lives in opulence and wealth no matter the source is glorified. There is a tendency that in this kind of environment, people will want to survive. A capital crime in Nigeria is not in most cases about sadism but about unorthodox means of survival. The criminal is a microcosm of Nigeria. An epitome of helplessness seeking ways to survive and unleashing terror on a society that has denied him so much.

Killing him cannot solve the problem but giving him 'life' can make all the difference. He is a brother in need and a product of our valueless system.

### **The Mode of Carrying Out Death Penalty**

In Nigeria death sentence is carried out either by hanging or by public execution via firing squad. The two procedures outlined put the convicts through unquantifiable pain and torture. In the case of death by hanging, the convict is hung by the neck until he suffocates or the spinal cord is broken. This is a crude debasement of the dignity of the human person. Public execution on the other hand makes the victim an object of public ridicule. Bullets are pumped into the convict until he expires. The whole process involves trivializing life. The State embarks on retributive and revengeful punishment, which does not in any way pay back for the harm that has been done by the victim but only makes the state a willing partner in the game of murder. Murder whether by an individual or the state is the same, an outright disregard for life.

### **The Validity of Death Penalty and the State of the Nation that Implements it**

What benefit can a State get from the implementation of Capital Punishment? What does the victim of murder gain when the convict is killed? What will the family of the victim benefit from the death of the convict outside satisfying the animalistic instinct for vengeance? Is the convict truly irredeemable? These are questions that must be answered by the death penalty proponents. The United Nations in its findings stated that it has not been proven that death penalty deters people from committing crimes. In Nigeria since armed robbery became a capital offence, there has been an increase in the incidence of armed robbery. The point here is that death penalty does not deter people from committing crime rather I think it makes them more ruthless since it is a do or die affair.

The death of the convict does not add anything to the family of the deceased or the deceased person. Paying back life for life involves that the State degenerates to the level of the capital offender in order to inflict the capital punishment. The convict is not irredeemable. Facts are on the ground to show that they can be reformed.

What moral standing can Nigeria claim to have in order to justify her killing of Capital offenders? From the genocide of the civil war, the massacre in Odi, the military mayhem in Benue State, the economic strangulation of the citizenry and the constant tales of death due to lack of basic amenities, the nation's hand is soaked with blood. How then can she turn around to decimate its population that borrowed a leaf from her? How can Nigeria kill her youths for crimes when she has offered them nothing but hardship and pain? Nigeria does not have the moral standing to kill any one for crimes. How come the rich are rarely indicted for any crime? Corporate

thieves are celebrated while the poor offenders are used as scapegoats. Who is fooling whom? The truth is that the implementation of death penalty appears to be for weak and the poor. The wrong ones are in the dock. Such a system is a rape of justice.

The content of death penalty application is not foolproof enough to guarantee fairness and neither does it end crimes. It is only a reflection of the vengeful tendencies of victims and the state failure to adequately take care of her own. The solution to Nigeria problem is not in the barbaric extinction of miscreants who reflect the failings of today Nigeria but in an honest effort to sanitize and reorient every facet of our nation's life through good governance.