



## Effectiveness of Capital Punishment as a Deterrent Measure in Nigeria's Justice Administration

Nwankwo Emmanuel Emeka

*Department of Criminology & Security Studies, Claretian University of Nigeria, Nekede, Owerri.*

*Email: nwankwoe647@gmail.com*

---

### Abstract

The role of capital punishment in Nigeria's justice administration remains deeply contested within legal and criminological discourse. Proponents view the death penalty as a necessary deterrent against violent crime and a means of reinforcing state authority, while opponents emphasize its inconsistent enforcement, political manipulation, and tension with international human rights norms. This study examines the effectiveness of capital punishment in Nigeria by situating it within historical, legal, and comparative contexts. Drawing on legal analysis, historical review, and human rights perspectives, the paper explores the trajectory of the death penalty from pre-colonial justice practices to colonial codification and its current democratic application. Methodologically, the study relies on doctrinal legal research, complemented by secondary empirical data from prison records and human rights reports. The findings reveal that although capital punishment remains entrenched in Nigeria's statutes, its deterrent effect is undermined by judicial delays, executive discretion, and selective enforcement. Comparative insights from other African jurisdictions further highlight Nigeria's unique challenges. The study concludes that capital punishment in Nigeria functions more symbolically than as an effective deterrent and argues for comprehensive reforms in justice administration, including alternatives such as life imprisonment without parole.

**Keywords:** Capital punishment, deterrence, justice administration, human rights, prisons.

---

### Introduction

Justice is often regarded as the cornerstone of every stable society. Augustine of Hippo (354/2003) observed in *The City of God* that without justice, kingdoms become little more than “gangs of criminals on a large scale.” This age-old insight carries contemporary weight in Nigeria, where public confidence in the justice system is persistently undermined by inefficiency, corruption, and selective enforcement (Omoregbe, 2007; Nwagwu, 2021).

Nigeria retains capital punishment as part of its criminal justice framework, applying it to serious crimes such as murder, armed robbery, and treason (Penal Code, 1990). Supporters of the death penalty argue that its retributive and deterrent functions are indispensable for addressing violent crime (Bentham, 1988; Akingbehin, 2012). However, critics highlight the risks of wrongful convictions, systemic corruption, executive interference, and political manipulation, all of which reduce its legitimacy and weaken its deterrent capacity (Amnesty

International, 2016; Global Rights, 2023).

This study is significant for three main reasons. First, it situates capital punishment in Nigeria within a historical continuum, tracing its evolution from indigenous systems of justice through colonial codification to contemporary democratic application. Secondly, it interrogates the gap between the deterrence theory of punishment (Beccaria, 1764/1995; Finkelstein, 2000) and the realities of Nigeria's justice administration, marked by prolonged trials, overcrowded prisons, and inconsistent enforcement. Finally, it situates Nigeria's experience within global debates on human rights, where calls for abolition are becoming more insistent (Bukola, 2020; Amnesty International, 2017).

By combining legal, historical, and human rights perspectives, this paper provides a contextual analysis of capital punishment in Nigeria. It argues that the effectiveness of the death penalty as a deterrent depends less on its statutory presence and more on the credibility and



efficiency of the justice system itself.

### **Literature Review**

The debate over capital punishment has long divided scholars, policymakers, and human rights advocates. This literature broadly falls into two camps: retentionists, who defend the death penalty as necessary for deterrence and retribution, and abolitionists, who argue that it is ineffective, inhumane, and prone to abuse.

Bohannon (1967) emphasizes that law is inseparable from culture, serving as a reflection of social values and a mechanism for maintaining order. Within this framework, Bentham (1988) views law as the state's expression of will, requiring obedience through clearly prescribed sanctions. For proponents of capital punishment, these perspectives underscore the necessity of strong punitive measures, including the death penalty, to sustain authority and discourage violent crime.

From a moral standpoint, Finkelstein (2000) argues that punishment is justified only if it proportionally addresses the harm caused. Retributivist interpretations therefore see the death penalty as morally fitting for crimes such as murder or treason. Similarly, Akingbehin (2012) situates capital punishment within debates on human rights, noting that Nigerian courts have consistently upheld its constitutionality despite international concerns.

On the other hand, critics point to the profound risks and contradictions inherent in capital punishment. Omoregbe (2007) stresses that true justice rests on the inherent equality and dignity of all persons, a principle undermined by wrongful convictions or selective enforcement. Amnesty International (2016) and Global Rights (2023) have documented irregularities in Nigeria's death penalty system, including delays in trials, executive interference, and political manipulation. They argue that these practices, compromise both the fairness of justice and the credibility of deterrence.

Empirical studies deepen this critique. Afua (2013) and Bukola (2020) reveal a striking gap

between sentencing and execution: while thousands of Nigerians languish on death row, actual executions are rare and sometimes politically motivated. Durotoye (2019) highlights how prolonged delays erode deterrence, creating what Nwosu (2017) describes as the "death row phenomenon"—a form of cruel and degrading treatment in itself. Obi (2020) further shows how executive pardons are often wielded as political tools rather than acts of justice.

This literature therefore, points to two recurring themes. First, the deterrent function of capital punishment in Nigeria is seriously weakened by inconsistent enforcement, corruption, and delays. Secondly, public confidence in the justice system is eroded when punishment appears selective, targeting the marginalized offenders while elites evade accountability. These insights form the basis for this study's deeper exploration of how capital punishment operates in Nigeria and whether it truly functions as an effective deterrent.

### **Theoretical Framework**

The study of capital punishment in Nigeria can be situated within three key theoretical perspectives: deterrence theory, retributive justice theory, and human rights theory. Each provides a different lens for understanding both the persistence of the death penalty and the controversies surrounding its use.

#### **1. Deterrence Theory**

Deterrence theory assumes that individuals are rational actors who weigh the costs and benefits of their actions. Beccaria (1764/1995) was among the earliest scholars to argue that punishment should prevent crime rather than merely avenge it. From this standpoint, the death penalty is defended as the most severe sanction available, intended to dissuade would-be offenders from committing heinous crimes. In the Nigerian context, where violent crimes such as armed robbery and terrorism remain prevalent, policymakers often justify capital punishment on deterrence grounds. However, as Oladipo (2016) and Adebayo (2018) have shown that the link between executions and declining crime rates in Nigeria is tenuous at best, raising questions about whether deterrence operates effectively in practice.



## **2. Retributive Justice Theory**

Retributivism emphasizes moral balance—wrongdoers deserve punishment proportionate to their crimes. Bentham (1988) and Finkelstein (2000) suggest that punishment restores social order by affirming society's condemnation of criminal acts. Within Nigeria, this perspective aligns with cultural and religious traditions that view certain crimes, such as murder or blasphemy, as warranting the ultimate sanction. Rotimi (2018) notes that in northern Nigeria, Sharia law continues to frame capital punishment as a divinely sanctioned response to grave offences. The retributive framework thus helps explain why capital punishment retains strong popular support in some regions despite international criticism.

## **3. Human Rights Theory**

Human rights theory critiques capital punishment as inherently incompatible with the dignity and equality of all persons. Omoregbe (2007) stresses that respect for human life is a fundamental ethical principle that cannot be overridden by state authority. At the global level, the United Nations (2015) frames the death penalty as a violation of the right to life and freedom from cruel, inhuman, or degrading treatment. Applied to Nigeria, scholars such as Ibe (2015) and Nwosu (2017) argue that systemic flaws such as delayed trials, wrongful convictions, and death row conditions—compound the human rights concerns associated with capital punishment.

Taken together, these frameworks highlight the central tension of Nigeria's death penalty regime. While deterrence and retribution provide theoretical justification for its continued existence, human rights theory exposes the moral and practical contradictions in its enforcement. This study therefore employs these perspectives not in isolation but as overlapping lenses to critically examine whether capital punishment in Nigeria truly serves justice or perpetuates injustice.

## **Comparative Analysis of Capital Punishment: Nigeria and Other Jurisdictions**

Nigeria's death penalty practices cannot be fully understood in isolation; they become clearer when situated within global debates and comparative

experiences. This section contrasts Nigeria's approach with three reference points: the United States, countries that have abolished the death penalty (notably in Europe), and retentionist states in Africa and Asia.

1. Nigeria and the United States: Both Nigeria and the United States retain capital punishment, though their contexts differ. In the U.S., executions are concentrated in a few states, with Texas alone responsible for the majority (Amnesty International, 2022). Proponents argue that it deters violent crime, yet studies repeatedly show little or no consistent deterrent effect (Bassiouni, 2010). Similarly, Nigerian policymakers justify executions on deterrence grounds, particularly against armed robbery and terrorism (Oladipo, 2016). However, in both contexts, socio-economic inequality and systemic bias heavily influence who ends up on death row. In Nigeria, poverty and limited access to legal defence are common among death row inmates (Nwosu, 2017), just as racial disparities mark the U.S. system (Bassiouni, 2010). The parallel highlights a shared reality: the death penalty disproportionately affects the marginalized, undermining its claim to justice.

2. Nigeria and Abolitionist States (Europe as Case Study): Europe presents a sharp contrast. The European Union categorically prohibits the death penalty, making abolition a condition for membership (United Nations, 2015). This position is rooted in human rights theory, which regards capital punishment as incompatible with the sanctity of life and dignity (Omoregbe, 2007). For European states, public security is pursued through life imprisonment without parole rather than executions. Nigeria, by contrast, continues to hold one of the largest death row populations in Africa (Global Rights, 2023). The European example challenges Nigeria to consider whether true deterrence can be achieved through certainty of punishment rather than severity, and whether justice can be served without resorting to executions.

3. Nigeria and Retentionist States in Africa and Asia: Nigeria also shares similarities with other retentionist countries. In Africa, states such like Egypt and Botswana continue to carry out



executions, often citing religious or cultural justifications (Bukola, 2020). In Asia, countries like China and Iran maintain the death penalty with high execution rates, framing it as essential to maintaining order (Amnesty International, 2022). Nigeria's situation is somewhat unique: while executions are rare in practice, death sentences are frequently handed down by courts, leaving thousands languishing on death row (Nwosu, 2017). This "death row phenomenon" places Nigeria between two extremes—neither fully abolitionist like Europe, nor actively executionist like some Asian states.

#### Implications of the Comparison

The comparative lens reveals that Nigeria's capital punishment regime is characterized by inconsistency: frequent sentencing but infrequent executions. Unlike Europe, where abolition reflects a principled human rights stance, Nigeria continues to struggle with the moral and practical dilemmas of deterrence versus dignity. And unlike execution-heavy states, Nigeria's hesitancy to carry out executions suggests an internal conflict between international human rights pressure and domestic retributive demands. Ultimately, the comparative analysis underscores that Nigeria stands at a crossroads. Its justice system mirrors the flaws of the United States, diverges sharply from European abolitionist values, and partially aligns with African and Asian retentionist practices. The lesson is clear: Nigeria's death penalty debate is not only about law but also about the kind of justice system and moral identity the nation seeks to uphold.

#### Methodology

This study adopts a qualitative, doctrinal, and comparative research design. Its aim is not to generate statistical data but to provide a critical and contextually grounded analysis of capital punishment in Nigeria.

1. Research Approach: The doctrinal method was employed to examine primary legal sources—including Nigeria's Constitution, Penal Code, Criminal Code, and judicial decisions on capital offences. These were supplemented with international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on

Human and Peoples' Rights, both of which shape Nigeria's obligations.

2. Sources of Data: The study relied on both primary and secondary sources. Primary sources included statutory provisions, reported case law, and official government documents (e.g., records from the Nigerian Prisons Service).

Secondary sources included scholarly articles, books, NGO reports, and international human rights reports from bodies such as Amnesty International and Global Rights.

#### 3. Comparative Method

The comparative dimension is introduced to situate Nigeria's experience within global debates. Nigeria is contrasted with the United States, representing a major retentionist democracy; European states, representing abolitionist jurisdictions; and Retentionist countries in Africa and Asia, offering regional parallels. This triangulation allows for a nuanced understanding of how cultural, political, and institutional contexts shape death penalty practices.

#### 4. Analytical Strategy

Data were analyzed thematically. Key themes such as deterrence, retribution, human rights, and systemic flaws were identified across the literature and applied to Nigeria's context. The aim is not only to assess whether the death penalty deters crime but also to examine whether it aligns with Nigeria's constitutional values and international human rights commitments.

#### 5. Limitations

The study acknowledges two main limitations. First, it did not employ empirical fieldwork, such as interviews with death row inmates or judicial officers, which could have provided richer firsthand perspectives. Secondly, access to reliable government data on executions and death row populations in Nigeria remains limited, often requiring reliance on NGO reports. Despite these constraints, triangulation of sources ensured a balanced and credible analysis.

#### Findings and Discussion



The analysis revealed four central themes that shape the reality of capital punishment in Nigeria: (1) weak deterrence effect, (2) justice system inefficiencies, (3) human rights concerns, and (4) the paradox of political and cultural legitimacy.

### 1. Weak Deterrence Effect

Although Nigerian policymakers often defend the death penalty as a deterrent against violent crimes such as armed robbery and terrorism, evidence suggests otherwise. Crime rates remain quite high despite frequent death sentences (Oladipo, 2016; Adebayo, 2018). Interviews reported by Amnesty International (2016) reveal that many offenders act under conditions of poverty, unemployment, or political manipulation, where the fear of execution holds little sway. This finding aligns with Beccaria's (1764/1995) classic argument: certainty and swiftness of punishment, rather than severity, are more effective in preventing crime. The Nigerian experience confirms that when trials drag on for decades, deterrence collapses.

### 2. Justice System Inefficiencies

The administration of capital punishment in Nigeria is marked by systemic flaws. Trials for capital offences often last 10–15 years, during which defendants languish in pre-trial detention (Durotoye, 2019). Even after sentencing, executions are rarely carried out, resulting in an overcrowded death row population of over 3,000 inmates (Global Rights, 2023). This delay creates what scholars term the “death row phenomenon”—a form of psychological torture condemned under international law (Nwosu, 2017). The inefficiency not only undermines deterrence but also erodes public trust in the justice system, feeding a cycle of impunity and vigilante justice.

### 3. Human Rights Concerns

Nigeria's death penalty regime raises serious human rights issues. Wrongful convictions remain a real risk due to weak investigative practices, coerced confessions, and inadequate legal representation (Ibe, 2015). Death row conditions—overcrowding, poor sanitation, and lack of medical care—amount to inhuman and degrading treatment (Amnesty International,

2016). From a human rights perspective, the very existence of the death penalty is a violation of the right to life and dignity (United Nations, 2015). This tension places Nigeria at odds with its international commitments under the African Charter and ICCPR.

### 4. Political and Cultural Legitimacy

Despite these flaws, capital punishment retains political and cultural support in Nigeria. Religious interpretations, especially under Sharia law in the north, reinforce the view that the death penalty is divinely sanctioned for certain crimes (Rotimi, 2018; Idowu, 2014). Politically, State Governors often hesitate to sign death warrants due to human rights concerns, yet they avoid abolition to avoid appearing “soft on crime” (Obi, 2020). This paradox results in a contradictory system: death sentences are frequently pronounced, but executions are rare. As Soyinka (2019) argues, the outcome is neither justice nor mercy, but a penal system trapped in limbo.

### Synthesis of Findings

The findings collectively suggest that Nigeria's capital punishment system fails on both practical and moral grounds. Deterrence is undermined by delays and corruption; retributive justice is compromised by wrongful convictions and political manipulation; and human rights concerns challenge the legitimacy of executions altogether. Comparative insights show that Nigeria mirrors the inefficiencies of the U.S., diverges from Europe's abolitionist stance, and partially aligns with other retentionist states. Ultimately, Nigeria's justice system appears to rely on the death penalty more as a symbol of state authority than as an effective tool for reducing crime.

Despite statutory provisions and frequent death sentences, violent crimes such as armed robbery, kidnapping, and terrorism still persist at alarming levels. This underscores the fact that deterrence depends more on the efficiency of the country's justice system and socio-economic stability than on the severity of punishment.

Thus, while capital punishment in Nigeria may



serve symbolic and retributive purposes, its empirical effectiveness as a deterrent measure remains unproven and increasingly questionable.

The table below shows a cross tabulation of the frequency of major crimes committed in a section of this country by the youths, from Owerri Correctional Centre, Prison Inmate Register, (Monthly Major Crime and Local Act Returns, 2022-2024).

Official Crime Rate In Imo State 2022-2024

CRIME TYPE	FREQUENCY		
	2022	2023	2024
Armed robbery	46	37	47
Burglary	19	8	35
Murder	110	87	103
Attempted Murder	70	32	58
Assaults	110	142	97
Breach of Public Race	173	100	159
<b>Total</b>	<b>534</b>	<b>406</b>	<b>499</b>

Source: Owerri Correctional Centre, Prison inmate register, 2022-2024.

The above table showed the details of major crimes recorded by Owerri Correctional centre for the period 2022 to 2024. from the above table, it is observed that the percentage of capital crimes remained consistent between 38% to 42% of total annual crimes. This figure is relatively very high considering the fact that capital punishment is in force in Imo state. This record is a clear indication that capital punishment does not have any effective deterrent effect on capital crimes in the region under consideration.

Conclusion

This study set out to examine the practice of capital punishment in Nigeria, situating it within historical, theoretical, and comparative contexts. The analysis reveals that while the death penalty continues to occupy a central place in Nigeria’s penal code, its effectiveness as a tool of justice is deeply undermined by systemic flaws. Prolonged trials, wrongful convictions, and overcrowded prisons weaken deterrence, while political ambivalence over executions erodes consistency. From a human rights perspective, capital punishment in Nigeria sits uneasily with the country’s

international obligations and constitutional commitment to human dignity.

The comparative review reinforces these findings. Like the United States, Nigeria retains the death penalty but fails to demonstrate clear deterrence outcomes. Unlike Europe, where abolition is rooted in human rights values, Nigeria continues to cling to capital punishment despite overwhelming evidence of its inefficacy. Among African and Asian retentionist states, Nigeria occupies an ambiguous position—committed on paper to executions but hesitant in practice to carry them out.

Taken together, the evidence suggests that capital punishment in Nigeria functions more as a political and cultural symbol than as a credible instrument of justice. For the justice system to regain public trust, reforms are urgently required. Recommendations

Based on the findings, the following recommendations are offered

1. Strengthening Judicial Efficiency: Courts must accelerate the handling of capital cases. The ACJA 2015 should be fully domesticated and enforced across all 36 states of the federation and the Federal Capital Territory to reduce delays. Establishment of special panels for capital offences, similar to election tribunals, could ensure swifter adjudication and eventually reduce backlog.
2. Exploring Alternatives to Death Penalty: Nigeria should progressively adopt life imprisonment without parole as a substitute for capital punishment. This approach maintains retribution and protection of society while reducing the risks of wrongful convictions and aligning with evolving human rights norms.
3. Limiting Executive Discretion: The requirement that State Governors sign death warrants injects politics into justice administration. An independent Sentence Review Board, comprising judges, correctional officers, and human rights representatives, could provide more impartial oversight of executions and restore citizens’ confidence and trust in the country’s justice administration.
4. Policy Shift towards Moratorium: Following the example of Ghana and Sierra Leone, Nigeria



could declare a temporary moratorium on executions while retaining death sentences in law. This would balance domestic security concerns with growing international advocacy for abolition.

5. Human Rights Compliance: Nigeria should ensure that conditions on death row meet the UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules). This includes adequate medical care, access to legal representation, and an end to torture or degrading treatment in overcrowded prisons.

6. Transparency and Public Engagement: The judiciary and correctional service should publish annual reports on death penalty cases, including statistics on sentencing, appeals, commutations, and executions. Public access to this information would counter misinformation, promote accountability, and foster trust in the justice system.

7. Crime Prevention beyond Punishment: Finally, deterrence cannot rest on punishment alone. The Nigerian government must invest in community policing, intelligence-driven crime prevention, and socio-economic reforms aimed at tackling unemployment and poverty, which are major drivers of most violent crimes committed in this country.

## References

- Adebayo, T. (2018). Capital punishment and the crisis of deterrence in Nigeria. *Journal of African Legal Studies*, 12(3), 44–62.
- Afua, O. (2013). Death penalty practices in Nigeria: An empirical analysis. *Nigerian Journal of Criminology*, 5(2), 22–39.
- Akingbehin, E. (2012). Human rights implications of capital punishment in Nigeria. *Nigerian Law Review*, 8(2), 71–90.
- Amnesty International. (2016). *Nigeria: A death penalty crisis*. Amnesty International Publications.
- Amnesty International. (2022). *Death sentences and executions 2021*. Amnesty International Publications.
- Bassiouni, M. C. (2010). *The death penalty: International law and practice*. Cambridge University Press.
- Beccaria, C. (1764/1995). *On crimes and punishments* (R. Bellamy, Ed.). Cambridge University Press.
- Bentham, J. (1988). *The principles of morals and legislation*. Prometheus Books.
- Bohannon, P. (1967). *Law and warfare: Studies in the anthropology of conflict*. University of Texas Press.
- Bukola, O. (2020). The paradox of the death penalty in Nigeria: Between law and practice. *African Human Rights Law Journal*, 20(1), 201–219.
- Durotoye, A. (2019). Justice delayed, justice denied: Capital offences in Nigeria. *Journal of Criminal Justice in Africa*, 7(1), 89–110.
- Finkelstein, C. (2000). *Philosophy of law: Punishment and responsibility*. Oxford University Press.
- Global Rights. (2023). *State of human rights in Nigeria: Annual report 2022*. Global Rights Nigeria.
- Ibe, S. (2015). Death penalty and Nigeria's obligations under international law. *Nigerian Yearbook of International Law*, 14(2), 113–136.
- Idowu, A. (2014). Religion and the death penalty in Nigeria: Sharia and Christian perspectives. *Ilorin Journal of Religious Studies*, 4(2), 57–76.
- Igwe, U. (2019). Colonialism and the codification of capital punishment in Nigeria. *Journal of African History and Law*, 5(2), 33–52.
- Nwagwu, J. (2021). The legacy of the Native Court System in Nigeria. *African Legal Studies*, 15(3), 77–94.
- Nwosu, C. (2017). Death row phenomenon and the Nigerian justice system. *Journal of Human Rights Practice*, 9(1), 102–119.
- Obi, P. (2020). Executive pardons and the politics of justice in Nigeria. *African Journal of Criminology*, 11(2), 141–158.
- Oladipo, J. (2016). Capital punishment, crime rates, and deterrence in Nigeria: A socio-legal perspective. *African Journal of Law and Society*, 13(1), 25–40.
- Oluwabamide, A. (2003). Traditional justice and reconciliation in pre-colonial Nigeria. *Journal of African Studies*, 9(2), 211–226.
- Omoregbe, J. (2007). *Ethics: A systematic and historical study*. Joja Press.



Rotimi, K. (2018). Sharia law and capital punishment in Northern Nigeria: A human rights perspective. *African Journal of Islamic Studies*, 6(1), 88–104.

Soyinka, W. (2019). Justice and its discontents: Reflections on Nigeria's penal system.

*Nigerian Journal of Social Philosophy*, 4(1), 1–15.

United Nations. (2015). *The death penalty and human rights: Questions and answers*. Office of the High Commissioner for Human Rights.