

**A CRITICAL ANALYSIS OF DEATH PENALTY IN
NIGERIA**

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ABSTRACT

This study analysed the practice of the death penalty in Nigeria, examined the underlying principle of retributive punishment for the offenders and assessed the administration of death sentence through the mode and manner of execution with a view evaluating the perception of the public and appraising the constitutionality of the death penalty in Nigeria.

Primary data were collected through the analysis of the provisions of the Constitution, the Criminal Code, the Penal Code, the Criminal Procedure and other relevant statutes on death sentence. A comparative analysis of the Constitutional provisions relating to the application of death penalty in other jurisdictions such as the United Kingdom, the United States of America, Jamaica and some African countries was undertaken. Secondary data were extracted from published texts, academic journals, official publications of the Nigeria Police and, the Prisons. Unstructured interviews were also conducted with selective judicial officers and members of the public. The information obtained from the survey was subjected to content analysis.

The findings revealed that the death penalty met some of the objectives of punishment namely; retribution and deterrence. For example, the age-long Mosaic Law of an eye for an eye and a tooth for a tooth further buttressed the propriety of retaining death penalty in our legal system. The study established that within the framework of Nigerian constitutional provisions and existing provisions under the criminal law, death penalty remained constitutional and valid. The public view in support of this mode of punishment stated that it served as permanent form of depriving convicted criminals from committing further criminal acts of capital crimes and meant to uphold the sanctity of life which must be respected at all times and

situations and that those who took lives of fellow citizens without legal excuse deserved not to live. On the other hand, the study showed that death penalty did not meet other objectives of punishment namely rehabilitation and educative. That strict compliance with Mosaic Law tilted towards vengeance rather than correction. The study highlighted constitutional provisions of some foreign countries and relevant laws that had made death penalty unconstitutional and invalid. The public view against death penalty is that it remained punitive, barbaric, inhuman, cruel and degrading as a form of punishment and that terminating the lives of such criminals could not bring back the lives of the victims of murder but rather constitute further acts of killings. To that extent, the school believed that death penalty should be abolished.

The findings further identified legal implications likely to arise from the introduction of Sharia legal system on the future of death penalty with the emerging conflict of laws situation in the country. The study further revealed that the dependants and relations of the victims borne the trouble and hardships arising from the loss of their loved ones, and felt it would be most unfortunate and disgusting for the murderers walking freely on the streets while the victims had gone on a journey of no return. The study further suggested the use of the alternatives to death sentence, as complimentary forms of punishment.

The study concluded that Nigerian society still needs the death penalty against the backdrop of incessant brutal killings, so rampant in the recent times,

that the identified shortcomings in its operation need to be addressed in order to make it more functional; and that it is the trial system, rather than the punishment that is prone to errors.