



Re-Evaluating the Utility of Punishment and Boko Haram Insurgency in Nigeria

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Abstract

From the origin of society, making of laws has always been the function of constituted authorities. In modern state, these laws are executed and backed up by punishment when they are broken by any members of the society or the state. Apparently, law and punishment is the instrument for maintaining law and order in the state or society especially when crimes are committed against the state, the individuals or members of the society; crimes like vandalism, terrorism or treason e.. The Nigerian society had witness a reign of terror, violation of the dignity of human life, loss of property, national insecurity as well as bloodshed, kidnap e.t.c, by Boko Haram insurgents. The civil society now relies on the government to implement the instrument of law and punishment in addressing the insurgency. However, these expectations leave the philosopher with a range of questions; are the insurgents aware of the law they violet and supporting punishment for such crime? What kind of punishment can commensurate the amount of harm done by Boko Haram Insurgency? What is the instrument for measuring punishment? No doubt, these impugns strongly on the value or utility of punishment. With the dialogic and critical analysis method, the researcher crystallises the problematic regarding degree of punishment, civil society's expectations and concludes with the affirmation that being rapid in response to civil needs and aspirations save better than this sporadic input of human life, time, resources and efforts to combating the Boko haram insurgency.

Keywords: Punishment; Boko haram; Insurgency; Utility; Human value.

1. Introduction

In the face of the global demand for the revaluation of the human person and peaceful co-existence, and particularly as almost every part of the world bask in the euphoria of the golden jubilee of their respective independence amidst a feast of bloodshed in war, mob justice e.t.c which are threat to human life, peaceful co-existence and human dignity and value, examining the disconnect is unanimously an imperative. All over the world, the idea of punishment in its categories are for the protection of the community and its individuals. No wonder the inalienable rights of individuals are restricted in certain situations for their very interest and safety and for the continuity of peaceful co-existence in every community. This fundamentally supports the facts that laws are meant for man and not man for the laws. The event of criminal punishment dates back to ages past and since then, its administration has attracted support as well as raised stern criticisms. As the world speedily develops, various theories abound in the justification of punishment alongside this were also theories and debates in the question of value and degree of punishments. Punishment in the course of history has taken the modes of imprisonment, hanging, electrocution, firing squad, bleeding, stoning e.t.c. [Hobbes \(1978\)](#), in his work: *Leviathan*, grouped punishment under the following headings: pecuniary, the deprivation of property, in form of money and goods; ignominy, the deprivation of something dishonourable; corporal, the direct infliction of punishment on the body i.e. stoning, electrocution, e.t.c. Lastly, imprisonment and exile ([Hobbes, 1978](#)).

Human dignity is worth beyond price and equivalence. It is not possibly acquired by act or by good behaviour, rather it is intrinsic to the very nature of the human person and by the very fact of his existence; it commands respect thus should not be exposed to ill treatment that violates its fundamental value. Reflecting on the immediate need to address the Boko Haram insurgency, the question of what degree of punishment will be commensurate to a crime that affect greatly the dignity of the human person and the value of human co-existence, becomes a puzzle for the philosopher, the scholars in other works of life, the heavy hearted victims, or in fact, all Nigerians. Sorting answer to this fundamental issue is the interest of this study. In philosophy, the man [Bentham \(1776\)](#), had as his grand project, legislation: the exploration and theoretical foundations of a perfect system of law and government. For this he needed a measure of perfection or of value; and this for Bentham was the principle of utility, otherwise known as the greatest happiness principle. In his introduction to the subject, Bentham gave an arousing declaration that 'Nature has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*... the *principle of utility* recognises this subjection, and assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and of law'. [Scott \(2004\)](#) Bentham's aim is to produce felicity, happiness in the community and among its members. The means to be employed are 'reason and law'. Hence for him, the right law will produce happiness, and the right law is one in accordance with reason. This means one in accordance with the principle of utility. In Bentham's draft codes of law, each particular law was attached to a 'commentary of reasons on this law'. The commentary demonstrated its value and also, Bentham hoped, improved its effect. For, as he says

elsewhere, 'power gives reason to law for the moment, but it is upon reason that it must depend for its stability'. (Harrison, 2012).

With the method of dialogic and critical analysis, this work studies intensely the utility of punishment and the Boko Haram insurgency in Nigeria. In doing this, the researcher reflects on Jeremy Bentham's philosophy of punishment since problems abound the moment on the question of human value, the Boko Haram wide spread bloodshed and the question of what punishment can address the activity and disposition of the insurgents since the praxis of the theory of punishment whose kernel should be for the corrective, deterring etc., purposes, which will in turn promote human valuation and peaceful co-existence in the North, Nigeria and the world at large. The researcher believes that the lack of this human and communal valuation, religious extremism, austere obscurity or negligence, was the reason why systems failed in the past and are still failing and if not critically examined in view of human valuation and peaceful co-existence, groups and sects in Nigeria and around the world may endanger the success of human existential well-being. In examining the concept of punishment in Jeremy Bentham's philosophy, bearing in mind the underlining imperative shrouding its functionality and use, this study is primarily geared towards streamlining the value of punishment vis-à-vis the Boko Haram insurgency not in the sense of "meeting up standards" or "establishing uniqueness;" but as a veritable and robust roadmap for the restoration of peace, addressing or rendering value service to the criminal, terrorist or sects or group activities that infringes on the value of the human person, calling on Nigerians to know their responsibility as citizens which mandates them to be sincerely and totally committed to societal; peace cooperation with security agency on the ground of serenity and charitability with information that will engender peaceful human co-existence.

It should be noted that the undertone of this study may seem to beg the question but such is to question the utility of punishment and raise the periscope if it has yielded its desired result. This work does not go into the arguments on insurgency and insecurity as many scholarly literatures have already reviewed and dealt with that subject. This work thus, is a step towards crystallizing better measures for addressing the existential challenges of our country Nigeria and the world at large. It allows for further academic punning of the subject.

1.1. Conceptual Clarification

1.1.1. Punishment

Punishment by its very nature is unpleasant, often painful, frequently humiliating, and either a deprivation of something deemed to be of value or imposition of something deemed to be hardship. Bedau (1980), It should be noted that this total deprivation of natural right and freedom for an offence or crime committed could amount to death of the offender.

Punishment is executed by the state, in line with the interest of the common good. This penalty manifest the state's will to vindicate its laws and justice. This practice can be better grasp in the light of self-defence. Every system by nature has right to protect itself against external aggression. The moral power of state therefore empowers her to maintain collective and individual peace, including security of life and property, which is the essence of the formation of state. Thus she plays the role of a watchdog. However, records have shown that many governments and nations used this practice quite furiously and freely as means of attaining certain selfish ends (Jack, 1999). Punishment is, for Bentham, the threat or the imposition of pain. As Bentham says in the *Fragment on Government*, 'pain and pleasure at least are words which a man has no need, we may hope, to go to a Lawyer to know the meaning of' Harrison (2012). With them the law can be clarified; for lawyers and others. The ultimate clarifier of value, of what the law should be, will also work as a clarifier of what the law actually is.

Bentham is particularly noted for his theories of punishment. He claimed that all punishment required justification, because he believed that all punishment is inherently evil. Bentham also believed that to a utilitarian such as himself, real justice is less important than apparent justice. In other words, Bentham believed that seeing justice done is more important than justice actually being done. The controversy over the subject dates back to the ancient times.

1.1.1.1. Theories and Methods of Punishment

In the history of societies, various theories are proposed for committing a crime. There are Five theories of punishments.

1. Deterrent Theory
2. Retributive Theory
3. Preventive Theory
4. Reformatory Theory
5. Expiatory Theory

1.1.1.1.1. The Deterrent Theory

'Deter' means to abstain from doing an act. The main objective of this theory is to deter (prevent) crimes. It serves a warning to the offender not to repeat the crime in the future and also to other evil-minded persons in the society. This theory is a workable one even though it has a few defects.

1.1.1.1.2. The Retributive Theory

This theory postulates that punishment is the restoration of order of justice, retaliation for wrong done to the victim by the criminal. This theory is based on traditional sentiments and belief. The theory upholds that man's concept of justice requires that a murderer should lose his own life for the taking the life of another. This view is buttressed

more in the fact that this theory is founded on a principle of natural justice according to which one must pay back what he owes, return stolen items and be punished for isolation of the law. Historically, this theory has its basis in the Mosaic Law that accepts a life for a life. It does not take into cognizance what this result to in the society.

1.1.1.1.3. The Preventive Theory

The idea behind this theory is to keep the offender away from the society. The offenders are punished with death, imprisonment of life, transportation of life etc. Some Jurists criticize this theory as it may be done by reforming the behavior of criminals.

1.1.1.1.4. The Reformatory Theory

The objective is to reform the behavior of the criminals. The idea behind this theory is that no one is born as a Criminal. The criminal is a product of the social, economic and environmental conditions. It is believed that if the criminals are educated and trained, they can be made competent to behave well in the society. The Reformatory theory is proved to be successful in cases of young offenders.

1.1.1.1.5. The Expiatory Theory

Jurists who support this theory believes that if the offender expiates or repents, he must be forgiven.

1.1.2. Boko Haram Insurgency

In recent times, this is a phenomenon most Nigerians focus on whenever the issue of insecurity is raised. However, some scholars have argued that it is not the only problem we have to contend with. It is interesting to note that in terms of loss of lives Boko Haram insurgency is not as explosive as the Jos. The number of people killed in military operations against the Niger Delta militants equally surpass what is now witnessed in the North in respect of the Boko Haram insurgency. However, the Boko Haram insurgency is significant because (i) it further questions unity of the North; (ii) it significantly threatens the future of Nigeria in the context of disaggregated impact; (iii) it introduces Nigeria to suicide bombing; (iv) it seriously dents Nigeria's international image as a nation that cannot manage its internal security problems (v) it question the value of human life and the utility of punishment in Islam, Christianity and the constitution (xi) It brackets the score board of the government on performance (xii) It has strong and negative psychological impact on Nigerians and the view of reality both religious, socio-political, economical and other wise. Whether uni-dimensionally or mono-causally assessed, Boko Haram affects Christians, Muslims and the neutrals alike; it strikes the root of Islam and Christianity in Nigeria.

1.1.3. Nigeria

This is the fifth largest country in West Africa. (Iloeje, 1982:2) In terms of location; it is in the tropics, lying between latitude 4° and 14° north, and longitude 2° and 15° east of the Greenwich Meridian. For political boundary: she is bounded in the North by the Republic of Niger, South by the Gulf of Guinea, West by the Republic of Benin, East by the Republic of Cameroon and Northeast by Lake Chad. Size wise she is over 100km North to South and 1200km West to East.

As one of the most populated country in West Africa, it is the home of the largest gathering of the black people anywhere in the world. Linguistically, there are more than 300 languages and cultural groups in Nigeria; with Yoruba, Hausa and Igbo as the major ethnic groups, while others are considered as minority groups. (Encyclopædia Britannica, 2010).

2. Boko Haram Insurgency in Nigeria: Historical Analysis

Boko Haram's origin seems to lies in a group of radical Islamist youths who worshipped at the Alhaji Muhammadu Ndimi Mosque in Maiduguri a decade ago hence in 2002, an offshoot of this youth group (not yet known as Boko Haram) declared the city and the Islamic establishment to be intolerably corrupt and irredeemable. Thu the group declared that it was embarking on hijra (a withdrawal along the lines of the Prophet Muhammad's withdrawal from Mecca to Medina). It moved from Maiduguri to a village called Kanama, Yobe state, near the border with Niger, to set up a separatist community run on hard-line Islamic principles. Its leader, Mohammed Ali, espoused antistate ideology and called on other Muslims to join the group and return to a life under "true" Islamic law, with the aim of making a more perfect society away from the corrupt establishment.

The above assertion cannot be said to be correct as there are conflict in the literature as to the actual date of origin and formation as well as the leadership of the Boko Haram sect hence [Alozieuwa \(2012\)](#), documented that the confusion not only reflects in the narratives about the exact date, and who the actual founder was, but also as to the true source of these expositions. For instance, [Adibe \(2012\)](#), has observed that while the popular belief is that it was founded around 2001 or 2002, [Madike](#), traced the date to as far back as 1995, and argues that, one [Lawan Abubakar](#), who later left for further studies at the University of Medina, Saudi Arabia, actually founded the Boko Haram sect. Under Abubakar, the sect was known as Sahaba, ([Madike 2011 cited in Adibe, 2012:50](#)). Elsewhere, these expositions are credited to [Shehu Sani](#), a civil right activist in northern Nigeria, who helped broker the first peace deal with the sect which failed ([Businessday, online, February 1, 2012](#)). While [Uzodike and Maiangwa](#) on the other hand acknowledge the [Lawan Abubakar](#) angle, they attribute their source to [Ujah et al. in Uzodike and Maiangwa, 2012: 100](#)). They also acknowledge [Gusau's \(2009\)](#) version which traced the origin to an evangelical group formed

by Muslim students at the University of Maiduguri, Borno state, who reportedly felt dissatisfied with Western education (Uzodike and Maiangwa, 2012:100).

He furthered that Muhammed Yusuf to whom the formation is now generally ascribed to, according to the competing narratives only assumed leadership after Abubakar's departure and "indoctrinated the sect with his own teachings, which he claimed were based on purity" (Adibe, 2012:50). Yusuf's notion of "purity" and teachings were inspired by the works of Ibn Taymiyya, a fourteenth century legal scholar who preached Islamic fundamentalism and is considered a "major theorist" for radical groups in the Middle East (Johnson, 2011), after whom Yusuf named his mosque in Maiduguri [The Nation \(2012\)](#). But just as the sect itself may be less concerned about whom to credit for its formation than waging its war against the Nigerian state, the state too may be less concerned with the origin than it is with the threat that the group now poses to national society. The obscurity surrounding its true origin perhaps informs why initially, the sect "had no specific name as its members attracted several descriptions where they operated based on the perception of the local population" (Okereke, 2012: 450). Such names include Taliban and the Yussufiyah. The sect soon became formally identified as *Ahulsunna wal'jama'ah Hijra* – 'Congregation of Followers of the Prophet Involved in the Call to Islam and Religious Struggle.'

The name Boko Haram, to which it is now commonly referred to, derives from the sect's anti-Western posturing, literally meaning 'Western education/civilization is sin.' Narratively, he documented that in the early stages, the Boko Haram sect was widely known to have mobilized its membership from women and children, school drop-outs and unemployed university and polytechnic graduates, most of who tore up their certificates; student members withdrew from school. Okereke posits that "these recruits were indoctrinated by Yusuf to believe that their state of hopelessness was caused by government which imposed Western education on them and failed to manage the resources of the country to their benefits". Although from the outset, the sect's mission was to impose the Shari'a on Nigeria, the leadership went about its preaching peacefully, but not without attracting attention among other Islamic preachers who saw the preaching and interpretation of the Quran as a recipe for violence and an affront to constituted authority. Although incidents of violence have earlier been recorded against the sect, (Uzodike and Maiangwa, 2012: 102), serious concerns over its violent tendencies grew only after the open confrontation between the sect and the government in July 2009 following the death of Yusuf while in police custody, as well as his father in-law and sect financier, Ustaz Buji Foi, and the incarceration of members by state authorities.

Although Yusuf allegedly drew inspiration from radical Islamist, Ibn Taymiyya, he reportedly resisted some of followers relentless advocate that "an Islamic state was realizable through preaching and mobilization of the people to reject secularism, by way of taking up arms and fighting to conquer the unbelievers"; "Yusuf was said to be against any form of violence, saying it was against the teaching of Islam" (Suleiman cited in Uzodike and Maiangwa, 2012: 101). It is, therefore, yet uncertain whether the sect's current level of radicalization is a function of the deaths of its initial leadership and subsequent clampdown by the State or the accession to its leadership of the taciturn psychopath, Abubakar Shekua, a Kanuri native, who once boasted "I enjoy killing anyone that God commands me to kill – the way I enjoy killing chickens and rams," (BBC, online, June 22, 2012). Along with two other top leadership, Abubakar Adam Kamar and Khalid al-Barnawi, Shekua in June 2012 recently made the United States' list of international terrorists ([Alozieuwa, 2012](#)) hence the use of lethal weapons such as explosives and guns as well as machetes and dagger for the purpose of meting out mayhem to the Nigerian state which has affected her economy adversely considering the high rate of loss of lives and properties. In terms of its modus operandi, observers said that the group constructed a "state within a state," with a cabinet, its own religious police, and a large farm, and attracted more and more people under its roof by offering welfare handouts, food, and shelter. Many of the people the group attracted were refugees from the wars over the border in Chad and jobless Nigerian youths. The source of the group's money at this stage of its existence is not clear. Members of the Borno religious establishment say that Yusuf received funds from Salafist contacts in Saudi Arabia following two hajj trips that Yusuf made during this time. Another possible source of funding during this period was donations from wealthy northern Nigerians.

2.1. Boko Haram Insurgent Activities

In 2006, a wealthy northern businessman was arrested by the State Security Services after a group of children alleged that they had been sent by the group to an al-Qaeda training camp in Mauritania. The businessman says his donations to the group were an innocent attempt to contribute zakat, an obligation of wealthy Muslims to give charitably. Strategically, until the June 16, 2011, bombing of the Nigeria Police Headquarters in Abuja, the sect had restricted its terror campaign mostly to the North East part of Nigeria. Remarkably, the attack on the Police Headquarters came barely after the then Inspector-General of Police, IGP, Hafiz Ringim returned from a duty tour of Maiduguri where the sect had just carried out some terror campaign and stated he would soon smoke them out. The sect followed up that attack with the bombing on August 26 of the United Nations House, also in Abuja, a place Shekua described as a "forum of all the global evil," (Thisday, September 19, 2011). Since then, Boko Haram has either claimed responsibility for or has been credited with most terror activities in the northern part of the country. Its operations have also grown in scale and sophistication ([Alozieuwa, 2012](#)). Consequently, the group had gained press attention in Nigeria, and interest from the U.S. Embassy, because of the catchy name locals had given it: the Nigerian Taliban. Hence the gossip that the few survivors of the "Nigerian Taliban" had returned to Maiduguri, where they settled back with others from the youth group that had originated at the Ndimi mosque.

On Christmas Eve 2010 as many as half a dozen bombs were detonated near churches and a market in two districts of Jos, Plateau state, killing scores of people. At the time it was not assumed to be a Boko Haram attack; it was thought to be a nasty twist to the long-standing ethno-political conflict there. Then, on New Year's Eve 2010 a bomb was detonated in a popular open-air fish restaurant and market inside the grounds of the Mogadishu barracks,

just outside Abuja, killing ten people. While it sits very close to a military barracks, the market is frequented mostly by civilians and was loosely protected. Initially it was not certain that either bombing had been carried out by Boko Haram. There had been a bombing three months before at a ceremony in Abuja marking the fiftieth anniversary of the country's independence for which Boko Haram was not implicated and a leader of the Niger Delta militant organization the Movement for the emancipation of the Niger Delta [MEND] in custody in South Africa, faces charges of planning that attack (Onwudiwe and Berwind-Dart, 2010). But in early 2011 an FBI investigation concluded that the Mogadishu barracks bomb was constructed using the same techniques as devices in Jos, and suspicion fell on Boko Haram. These attacks showed the group was prepared to strike vulnerable spots and cause civilian casualties. It launched its bombing campaign in the already tense city of Jos, and it showed the authorities it was able to reach them in Abuja. During the first few months of 2011, the group's targets for assassination operations in Maiduguri widened beyond the original focus of police and other authorities. In February 2011, for example, a pharmacist in Maiduguri—not believed to have had any previous connection to the group's treatment by the police—was murdered in a robbery and neighbours attributed it to Boko Haram as cash and a large amount of medical supplies were taken from his shop. Abu Dujana, a senior member of the group had stated that anyone whom the group declared an "enemy" would be killed. The group began to rob banks, cash-in-transit convoys, and successful businesses, not only in Maiduguri but also in Bauchi, where the group remains strong. The group claims it is permitted to do this by the Quran, as the money it takes is considered to be the "spoils of war." A source who has followed the group closely states that the group is thought to have made approximately 500 million naira (about \$3 million, or £2 million) from such robberies, but such claims are unverifiable (Walker, 2012).

In June 2011 Boko Haram bombed the national police headquarters in Abuja. A car laden with explosives drove into the compound of Louis Edet House, a block of offices previously thought secure in Abuja's government zone, by following a convoy of senior officers through the gates. It is believed that the driver aimed to put the car near the entrance stairway as the senior officers entered, but he was directed around the back of the building by guards, where the bomb detonated in the car park. At the time it was questioned whether the bombing was meant to be a suicide attack, because it was possible that the bomber had been delayed in Abuja traffic, but in August 2011 remaining doubts were removed when a man drove a car into the UN compound in Abuja and detonated a massive bomb, killing twenty-three people and wounding scores (Bekoe, 2011). The attack launched Boko Haram onto world news and established it as a militant group with the technical and doctrinal capacity to produce suicide bombs. The organization released a martyrdom video made by the driver of the car. Security intelligence analysts at Stratfor say building successful suicide weapons, like the ones used at the United Nations and police headquarters is very difficult. To perform two successful detonations is good evidence that there is a foreign hand involved in training Boko Haram. Explosives the group use, categorizes are common in mining and construction, the Reuters have noted, and there are plenty of sources of such explosives in northern Nigeria today. The way the group contacted the outside world also changed about this time. A journalist in Nigeria says the group tightened its telephone discipline, collecting the numbers of journalists it wanted to contact, rather than having journalists call contacts they had made in the organization. A Boko Haram spokesman with the nom de guerre of "Abu Qaqa" began contacting journalists to claim attacks. The government later claimed that it had captured him, but Boko Haram says that another member had been captured and that Qaqa is still active. The purported leader of the group, Abubakar Shekau, Yusuf's former right-hand man, also began to post videos to YouTube at this time. Since August 2011 there have been almost weekly attacks by militants planting bombs in public or in churches in Nigeria's northeast. The group has also broadened its targets, away from direct revenge attacks on the state to include other representations of authority. This expansion includes setting fire to schools and attacking newspaper offices.

In March 2012, some twelve public schools in Maiduguri were burned down during the night, with as many as 10,000 pupils forced out of education. Three alleged members of Boko Haram were killed while trying to set light to a school. The group has told journalists that these attacks are in retaliation for the arrests of a number of Islamic teachers from traditional "Tsangaya" Quranic schools in Maiduguri. In the Tsangaya system of schools, clerics teach children to memorize the Quran. These schools, some with only a few children, some very large, operate not only in Nigeria but also across the whole of the Sahel. The children, known as Almajiris, come to the city from the countryside. Many beg during the day and give their money to the teacher, or mallam, who runs the school. The group also says that it is attacking the government school system in retaliation for the government's attack on the Tsangaya system as a whole (Walker, 2012). There has also been an increase in reports of people being beheaded in public by Boko Haram. It is believed that these might be internal purges of moderate members, or members in the group who have been arrested and can therefore no longer be trusted. Big attacks have included bombings on Christmas Day 2011, when bombs were detonated in three states, Niger, Plateau, and Yobe, killing forty-five people.

In January 2012 three groups of gunmen and suicide bombers coordinated attacks on three government buildings in Kano—the police headquarters, the office of the immigration service, and the State Security Service. More than two hundred people were killed. The group has also continued its involvement in the long-standing conflict between indigenous groups and Hausa/Fulani "settlers" in Plateau state. Most of the violence in the area has not had a connection to Boko Haram, but in February 2012 a suicide car bomb was detonated at a Jos church. Days later, in March, another suicide bomb was detonated outside St. Finbar's church in Rayfield, Jos, near the government house. Nineteen people have been killed so far in retaliatory tit-for-tat attacks immediately following those bombings. More recently, there have been deadly bomb and gun attacks on the offices of This Day newspaper in Abuja and Kaduna, the Catholic chapel in Bayero University Kano, and a cattle market in Yobe. Dozens were killed in each attack.

Notably, from 2013 till date, the insurgents have taken a fresh turn with unfolding confusions about their identity, connections, interest and mission. Today Boko Haram insurgency in Nigeria is a reaction by an Islamic sect

that believes politics in northern Nigeria has been hijacked by a group of corrupt and false Muslims; and also that westernization has bred corruption in the Nigerian polity and therefore wants to wage war against westernization of all sorts in the country by creating a theocratic state ruled by Shari'a law. Resultantly, since August 2011 Boko Haram has planted bombs almost weekly in public places and churches in Nigeria's northeast. Later on, the group broadened its targets to include setting schools on fire hence in March 2012, some twelve public schools in Maiduguri were blazed down, and as many as 10,000 pupils were forced out of school. Following the failed rescue of hostages Chris McManus and Franco Lamolinara in north-western state of Sokoto in March 2012, many have argued that President Goodluck Jonathan played up the connections between the group and international terrorism to the gallery as western plot to divide Nigeria by 2015. However, links between Boko Haram and the kidnapers are questionable; besides, despite its successful attack on the UN compound in Abuja in August 2011, it cannot be said that Boko Haram is bent on attacking Western interests since there have been no further attacks on international interests since that time as all attacks have been directed at Nigerians both Christians and Muslims, Hausa's and non Hausa's in the North-eastern region of Nigeria. Tactics employed by government security agencies against Boko Haram have been consistently brutal and counterproductive. From the attacks so far, the group will continue to attack softer targets in the northeast rather than international targets inside or outside Nigeria, which would further threaten the country's unity.

3. Impact of Boko Haram Insurgency in Nigeria

- a. Loss of property
- b. Loss of life
- c. Economic: Reduction in new foreign investments, financial wastage.
- d. Fracturing of religious relationships
- e. Public safety issues
- f. Fracturing of ethnic relationships
- g. National insecurity gradually driving Nigeria towards disintegration: 2014 and 2015 prove to be very challenging moments.
- h. Nigeria gradually becoming a "police state" given the number of special task forces around the country.
- i. Capital flights from Nigeria to neighbouring countries.
- j. Nation labelling

4. Insurgency and Proportion of Punishment: A Fundamental Problem

4.1. Interfaces Between Punishment and the Fundamental Question of its Utility

The history of mankind has demonstrated various method of punishing criminals. The fact remains that we cannot avoid regarding some kinds of human conduct as harmful to innocent persons. This leads society to prohibit and condemn such actions. Usually, this condemnation is achieved through the imposition of punishment [Bedau \(1980\)](#), by competent public authority. Punishment by its very nature is retributive. It pay back to an offender suffering and indignity akin to what the offender inflicted on the innocent victim. Justice demands that all crime be liable to punishment in their appropriate proportion. But there have been problems s regards which punishment fits a particular crime. Also the problem of determining what sorts of thing any person could be deprived of that would count as punishment ([Bedau, 1980](#)).

As a theorist of punishment, Bentham was naturally interested in the English penal system. His studies led him to develop a model of an English prison that applied his theories of punishment to incarceration. He called his model the "Panopticon ([Bentham, 1776](#)). The Panopticon was a prison building—and a whole system of incarceration—that allowed guards total surveillance and physical control over prison inmates. In the writing of the Panopticon, Bentham gave some method of punishment which he claimed are hard labor, constant surveillance and monitoring, and solitary confinement (for purposes of reflection and repentance) and were fundamental requirements the reformation and rehabilitation of criminal offenders. This theory builds upon the notion that punishment can be the means to make an offender lead a life of moral and civil rectitude.

Generally, the primary effect of punishment is to redress the disorder caused by the offence. Also, punishment has the effect of preserving public order and the safety of persons. Finally, punishment has a medicinal value, as far as possible it should contribute to the correction of the offender. It was on this ground that St. Thomas Aquinas proposed that: "killing a criminal that is a danger to the community and of corrupting influence in it is like amputating a diseased member of the human organism, and so is lawful even praiseworthy for the common good". ([Aquinas,; II-II. Q. 64. a. 2](#)). But is the disorder in the world solely caused by crime? How much has the disorder caused by offences been redressed? These are questions forming the problems behind this study. Maybe reflecting on the following analysis will clear the assumption in a more elaborate form.

In the brake of Wednesday, March 24, 2004 the Guardian Newspaper article titled "Death penalty, To be or not to be" of Chris Akiri caused a unanimous attention. This caption is particularly fascinating as it shares abroad significance to our subject matter. However more interesting are the information or content of this article. Let us consider the first paragraph: "in the past few years, many penal reformers, including profound intellectuals and learned criminologists, both in Nigeria and elsewhere have been stung by the bug of a reforming zeal and disproportionate prejudice against death penalty. Several plausible reasons have been adduced for this prejudice among them are the following consideration; that death penalty is uniquely degrading to human dignity; that the death penalty is a cruel and unusual punishment, that it is a desecration of the sanctity of human life which is sacrosanct, and therefore imprescriptible and that the Almighty God abhors the shedding of human blood. And in the

united state of America, some regard the death penalty as a forbidden by the principle of civilized treatment guaranteed by the eight amendment” (Akiri, 2004). From this, we can possibly tell what would possibly be the conclusion to this article. As to the question: Death penalty, To be or not to be? Akiri answer: ‘Death penalty should be’.

The above Akiri’s partly quoted write-up is a one sided background to the instigating curiosity of this study. Let us quickly look at the other sides to the subject. In July 1950, Briton named John Timothy Evans, was arrested for the offence of murdering his own baby, he was prosecuted and sentence to Death by hanging. But regretfully, findings later showed that the actual murderer was Reginald John Christie, who incidentally was a chief witness for the prosecution during Evans’ trial. Reginald John Christie was a serial killer who had already strangled more than half dozen women, among whom were two strangled before the murder of Evans’ baby (Regan, 1976). Unfortunately, Evan’s had been hang by the State and cannot be resurrected as Lazarus (The Holy Bible Book) and the shame of that travel of justice is not only a lessons but an instigating factor for this study as it concerns the debate on the justification of capital punishment.

In September 1984, Nigeria recoded the death of four arm robbers by firing squad for the rubbery and killing of Mr. Ezekiel Oladele in Akure. This attracted a good number of witnesses who ceame trooping down to watch the scene. While the execution was barely over, just close to the spot two arm robbers stopped and robbed and killed two white expatriates who travelled that route that morning, the question is; if that execution was to serve as a deterrent to any robbers, offenders would be robber, then it obviously did not work as we can deduce that the robbers had witness that execution before the robbery and murder. How should offenders be corrected and how much punishment can correct an offence and retain the dignity the human person and value of human peaceful co-existence?

Following from the words of Bedau, a need to address the problem with our subject of discussion is crystallized when he asked: “How, exactly does our belief in the value of human life, dignity, bear on the nature and methods of punishment as seen from the moral point of view”. Bedau (1980) How much priority is given to dignity of the human person and the value of peaceful co-existence in the practice of our daily consideration and deliberations of political, religious and particularly moral issues of peace, life and death? No doubt from recent happenings around the world especially in the unfolding drama between state and world politics where the human person is relegated to the background and used as a tool to upholding laws. Consider the worth or dignity of the human person, the present need for peaceful co-existence and the brutish, nasty, and cruel nature of insurgency can the enforcement any punishment sincerely exonerate its arm against human life? These and many more considerations in prompting this study are purportable conditions behind the Jeremy Bentham’s concept of punishment who in his time became deeply frustrated with the complexity of the English legal code, which he termed the "Demon of Chicane" (Bentham, 1776).

4.1.1. The Fundamental Problem

From the Islamic Ash-Sharī‘ah, capital punishments are stipulated for some categories of heinous crimes in Ash-Sharī‘ah chiefly to serve as a deterrent for potential criminals. Though, seriously criticized especially by Human Rights activists, the truth which cannot be controvert is that Islamic countries such as Saudi-Arabia has been able to reduce crime and insecurity to the barest minimum largely as a result of the implementation of capital punishment. The punishment stipulated by Ash-Sharī‘ah for criminals when considered in good faith, Jimoh (157) argues, are not only retributive but are also of deterrent and reformative value. They are also meant to restore the confidence of the victim in the ability of the state to defend and protect his rights. Alaro (24) has submitted that through the implementation of Hadd, Islam is able to realize the fundamental objectives of Ash-Sharī‘ah which include protection and preservation of life (Hifzu An-Nafs), intellect, progeny and property and that each and every one of these objectives has its own suitable capital punishment (Hadd). It should, however, be noted that hard punishment is introduced and applied only after the Government has adequately provided for the basic needs of its citizenry. Nigeria can benefit from them.

The Christian Bible prescribes the punishment of death penalty for the following activities, among others: Murder, Adultery, Bestiality, Rape, Sodomy. One man picked up sticks on the Sabbath, he was taken into custody because a punishment was not known. The LORD told Moses that the man in custody must be killed. This particular crime and punishment is isolated case law.(Numbers 15:32–36) A betrothed woman who does not cry out while being raped. A woman who is found not to have been a virgin on the night of her wedding[18]Worshiping other gods. Witchcraft (Exodus 22:18)Taking the LORD's name in vain or cursing his name, cursing a parent, Kidnapping, Ransom from death penalty questions.

There is some question as to whether the death penalty was invariably or even usually implemented in ancient Israel, or whether this was even the intention of the Tanakh (c.f. Numbers 35:31). "It must be noted that the death penalty might also indicate the seriousness of the crime without calling for the actual implementation of it in every case. In fact, there is little evidence that many of these sanctions were ever actually carried out in ancient Israel. Only in the case of premeditated murder was there the added stricture of 'Do not accept a ransom for the life of the murderer who deserves to die' (Num 35:31). . . . Traditional wisdom, both in the Jewish and Christian communities, interpreted this verse in Numbers 35:31 to mean that out of the almost twenty cases calling for capital punishment in the Old Testament, every one of them could have the sanction commuted by an appropriate substitute of money or anything that showed the seriousness of the crime, but in the case of what we today call first-degree murder, there was never to be offered or accepted any substitute or bargaining of any kind: the offender had to pay with his or her life".It is also of note that the Bible required at least two or three witnesses to convict someone of a crime, so executions would be rare under such a strict requirement.

Based on the aforementioned, it is a crystal fact that the complexities of our analysis so far, leaves us in a quagmire as we reflect on the question of what nature and degree of punishment is commensurate with the crimes against humanity perpetuated by Boko Haram insurgency? How should this punishment be administered that it will not affect human value and dignity which is a crime such punishment is been administered for? Will this sort of punishment eventually correct the Boko Haram insurgent, affect other groups with such intention and in a long run, deter future occurrences of such pseudo-patriotic action? Considering the theories of punishment herein analysed above as well as the Chris Akiri's Wednesday, March 24, 2004 Guardian Newspaper article titled "Death penalty, To be or not to be" and the 'panopticon' of Bentham, a 'big band' question of appropriateness, degree and method of dealing satisfactorily with the subject, is unavoidable.

Psychologists, sociologists, religious and criminologists on one hand, have refuted certain kinds and methods of punishments on the ground that it does not serve the purpose of punishment, which is basically the reformation of the criminal. In line with this, Robert Gerstein stated that:

Punishment must not in its severity by degrading to the dignity of the human person that is to inflict punishment on a person while giving full respect to his human dignity; a corrective measure for reformation and deformation. (Robert, 1974).

However, considering Elesin 'Abdulwahab Muhammad Jāmi'ū's, (2013) *Tackling The Nigeria Security Challenges: The Islamic Panacea*, were he identified that there are some Islamic values that are panacea to moral degeneration such as the case of the Boko Haram insurgency, which are; "justice, welfare, God-consciousness, campaign through admonition and guidance counselling (Da'wah) (and most importantly, he strongly noted that the) implementation of Capital Punishment that is Hadd (pl. Hudūd) in Ash-Sharī'ah", (Jāmi'ū', 2013: p. 292) is also most appropriate. Certain thought provoking questions are raised in our minds such as; if taking life is a crime against the dignity of human life, and capital punishment or a certain kind of punishment administered also includes the taking of the life of the criminal, how much has human life been respected? If the taking of the life of that criminal, who took the life of an innocent person, thereby violating the dignity of human life, cause some kind of reaction by a group of people, who in turn, underestimated all allusion to punishment and further take to killing by bombing, or other forms, how much has such punishment administered to the first cause addressed the problem? If death by hanging, firing squad, life imprisonment, slating of throat, are punishment administered to a criminal, how much would this satisfy the mind of the offended? If suicide bombing, mass king, kidnapping, vandalism, slating of throat, crucifixion, incrimination are certain kinds of punishment for certain criminals of certain crimes, what picture does it describe of human beings? What degree of satisfaction does it give the executor? What stability does it create for the state? What community or ethnic bound does it sustain? What pattern of living does it ascribe to the society and its members there after? for the What does it create for the next generation? What history does it write? What generation does it hope for in the future? What beauty does it all creates? What world would it hold?

Punishment from the above is a necessary tool, due to the dignity of the human person and peaceful co-existence which must be given pride of place in all penal adjudication. However, to what extent will this appropriately do justice to act, address the situation of instability, deter other groups, and bring some bit of satisfaction to the minds of affected Nigerians? To what extent will this also respect the dignity and value of the human person since Helen (1993), had emphasised that the "nobody is disposable human waste, despite their terrible crimes murderers are human beings and deserve to be treated with dignity"? (Helen, 1993).

5. Conclusion

That there is no amount of punishment that could commensurate for any harm caused by the Boko Haram insurgency or any terrorist group in the world is an altruistic truth. This could be an apology to all affected by the menace of insurgency directly or indirectly in the North and all over Nigeria. Haven dethroned the idea of a possibility for retribution which will take us no further than within the circle, it is important we present an approach that could have averted or managed the situation of Boko Haram insurgency in Nigeria through the following.

A great deal has been said about the causes and effect of terrorism. So much also has been said about the tepid attitude of government to addressing issues of terrorism before ever they erupt and after they do. Such has also been said of the Nigerian government in tackling of the Boko Haram insurgency. It is a fact that there was relapse on the side of the government from the unset this to a large extent or encouraged the insurgents' besides this was the under-reaction and over reaction which escalated the whole issue to a point of no control. However, the earlier we realise that this is our collective responsibility and expunge blame mentality from our minds and deal with the issue from the grass root, the better for all of us or soon it will not be Boko Haram insurgency, but Nigerian youth/children or adult/children insurgency. Sequence to this therefore, we must enforce an accelerative 'movement for the emancipation and re-orientation of the minds of the Nigerian child'

The voracious aggression against Nigerians is unacceptable in a multi-ethnic nation like Nigeria. The continuing attacks on Nigerians by this sect portend great danger to the corporate existence of Nigeria and may plunge the nation into sectarian strife if not quickly checked. we therefore recommend a viable reorientation on the side of the Muslim extremists who have seized to see other Nigerian as fellow countrymen hence these attacks have tended towards a situation where tolerance, assimilation and respect for fellow countrymen irrespective of religious affiliation and regional inclinations have been lost. Therefore a total reorientation on value for life and peaceful co-existence even in diversity should be the popular. Nigerians should rise to this security challenges by matching words with action, hence it is not enough to, after each dastardly attack, blame the government and the security agents on top of the situation for not being sporadic in their address of the situation. In fact, as mentioned earlier, if we keep saying the government has failed in its primary function of assuring the security of lives and property of

citizens in many parts of Northern as well as other parts of Nigeria (where people are indirectly affected by the demolition in the North) we should also equally say that we Nigerians have failed in being sincere citizens and failed in pledging our responsibility to the country we profess as ours. Therefore a proactive and pragmatic approach to quelling this existential dilemma is our choice.

Most importantly the Infiltration of the Nigerian military by the book haram insurgents is a very destabilizing factor to tactics employment as such within will make efforts to twats the process by reviewing tactical plans to the insurgents. No wonder they appear to be drunk in their pseudo success. Therefore, all military recruitment process must be thoroughly scrutinized. Hence the question; who is recruited? What are their beliefs? Who are their godfathers? Why are they interested? What are their final bases, ideological bases and religious bases of the godfathers?

No doubt, the impoverishment of the North is traceable to the long history of insecurity in the region. This has escalated under this dispensation for so many 'cloudy' reasons resulting in destructive criticisms among political party and party leaders in the country. But far from this, the northern government should unite to fight this menace and curb insecurity in the region. The insecurity has led to mass exodus of investors from the North on one hand and the exodus of foreign investors from Nigeria on the other. The Northern elites should also broker peace in the region as it is believed that they are lovers of peace and tranquility which the menace of Boko Haram threatens; as it is only in peace that the region will witness development of all sorts. Refusal to do that, the president, haven identified some of the institutions of government which the sect has allegedly infiltrated, should swing into action and fish out those involved and prosecute them. He should also get at the root of the sponsorship of the rebellious group since the government's partial state of emergency in some states in the north has failed to curtail violence in those areas, as it will not be out of place to invoke full state of emergency in some troubled states in the North as a way of deterring further insurgence of insecurity in the land. Since the menace has subsided, this is the right time for the Nigerian government to establish special force that counters the terrorism of Boko Haram calibre as well as open a viable channel for information sharing between the government agencies and the individuals or private security outfits because security is every body's responsibility. We applaud the initiative of the government transformation agenda that takes importantly the Education of the alumajuru as well as many other projects.

Even though some have argued that Bentham's concept of community is somewhat abstract and mechanical, the fact that his theory of punishment is a step towards value of the human person and ensuring peaceful coexistence as it applies to our country Nigeria cannot be over emphasised. To strengthen this course, we must understand howmuch the happiness, pleasures and security of the individuals, of our nation Nigera, is not just the sole responsibility and intention of every legislator but our as citizens as well. And this is also this sole standard, which each individual must depend upon in conformity to the oughts of the society as civil responsibility. Hence the scope this study, is not to silent or ever emphasise what, how where and why punishment be administered when a crime is committed but to show that the business of government is to promote the happiness of the society, by punishing and rewarding as well as by being sensitive to societal limitations, proactively addressing challenges at their nursery level and carefully managing them when they escalate. And this part of its business which consists in punishing is more particularly the subject of penal law. Consequently, to avoid conflicts between the individuals who compose the community a government must legislate sincerely to encourage people's positive social affections (such as benevolence) and discourage their inherently selfish tendencies that can be transmitted only through their most valuable, passionate and fundamental channel such as religion and politics, with a view to harmonizing individual interests to the benefit of the community as a whole.

Bearing in mind the complexity of such administration that is, maintaining human value, peace and happiness in the community; happiness which consist: enjoyment of pleasures, security from pains, it is a crystal fact that man has dispositions to actions and this action are influenced by certain conditions or circumstance therefore fashioning his behaviour becomes important as some human actions tends to disturb happiness, and they have pernicious tendency that attracts punishment, but they should be measured according to the demand it creates for punishment. It is our conviction that Governments pro-activeness can address this situation. Therefore to save us the embarrassment of a country with vastly porous borders, immigration rigidity must be encouraged at the Nigerian borders and embassies by employing all immigration resources, policies and principles to scrutinizing immigrants to Nigeria just as is applied in the United state and Europe embassies. Thus a movement for the decongestion of slums and loiters must be on the effect. Synergizing with other foreign aids such as the United Nations will be a golden opportunity for us as a country under this 'night fall in Soweto' and for others as nations possibly from where what is used or done in our country comes from. Such will engender a cross pollination of inter-national checking and balancing. In all, we Nigerians as individuals and groups, government and security agencies should sincerely with their entire humanity, do all that is necessary to stop the continuing bloodletting in Northern Nigeria that in turn affects the whole system.

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