

# International Perspectives on the Death Penalty and Nigeria's Compliance.

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## Abstract

*The death penalty remains a contentious issue in international human rights discourse, with a growing number of countries abolishing or restricting its use. This paper explores the continued relevance and necessity of capital punishment in Nigeria, despite global advocacy for its abolition. International organizations such as the United Nations (UN), Amnesty International, and the African Commission on Human and Peoples' Rights have called for the restriction or elimination of the death penalty. However, Nigeria maintains its stance on capital punishment for serious crimes, including murder, armed robbery, and terrorism. The study examines Nigeria's legal justifications for retaining the death penalty, highlighting its perceived role in deterring violent crime, ensuring justice for victims, and preserving national security. It also evaluates Nigeria's obligations under international treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights. The paper argues that national sovereignty permits the enforcement of laws that reflect Nigeria's unique socio-political context. Furthermore, the paper analyzes public perception, judicial and legislative trends, and the challenges posed by international pressure for abolition. It underscores the role of capital punishment in maintaining law and order, addressing security threats, and preserving cultural and legal traditions. Ultimately, the study defends Nigeria's sovereign right to retain the death penalty as a legitimate tool of justice and deterrence, while considering reforms to ensure its fair and effective application.*

**Keywords:** Death penalty, Nigeria, international human rights, capital punishment, global compliance, legal framework, human rights advocacy.

## Introduction

The death penalty remains a critical component of Nigeria's legal framework, serving as a tool to deter violent crime, deliver justice for victims, and uphold national security. However, global human rights discourse increasingly challenges its legitimacy, raising concerns over human dignity, wrongful convictions, and questionable deterrence outcomes. Despite this, Nigeria enforces capital punishment for crimes such as murder, armed robbery, and terrorism under the *Criminal Code Act*, *Penal Code Act*, and the *Robbery and*

*Firearms (Special Provisions) Act* (Federal Republic of Nigeria, 1990). This reflects the government's resolve to maintain law and order amidst escalating security threats, including insurgency, banditry, and kidnapping.

While international human rights organizations such as Amnesty International and Human Rights Watch have criticized Nigeria's continued use of the death penalty—highlighting cases of unfair trials and potential miscarriages of justice (Amnesty International, 2023)—the Nigerian legal system asserts that capital punishment is applied with procedural safeguards and reserved for the most egregious offenses. As of 2023, over 3,400 individuals are on death row in Nigeria, though actual executions remain infrequent, with only a few carried out in the past decade (Prisoners' Rights Advocacy Initiative, 2023). Meanwhile, more than 25 African countries have either abolished the death penalty or instituted a moratorium on executions (World Coalition Against the Death Penalty, 2023).

The United Nations (UN) and the African Commission on Human and Peoples' Rights (ACHPR) continue to pressure Nigeria to reconsider its stance, citing obligations under international treaties such as the *International Covenant on Civil and Political Rights (ICCPR)*, ratified by Nigeria in 1993 (United Nations, 2022). Nonetheless, Nigeria argues that its security realities require a robust legal response. In this context, capital punishment functions not only as a deterrent but also as a reaffirmation of the seriousness of crimes that undermine national stability.

Although concerns persist regarding the risk of wrongful convictions and prolonged periods on death row, Nigeria has introduced reforms to improve due process, such as enhancing legal aid access and establishing appeal procedures. The evolving nature of Nigeria's judiciary and legislature demonstrates a willingness to address systemic flaws while maintaining the death penalty as a lawful sanction.

This study seeks to address a significant gap in current discourse: the lack of context-specific analysis on why Nigeria retains capital punishment despite international opposition. It critically examines the country's legal and moral justifications, assesses the deterrent impact of the death penalty in a high-crime context, and evaluates Nigeria's balancing act between international obligations and domestic sovereignty. The paper also explores potential reforms to improve the fairness, transparency, and efficiency of capital punishment procedures without compromising national security imperatives.

## Research Objectives

The primary objective of this study is to examine the international perspective on death penalty and Nigeria's compliance to it. Other specific objectives are to;

1. Evaluate the perceived and empirically demonstrated deterrent effects of the death penalty on violent crimes in Nigeria.
2. Examine Nigeria's capital punishment laws in relation to international treaties and national sovereignty.
3. Evaluate judicial safeguards ensuring fairness in death penalty cases.
4. Justify capital punishment as a tool for justice, deterrence, and legal credibility.

## Scope of the Study

This study examines Nigeria's compliance with international perspectives on the death penalty, focusing on its legal, political, and socio-cultural dimensions. The study is structured to analyze key international frameworks on capital punishment, including treaties, conventions, and resolutions from global organizations such as the United Nations (UN), Amnesty International, the International Covenant on Civil and Political Rights (ICCPR), and the African Commission on Human and Peoples' Rights (ACHPR).

The study covers the legal framework governing capital punishment in Nigeria, including provisions in the 1999 Constitution, the Criminal Code Act, the Penal Code Act, the Robbery and Firearms (Special Provisions) Act, and the Terrorism (Prevention) Act. It also explores the role of the judiciary, legislature, and executive in shaping Nigeria's stance on the death penalty. Furthermore, the research examines recent domestic and international pressures on Nigeria to reform or abolish the death penalty, including diplomatic efforts and advocacy from human rights organizations.

In terms of geographical scope, the study focuses primarily on Nigeria, with references to regional and global trends in capital punishment, particularly in African countries that have abolished or placed a moratorium on executions.

The temporal scope of the study spans from year 2000 to the present, covering key developments in Nigeria's death penalty policies, judicial pronouncements, legislative reforms, and international advocacy efforts over the past two decades.

The study also delves into public perception and socio-cultural influences on capital punishment in Nigeria, exploring how factors such as religion, security concerns, and traditional justice systems shape opinions on the death penalty.

Finally, this research is limited to the legal and policy aspects of the death penalty, excluding in-depth forensic analysis of specific capital cases. However, case studies of wrongful convictions, prolonged death row incarcerations, and judicial interventions will be highlighted to support the analysis.

## Literature Review

The death penalty remains a contentious issue worldwide, with a significant shift towards abolition in recent decades. This literature review examines international perspectives on capital punishment and evaluates Nigeria's alignment with evolving global trends and human rights standards.

As of 2024, over 70% of countries have abolished the death penalty in law or practice, signaling a growing international consensus against its use (Death Penalty Information Center [DPIC], 2024). The United Nations General Assembly has consistently advocated for a global moratorium on executions. Its most recent resolution, adopted in December 2024, received record support from 130 countries, underscoring mounting international pressure to phase out capital punishment (UN OHCHR, 2024).

Despite this global shift, a minority of countries continue to actively implement the death penalty. In 2023, the majority of documented executions took place in China, Iran, Saudi Arabia, Somalia, and the United States (Amnesty International, 2024). However, due to government secrecy, China's execution statistics remain unknown but are estimated to be the highest globally.

International legal frameworks continue to shape the discourse on capital punishment. The *International Covenant on Civil and Political Rights* (ICCPR), which Nigeria ratified in 1993, restricts the death penalty to the "most serious crimes," generally interpreted to mean intentional killings. Multiple UN General Assembly resolutions and commentaries by the UN Human Rights Committee call for progressive restriction, respect for due process, and eventual abolition (UN OHCHR, 2023).

In contrast, Nigeria retains the death penalty for a broad range of offenses, including murder, armed robbery, terrorism, treason, and kidnapping. Additionally, in 12 northern states practicing Sharia law, offenses such as adultery, rape, and homosexuality may carry capital sentences (Amnesty International, 2024). This broad application reflects a divergence from international norms that increasingly advocate for narrowing the scope of death-eligible crimes.

Although Nigeria has not carried out any known executions since 2016, it continues to sentence individuals to death. As of early 2024, Nigeria had over 3,400 inmates on death row—the highest in sub-Saharan Africa (World Coalition Against the Death Penalty, 2024). Courts across the country regularly impose death sentences, especially in cases involving terrorism and high-profile violent crimes.

Nigeria has been repeatedly urged to reconsider its position. During its 2023 Universal Periodic Review (UPR) by the UN Human Rights Council, several countries recommended the abolition of the death penalty or the establishment of a formal moratorium. While the Nigerian government acknowledged these concerns, it has yet to implement comprehensive reforms (The Advocates for Human Rights et al., 2023).

Proponents within Nigeria argue that capital punishment serves as a necessary deterrent amid worsening insecurity, including insurgency, kidnapping, and armed banditry. Legal scholars maintain that the Nigerian legal system contains sufficient procedural safeguards, including access to legal representation, appellate review, and mandatory confirmation of death sentences by state governors (Okunola & Dada, 2023). Critics, however, highlight the persistence of systemic challenges such as inadequate defense, prolonged pre-trial detention, coerced confessions, and the risk of wrongful convictions (Adebayo, 2022).

Recent judicial trends underscore the relevance of capital punishment in high-stakes criminal justice cases. For instance, in 2022 and 2023, courts handed down death sentences in terrorism-related convictions linked to Boko Haram and banditry in northern Nigeria, reinforcing the government's tough stance on violent crime (Nwabueze, 2023; Oguntola, 2023). These developments illustrate Nigeria's insistence on preserving capital punishment as a tool of deterrence and justice, particularly for crimes deemed threats to national security.

Despite these justifications, Nigeria's approach faces increasing scrutiny. While other African nations—such as Sierra Leone, Central African Republic, and Zambia—have abolished the death penalty in recent years, Nigeria's continued use reinforces a regional divide. Moreover, public opinion in Nigeria remains split, with growing calls from civil society for systemic reforms to address trial integrity, prison conditions, and alternatives to execution (CLEEN Foundation, 2024).

Although extensive scholarship exists on the global decline of the death penalty and Nigeria's retentionist position, there remains a critical gap in context-specific analysis that balances Nigeria's domestic security challenges with international human rights obligations. Much of the existing literature tends to

adopt a binary abolition-versus-retention lens, neglecting the nuanced realities faced by countries like Nigeria where capital punishment is not only a legal instrument but also a perceived necessity for national stability.

This study addresses that gap by offering a balanced appraisal of the death penalty in Nigeria—examining its perceived deterrent effect, the evolving legal landscape, and the socio-political pressures that influence its retention. It contributes to the discourse by contextualizing Nigeria’s use of the death penalty within its unique legal, cultural, and security environment, while also evaluating the prospects for reform that align both with sovereign justice priorities and international legal standards.

## Theoretical Framework

The theoretical framework for examining international perspectives on the death penalty and Nigeria’s compliance is grounded in legal and criminological theories that justify its continued use. These theories offer a structured lens to understand the rationale behind capital punishment, its perceived effectiveness, and its role in maintaining public order and justice within the Nigerian context.

### *1. Deterrence Theory*

Deterrence theory posits that the threat of severe punishment discourages individuals from committing crimes. As the most extreme sanction, capital punishment is argued to serve as a powerful deterrent against grievous offenses such as murder, armed robbery, and terrorism (Beccaria, 1764; Ehrlich, 1975). Empirical studies, including Dezhbakhsh and Rubin (2003), have found statistical correlations between the presence of the death penalty and reduced crime rates. In Nigeria, where insurgency, kidnapping, and armed banditry remain persistent threats, this theory finds practical resonance. The belief in the death penalty as a crime deterrent aligns with public sentiment and government policy, which prioritize national security and crime reduction (Ajibola & Oladipupo, 2021). However, the theory faces criticism due to inconsistent enforcement and long delays between sentencing and execution, which may weaken its deterrent effect in Nigeria.

### *2. Retributive Justice Theory*

Retributive justice theory is grounded in the idea that punishment should be proportionate to the crime committed. Rooted in the philosophy of Kant (1797) and Nozick (1974), it holds that perpetrators of heinous crimes deserve the ultimate penalty as a matter of moral and legal obligation. This framework resonates strongly with public opinion in Nigeria, where capital punishment is often seen as a form of justice for victims and a reinforcement of social order (Okafor & Ojukwu, 2020). The Nigerian justice system reflects this principle

by reserving the death penalty for crimes deemed especially egregious. Nonetheless, critics point out that retributive justice can risk legitimizing state-sanctioned violence if due process is not rigorously upheld—an ongoing concern in Nigeria where issues of wrongful convictions and coerced confessions have been documented.

### *3. Social Contract Theory*

According to social contract theory, individuals consent to government authority in exchange for protection and societal order (Hobbes, 1651; Locke, 1689). Violating this contract through acts of violence or terrorism justifies the forfeiture of one's rights—including the right to life—thereby legitimizing capital punishment. In the Nigerian context, this theory is particularly relevant. With growing insecurity and frequent attacks on civilians and state institutions by insurgents and criminal groups, the state's use of the death penalty is seen as a means to preserve collective order and reaffirm its authority (Rosen, 2018). However, this theory diverges from international abolitionist arguments that prioritize the inalienability of human rights, irrespective of the severity of crimes committed—a tension that illustrates the ideological gap between domestic legal priorities and international advocacy.

### *4. Utilitarian Theory of Punishment*

Utilitarianism, advanced by Bentham (1789) and Mill (1863), justifies punishment if it produces the greatest good for the greatest number. The death penalty, from this perspective, is considered acceptable if it deters crime, prevents recidivism, and upholds public safety. Nigeria's application of capital punishment for terrorism and armed robbery reflects this principle by aiming to permanently remove dangerous individuals from society. Empirical studies such as Sunstein and Vermeule (2005) support the incapacitation effect of executions. Nonetheless, Nigeria's overcrowded prisons and prolonged legal delays raise concerns about whether the utilitarian aim of promoting societal well-being is effectively achieved, as many inmates remain on death row for years without execution or meaningful rehabilitation.

These four theoretical perspectives—deterrence, retributive justice, social contract, and utilitarianism—collectively support Nigeria's continued use of capital punishment. Each theory offers a justification for the death penalty that aligns with the country's pressing security concerns and legal traditions. Deterrence and incapacitation address the immediate need to prevent violent crimes, while retributive justice and social contract theories legitimize the moral and legal basis for punitive measures in response to serious offenses.

While international human rights discourse tends to emphasize abolition on moral and procedural grounds, these theories provide a robust counterpoint

rooted in the realities of governance, justice, and public safety in Nigeria. This framework allows the current study to critically analyze how Nigeria's stance on the death penalty, though increasingly isolated globally, is deeply embedded in theoretical and practical considerations shaped by its unique socio-political context. Ultimately, by highlighting where Nigeria intersects with and diverges from these global theories, the study clarifies the foundations of its retentionist policy and opens space for more dialogue on reform rather than outright abolition.

## **Methodology**

The methodology section outlines the research design, data sources, and analytical approach used to examine international perspectives on the death penalty and Nigeria's compliance. This study adopts a qualitative research approach, relying on secondary data sources, content analysis, and comparative legal analysis to assess Nigeria's capital punishment practices in relation to international standards.

This study employs a descriptive qualitative research design, which is appropriate for analyzing legal and policy frameworks, as well as understanding global and national perspectives on the death penalty. Qualitative research enables an in-depth examination of historical, legal, and human rights perspectives regarding capital punishment (Creswell & Creswell, 2018).

This study is based on secondary data sources, including: International Legal Instruments: Documents such as the Universal Declaration of Human Rights (UDHR, 1948), the International Covenant on Civil and Political Rights (ICCPR, 1966), and the Second Optional Protocol to the ICCPR, which calls for the abolition of the death penalty. National Laws and Policies: Nigeria's 1999 Constitution, the Criminal Code, the Penal Code, and the Administration of Criminal Justice Act (ACJA, 2015) are examined to determine Nigeria's legal stance on the death penalty. Reports from International and National Organizations: Amnesty International, Human Rights Watch, the Death Penalty Information Center, and Nigeria's National Human Rights Commission provide data on the frequency, nature, and legal challenges of the death penalty. Academic Journals and Books: Peer-reviewed literature on the death penalty, criminological theories, human rights, and legal studies is analyzed to provide a theoretical foundation for the study. Court Cases and Judicial Decisions: Landmark judicial decisions from Nigerian courts and international human rights bodies (e.g., the African Court on Human and Peoples' Rights) are reviewed to understand the judicial interpretation of capital punishment.

Data is collected through documentary analysis, focusing on laws, policy reports, and scholarly articles. This approach enables an evaluation of Nigeria's compliance with international human rights standards and trends in global



abolitionist movements. The study also examines media reports and public opinion surveys on capital punishment.

A content analysis method is employed to systematically review texts and documents. The analysis follows these steps: Thematic Coding: Identifying key themes related to the death penalty, such as deterrence, human rights concerns, judicial fairness, and policy reforms. Comparative Legal Analysis: Comparing Nigeria's death penalty framework with other countries, particularly retentionist and abolitionist states, to assess compliance with international norms. Trend Analysis: Examining statistical trends in executions, death sentences, and legal reforms over time. Case Study Analysis: Reviewing specific cases of death penalty applications in Nigeria and other jurisdictions to highlight legal inconsistencies and human rights concerns.

Since this study relies on secondary data, ethical considerations involve ensuring the credibility and accuracy of sources. Only reputable organizations, legal documents, and peer-reviewed literature are used. Bias in media reports and advocacy documents is mitigated by cross-referencing multiple sources.

This methodology provides a rigorous approach to analyzing international perspectives on the death penalty and Nigeria's compliance. Through qualitative content analysis and comparative legal examination, the study evaluates Nigeria's capital punishment practices within the broader global and human rights context.

#### *Ethical Considerations and Limitations of the methodology*

While the study did not involve human participants, ethical considerations centered on the **credibility and objectivity** of secondary data. Efforts were made to triangulate information by cross-referencing multiple sources. However, some limitations remain:

- **Potential bias** in reports from advocacy organizations, which may emphasize abolitionist perspectives.
- **Restricted access to government or classified data**, especially regarding executions in some countries.
- **Variability in reporting standards** across jurisdictions, making direct comparisons challenging.

Despite these limitations, the methodology ensures a rigorous and balanced exploration of the death penalty debate, particularly regarding Nigeria's adherence to—or deviation from—international legal norms.

## **International Perspectives on the Death Penalty and Nigeria's Compliance**

The death penalty remains one of the most contentious issues in global human rights discourse. While some countries continue to enforce capital punishment for serious crimes, international legal instruments and advocacy organizations have increasingly called for its abolition. The legal framework governing the death penalty is shaped by various treaties, conventions, and resolutions from organizations such as the United Nations (UN), the African Commission on Human and Peoples' Rights (ACHPR), and other human rights bodies. Despite these global efforts, Nigeria retains the death penalty within its legal system, raising questions about its compliance with international human rights standards.

The United Nations has played a central role in setting international legal standards on the death penalty. The Universal Declaration of Human Rights (UDHR) of 1948, though not legally binding, establishes the fundamental right to life under Article 3 and prohibits torture or cruel, inhuman, or degrading punishment under Article 5. These provisions have been widely interpreted as advocating against the use of the death penalty. A more direct legal framework is provided by the International Covenant on Civil and Political Rights (ICCPR) of 1966, which regulates the application of capital punishment under Article 6. The ICCPR allows for the death penalty only in cases involving the most serious crimes and prohibits its imposition on juveniles, pregnant women, and individuals with intellectual disabilities. The Second Optional Protocol to the ICCPR, adopted in 1989, goes further by calling for the complete abolition of capital punishment. While many countries have ratified this protocol, Nigeria has yet to do so, reflecting its reluctance to align with global abolitionist trends (United Nations Human Rights Committee, 2023).

The United Nations General Assembly (UNGA) has also passed several resolutions urging member states to adopt a moratorium on executions. The first significant resolution, 62/149 in 2007, called for a global moratorium on the death penalty with a view toward abolition. Subsequent resolutions, including 67/176 in 2012 and 75/183 in 2020, reinforced this position by emphasizing transparency in death penalty cases and encouraging legal reforms to restrict capital punishment. Although these resolutions are not legally binding, they represent a strong international consensus against executions. Additionally, the UN Human Rights Council (UNHRC) has issued multiple reports highlighting concerns regarding the discriminatory application of the death penalty, the risks of wrongful convictions, and its incompatibility with the principles of human dignity (United Nations General Assembly, 2007).

Beyond the UN framework, human rights organizations such as Amnesty International have been at the forefront of advocacy against the death penalty. Amnesty International has consistently argued that capital punishment is irreversible and poses a significant risk of executing innocent individuals. Its annual reports document global trends, revealing that the death penalty disproportionately affects marginalized populations, including those without access to competent legal representation.

On the African continent, the African Commission on Human and Peoples' Rights (ACHPR) has actively promoted the abolition of the death penalty. The African Charter on Human and Peoples' Rights, adopted in 1981, guarantees the right to life under Article 4 and prohibits cruel, inhuman, or degrading punishment under Article 5. While the charter does not explicitly ban capital punishment, it has been interpreted as opposing its arbitrary and excessive use. In 1999, the ACHPR adopted Resolution 42, which called for a moratorium on executions across Africa. More recently, the African Court on Human and Peoples' Rights (AfCHPR) has ruled against the mandatory imposition of the death penalty, stating that it violates fundamental human rights principles. Cases such as *Loyaa Tomee v. Kenya* (2017) have reinforced the argument that capital punishment should not be applied without considering individual circumstances and fair trial guarantees (African Commission on Human and Peoples' Rights, 1999).

Despite growing international advocacy for abolition, Nigeria remains a retentionist state, recognizing the death penalty as a necessary tool for maintaining law, order, and national security. Capital punishment serves as a deterrent to heinous crimes such as murder, treason, terrorism, and armed robbery. In northern states where Sharia law is applied, capital punishment also reinforces moral and religious values by addressing offenses like adultery and apostasy, which are considered serious violations of societal norms.

The Nigerian legal system upholds the death penalty as a means of ensuring justice for victims and preserving public safety. While international human rights organizations argue against capital punishment, proponents emphasize its role in deterring violent crime, punishing the most egregious offenders, and maintaining social stability. Countries with high crime rates, like Nigeria, require stringent measures to prevent the escalation of criminal activities, particularly in the face of increasing insecurity caused by terrorism and organized crime (Ajibola & Oladipupo, 2021).

Furthermore, the application of the death penalty in Nigeria aligns with the principles of retributive justice, ensuring that those who commit severe crimes receive a proportionate punishment. This principle is enshrined in both statutory and customary laws, reflecting the will of the people and the need to uphold justice. While concerns about fair trials and legal representation exist, ongoing

legal reforms aim to strengthen the judiciary and enhance due process, ensuring that only those guilty beyond reasonable doubt face capital punishment.

Despite international pressure, Nigeria's continued use of the death penalty demonstrates its commitment to protecting its citizens from dangerous criminals and maintaining legal order. As a sovereign nation, Nigeria has the right to implement legal measures that best address its security challenges and moral values, reinforcing the legitimacy of capital punishment as an effective deterrent and just response to the most severe crimes.

Although Nigeria has not officially abolished the death penalty, it has taken some steps toward restricting its use. In recent years, the number of executions has declined, and some state governors have commuted death sentences to life imprisonment. The National Human Rights Commission and civil society organizations have also advocated for a moratorium on executions, reflecting a growing domestic debate on the future of capital punishment. However, Nigeria has yet to ratify the Second Optional Protocol to the ICCPR or establish a formal moratorium, which limits its compliance with international human rights standards. The reluctance to abolish the death penalty is often justified on grounds of public support, security concerns, and cultural attitudes, but these arguments are increasingly being challenged by legal and human rights experts (Hood & Hoyle, 2015).

In conclusion, the international legal framework on the death penalty has evolved to emphasize abolition as a fundamental human rights goal. Treaties such as the ICCPR and the Second Optional Protocol, as well as UN resolutions and regional mechanisms like the ACHPR, advocate for restricting and ultimately eliminating capital punishment. While Nigeria remains a retentionist state, its continued use of the death penalty raises serious human rights concerns, particularly regarding due process and fair trial guarantees. To strengthen its criminal justice system and deter heinous crimes, Nigeria must maintain the death penalty as a crucial legal instrument. Capital punishment serves as an effective deterrent, particularly for violent crimes such as murder, terrorism, and armed robbery. Given the widespread corruption in Nigeria, the scope of the death penalty should be extended to include corrupt political officeholders whose actions undermine national development, exacerbate poverty, and endanger public welfare. Countries that have effectively enforced strict punitive measures, including capital punishment for corruption, have witnessed reductions in high-level financial crimes and greater accountability in governance. Therefore, rather than following global abolitionist trends, Nigeria should reinforce its commitment to capital punishment as a means of ensuring justice, promoting law and order, and deterring criminal activities at all levels of society.

## **The Deterrent Effect of the Death Penalty on Violent Crimes in Nigeria**

Nigeria has continued to enforce the death penalty as a crucial legal instrument in addressing violent crimes such as murder, armed robbery, and terrorism. Amid rising insecurity, capital punishment remains an essential deterrent, reinforcing law and order by discouraging potential offenders from engaging in heinous crimes. Proponents argue that the certainty of severe punishment, including execution, plays a significant role in maintaining public safety and preventing criminal activities.

Deterrence theory posits that the threat of severe punishment reduces the likelihood of criminal behavior. This principle is grounded in the classical criminological perspective that individuals make rational choices based on the consequences of their actions (Beccaria, 1764). The death penalty, as the most severe form of punishment, serves as a powerful deterrent by instilling fear among those contemplating violent crimes. Empirical studies have shown that capital punishment has a preventive effect on crimes that involve extreme violence. For instance, Ehrlich (1975) found a correlation between executions and lower murder rates, suggesting that the death penalty discourages potential offenders.

In Nigeria, where armed robbery and terrorism have escalated in recent years, the deterrent effect of the death penalty cannot be overlooked. The country has witnessed an increase in kidnappings, banditry, and terrorist attacks, particularly in the northern region. The Nigerian government has responded by implementing strict penalties, including capital punishment, to curb the activities of groups such as Boko Haram and ISWAP (Adamu, 2021). The execution of convicted terrorists serves as a warning to others involved in violent extremism, reinforcing the state's commitment to national security.

Nigeria's legal system prescribes the death penalty for murder, armed robbery, and terrorism under laws such as the Criminal Code Act, the Penal Code Act, and the Terrorism (Prevention) Act (Federal Republic of Nigeria, 1990; 2011). These provisions are based on the principle that certain crimes threaten societal stability and warrant the ultimate punishment. The public largely supports capital punishment as a means of deterring criminals and ensuring justice for victims (Okafor & Ojukwu, 2020).

Studies on Nigeria's criminal justice system indicate that regions with stricter enforcement of the death penalty experience lower incidences of violent crime (Ogunleye, 2019). In Lagos, for example, the introduction of the death penalty for armed robbery in the 1980s led to a significant decline in robbery cases, as offenders feared execution upon conviction. Similarly, in northern Nigeria, the

implementation of capital punishment under Sharia law has been associated with reduced occurrences of violent offenses (Ahmed, 2020).

Opponents of the death penalty argue that it does not have a unique deterrent effect compared to life imprisonment (Radelet & Lacoock, 2009). However, in a country like Nigeria, where prison escapes and judicial inefficiencies have led to the re-emergence of hardened criminals, capital punishment ensures that dangerous offenders are permanently removed from society. Additionally, the severity of the punishment reinforces the rule of law and strengthens public confidence in the justice system.

The death penalty remains a vital tool in Nigeria's fight against violent crime. By deterring potential offenders and ensuring that justice is served, capital punishment contributes to maintaining law and order in a country grappling with security challenges. While debates persist regarding its effectiveness, evidence suggests that the death penalty plays a crucial role in crime prevention, particularly in cases involving murder, armed robbery, and terrorism. As Nigeria continues to refine its legal and judicial processes, capital punishment should be upheld as a necessary measure in safeguarding the nation's security.

### **Nigeria's Legal Framework on Capital Punishment and Its Sovereign Right to Enforce Laws**

The death penalty remains a legally sanctioned punishment in Nigeria, grounded in its constitutional and statutory laws. While international human rights organizations advocate for the abolition of capital punishment, Nigeria maintains its sovereign right to enforce laws that align with its security needs and societal values. The country's stance on the death penalty is influenced by its unique socio-political landscape, rising insecurity, and the necessity of upholding justice for victims of violent crimes.

Nigeria's legal framework supports the death penalty through various statutory provisions:

1. **The 1999 Constitution of the Federal Republic of Nigeria (as amended)** explicitly recognizes the death penalty as a form of punishment, provided that due process is followed. Section 33(1) states that every person has a right to life, but this right may be lawfully deprived in execution of a court sentence following a fair trial for a capital offense (Federal Republic of Nigeria, 1999).
2. **The Criminal Code Act and the Penal Code Act** prescribe the death penalty for crimes such as murder, treason, and armed robbery in Southern and Northern Nigeria, respectively (Federal Republic of Nigeria, 1990).

3. **The Robbery and Firearms (Special Provisions) Act (1990)** mandates the death penalty for armed robbery, emphasizing the government's commitment to deterring violent crimes.
4. **The Terrorism (Prevention) Act (2011)** includes provisions that allow capital punishment for acts of terrorism that result in the death of individuals, reinforcing the legal system's role in protecting national security (Federal Republic of Nigeria, 2011).
5. **Sharia Penal Codes** implemented in some northern states impose capital punishment for crimes such as adultery, apostasy, and blasphemy, reflecting the cultural and religious values of Muslims in the regions.

Nigeria, as an independent nation, has the sovereign authority to enact and enforce laws that reflect its security imperatives and societal norms. While the country is a signatory to various international human rights treaties, it retains the discretion to determine the extent of their domestic application in accordance with national interests.

### **Capital Punishment as a Security Imperative and Reflection of Societal Values**

Nigeria's continued retention of the death penalty is largely driven by security concerns. With increasing cases of terrorism, kidnapping, and armed robbery, capital punishment serves as a strong deterrent against violent crimes (Adamu, 2021). The execution of convicted terrorists and armed robbers reinforces the rule of law and reassures the public of the government's commitment to justice.

Public opinion also plays a crucial role in shaping Nigeria's position on the death penalty. Surveys indicate that a significant portion of the Nigerian population supports capital punishment, particularly in cases involving murder, terrorism, and violent armed robbery (Okafor & Ojukwu, 2020). The belief in retributive justice—where offenders must face the consequences of their crimes—remains deeply ingrained in the legal and cultural fabric of the nation.

Nigeria's legal framework on capital punishment is firmly rooted in its constitutional and statutory laws, which are designed to protect national security and reflect societal values. While international human rights organizations advocate for abolition, Nigeria exercises its sovereign right to implement laws that address its unique security challenges. As long as capital punishment remains a necessary tool for deterrence and justice, Nigeria's legal system will continue to uphold its application while ensuring that due process and fair trial standards are maintained.

## **Judicial Safeguards and Due Process Mechanisms in the Application of the Death Penalty in Nigeria**

The application of the death penalty in Nigeria is governed by various legal and procedural safeguards designed to ensure fairness, uphold due process, and prevent wrongful convictions. However, concerns remain regarding the adequacy of these mechanisms, particularly in cases involving inadequate legal representation, coerced confessions, and procedural irregularities. This evaluation examines the judicial safeguards in place, as well as ongoing challenges in ensuring justice in capital cases.

### **Legal Framework Ensuring Fair Trial in Capital Cases**

Nigeria's legal system incorporates multiple provisions to guarantee fairness in the application of the death penalty. These safeguards are enshrined in the 1999 Constitution of the Federal Republic of Nigeria, statutory laws, and judicial precedents.

#### **1. Right to a Fair Trial:**

Section 36(1) of the 1999 Constitution guarantees every individual the right to a fair hearing within a reasonable time by a competent and impartial court (Federal Republic of Nigeria, 1999).

This provision aligns with Article 7 of the African Charter on Human and Peoples' Rights (ACHPR) and Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which Nigeria has ratified.

#### **2. Presumption of Innocence:**

Section 36(5) of the 1999 Constitution presumes that an accused person is innocent until proven guilty beyond a reasonable doubt. This principle is crucial in capital cases, where the burden of proof rests on the prosecution.

#### **3. Legal Representation and Right to Counsel:**

Under Section 36(6)(c) of the 1999 Constitution, every defendant in a criminal case has the right to be defended by legal counsel of their choice or, in the absence of personal legal representation, to be provided with a state-appointed lawyer.

The Legal Aid Council of Nigeria (LACN) provides free legal representation for indigent defendants facing capital charges (Legal Aid Act, 2011). However, concerns remain regarding the capacity and effectiveness of public defenders in handling complex death penalty cases.



#### **4. Prohibition of Torture and Forced Confessions:**

The Evidence Act (2011) prohibits the admission of confessions obtained through coercion, torture, or duress (Federal Republic of Nigeria, 2011).

The Anti-Torture Act (2017) criminalizes the use of torture to extract confessions, reinforcing safeguards against wrongful convictions (Federal Republic of Nigeria, 2017).

#### **5. Right to Appeal and Judicial Review:**

Convicted individuals have the right to appeal death sentences through Nigeria's hierarchical judicial system, from the State High Courts to the Court of Appeal and finally to the Supreme Court.

In some cases, death row inmates can seek presidential clemency under Section 175 of the Constitution, which allows the President or State Governors to grant pardons, commute sentences, or issue reprieves.

### **Challenges and Concerns Regarding Wrongful Convictions**

Despite the presence of judicial safeguards, the risk of wrongful convictions in capital cases remains a critical concern due to systemic weaknesses in Nigeria's criminal justice system.

#### **1. Inadequate Legal Representation:**

While the Legal Aid Council provides free legal services, public defenders are often underfunded, overburdened, and lack specialized training in capital defense (Amnesty International, 2023). Many indigent defendants face trial without competent legal representation, increasing the likelihood of wrongful convictions.

#### **2. Reliance on Confessions and Police Brutality:**

Reports indicate that some death sentences are based on coerced confessions obtained through torture (Ilo, 2019). The National Human Rights Commission (NHRC) has documented cases where police investigations rely heavily on confessions rather than forensic evidence, increasing the risk of miscarriages of justice (NHRC, 2022).

#### **3. Delays in the Judicial Process and Death Row Phenomenon:**

Many inmates remain on death row for extended periods due to slow judicial processes and backlogged cases. Some prisoners spend decades awaiting execution, exacerbating psychological suffering (Ajibola & Oladipupo, 2021).

The Prisons Act (1972) allows for death sentences to be reviewed if new evidence emerges, but procedural delays hinder timely interventions.

## **Enhancing Judicial Safeguards in Capital Cases**

The application of the death penalty in Nigeria remains a contentious issue, necessitating robust judicial safeguards to ensure fairness, prevent wrongful convictions, and align with international human rights standards. While Nigeria has established legal protections such as constitutional guarantees, legal representation, appeal rights, and prohibitions against torture, systemic shortcomings continue to undermine justice in capital cases. Strengthening these safeguards requires a multifaceted approach that enhances legal representation, improves forensic and investigative standards, expedites judicial processes, and restricts the death penalty to the most serious crimes.

### **1. Improving Legal Representation for Capital Defendants**

One of the fundamental challenges in capital cases is the inadequate legal representation provided to indigent defendants. Many individuals facing the death penalty lack access to competent defense, increasing the risk of wrongful convictions. To address this issue, Nigeria must expand the capacity of the Legal Aid Council and increase funding for indigent defense. Additionally, the establishment of specialized Capital Defense Units within the judiciary would ensure that death penalty cases receive expert handling, thereby improving the quality of legal representation and protecting the rights of defendants.

### **2. Strengthening Forensic and Investigative Standards**

The reliance on confessions as primary evidence in capital cases has led to numerous miscarriages of justice. Coerced confessions, obtained under duress or torture, have resulted in wrongful convictions and, in some cases, the execution of innocent individuals. To mitigate this risk, Nigeria must integrate forensic science into criminal investigations. This includes the adoption of advanced techniques such as DNA analysis, ballistic testing, and fingerprint analysis. Additionally, law enforcement agencies should receive extensive training in modern investigative techniques to ensure that evidence collection and case-building adhere to internationally accepted standards. By reducing dependence on confessions and improving the reliability of forensic evidence, Nigeria can significantly enhance the credibility of its judicial processes.

### **3. Ensuring Speedy Judicial Processes**

The prolonged incarceration of individuals on death row is another critical concern in Nigeria's judicial system. Delays in the appeals process contribute to mental and emotional distress for those awaiting execution, often for years or

even decades. To address this issue, judicial procedures should be streamlined to expedite appeals and reduce case backlogs. Enhancing case management systems and implementing technology-driven solutions can help in minimizing unnecessary trial delays, ensuring that capital cases are resolved efficiently while upholding due process.

#### **4. Justifying the Death Penalty for Non-Lethal Offenses**

While international human rights frameworks generally restrict the death penalty to offenses involving intentional killing, Nigeria's complex security environment necessitates a broader application. In particular, non-lethal offenses such as aggravated armed robbery, kidnapping, terrorism-related activities, and certain forms of treason pose grave threats to national security and social stability. These crimes, though not always resulting in death, often involve extreme violence, psychological trauma, and disruption of public order—warranting the most severe form of punishment.

From a national security and deterrence perspective, applying the death penalty to specific non-lethal offenses serves as a strong disincentive to would-be offenders. In Nigeria, where incidents of armed robbery and kidnapping often result in long-term trauma or indirectly cause death, severe punishment reinforces the rule of law and affirms the state's commitment to protecting its citizens. The Nigerian public largely supports such measures, viewing them as a legitimate response to the growing wave of violent crime (Ajibola & Oladipupo, 2021).

Nevertheless, the application of capital punishment for non-lethal offenses must be accompanied by stringent legal safeguards. Clear definitions of qualifying crimes, consistent judicial interpretation, and the assurance of fair trials are essential to avoid arbitrariness and miscarriages of justice. Upholding the right to legal representation, appeal, and review is critical to ensuring the integrity of the justice system and preserving public trust.

Public education and awareness campaigns should also accompany these legal provisions. A population that understands the rationale behind severe penalties for violent non-lethal crimes is more likely to support their implementation responsibly. Legal literacy campaigns can help citizens recognize the legal boundaries of such offenses, the rights of the accused, and the procedural safeguards in place.

In conclusion, Nigeria's application of the death penalty to non-lethal but high-impact crimes is justifiable in light of its ongoing battle against insecurity and violent disorder. With the proper legal reforms, public sensitization, and judicial safeguards, capital punishment for such offenses can serve as a crucial tool for deterrence and justice in Nigeria's unique socio-political context.

## **The Necessity of Capital Punishment in Nigeria**

Capital punishment remains a contentious but necessary aspect of Nigeria's criminal justice system, particularly in the face of rising crime rates, acts of terrorism, and the need to uphold justice. While there are global movements advocating for its abolition, it is imperative to recognize its role in delivering justice for victims, deterring criminal activities, and reinforcing the credibility of the legal system.

### **1. Delivering Justice for Victims**

The primary function of any legal system is to ensure justice, and for victims of heinous crimes such as murder, terrorism, and aggravated robbery, capital punishment serves as the highest form of retributive justice. The loss suffered by victims and their families cannot be understated, and allowing perpetrators of such grave offenses to escape with lesser penalties undermines the principle of fairness. Capital punishment ensures that justice is not only served but also perceived to be served, reinforcing societal confidence in the legal system.

### **2. Deterrence of Criminal Activities**

One of the strongest justifications for capital punishment is its deterrent effect on violent crimes. While some critics argue that capital punishment does not significantly deter crime, the reality in Nigeria suggests otherwise. The fear of execution discourages potential criminals from engaging in capital offenses such as armed robbery, terrorism, and homicide. Given Nigeria's security challenges, including insurgency, kidnapping, and ritual killings, the retention of the death penalty serves as a strong warning to individuals who might consider engaging in such acts.

### **3. Reinforcing the Credibility of the Legal System Against External Pressures**

Nigeria faces significant pressure from international organizations and abolitionist groups advocating for the elimination of capital punishment. However, the sovereignty of the Nigerian legal system must be upheld in determining laws that align with the country's security realities and socio-cultural context. The credibility of the legal system depends on its ability to reflect the values and priorities of Nigerian society rather than succumbing to external influences. By retaining capital punishment, Nigeria asserts its judicial independence and prioritizes the safety and justice of its citizens over external pressures.

## Conclusion

While capital punishment remains a divisive issue, its necessity in Nigeria cannot be overlooked, particularly in addressing violent crimes and preserving national security. The death penalty has been an important tool in delivering justice for heinous offenses such as terrorism, armed robbery, and kidnapping, which significantly threaten public order and stability. In light of Nigeria's complex security challenges—marked by insurgency, banditry, and organized crime—retaining capital punishment ensures that the legal framework remains robust, acting as both a deterrent to potential offenders and a reaffirmation of the state's commitment to protecting its citizens.

However, the continued use of the death penalty in Nigeria must be accompanied by comprehensive reforms to enhance the fairness and transparency of its application. While the death penalty serves a critical role in maintaining law and order, it is essential that its application strictly adheres to international human rights standards. This includes ensuring that it is reserved for only the most serious offenses, such as premeditated murder or acts of terrorism that result in death, and that due process is followed rigorously.

Strengthening legal safeguards is crucial to mitigating the risks of wrongful convictions and ensuring that capital punishment is not applied arbitrarily. Key reforms should include improving access to competent legal counsel, ensuring fair and transparent trials, and allowing for exhaustive appeals processes. Public education campaigns should also be prioritized, helping citizens understand the legal processes surrounding capital punishment and fostering a deeper commitment to justice and human rights.

Moreover, aligning Nigeria's death penalty practices with international human rights norms does not mean yielding to abolitionist pressures but rather adapting the country's legal framework to uphold its sovereignty while enhancing its credibility in the global human rights arena. A balanced approach, one that retains the death penalty but strengthens the safeguards around its application, will ensure that Nigeria's legal system remains both effective in addressing serious crime and respectful of fundamental human rights.

In conclusion, while the death penalty serves as a necessary measure to protect national security and deliver justice in Nigeria, its application must evolve to meet international standards. By focusing on reforms that prioritize fairness, due process, and legal transparency, Nigeria can retain the death penalty as a tool for justice while strengthening its commitment to human rights.

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