

## **Philosophical Analysis of the Theories of Punishment in the Context of Nigerian Educational System**

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**Abstract:** *This review paper critically analyzed the theories of punishment in the context of Nigerian educational system in analytic philosophical mode. Punishment being an ethical issue rendered philosophers into debate which gave birth to the utilitarian and retributive theories, having common conception but different reasons for punishment. However, it is justified on ethical and religious grounds that it serves purposes of retribution, reparation, rehabilitation/reformation, deterrence, protection, incapacitation, restoration, condemnation and respect for divine laws. But in Nigeria today, irresponsibility, indiscipline, egocentrism and misconception of "God" and religion give punishment the colour of crime with total disgust; all in the pretext of forgiveness, mercy, magnanimity, kindness, patience and religiosity. This stand extends to educational system as a subset of Nigerian society, where there are issues to which punishment is applicable, like forgery, negligence, sexual and personal harassment, staff irresponsibility, insubordination, examination malpractice, thuggery/cultism and drug abuse. Hence, everyone does as desired to the detriment of law and order, which in turn brought educational system down to its knees, and consequently all sectors are collapsing since they only be sustained with education as the instrument with which Nigeria aspire to achieve its national objectives.*

**Keywords:** *Philosophical Analysis, Theories of Punishment, Nigerian Educational System*

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### **I. Introduction**

The traditional notion that there is "right" and "wrong" necessitated the emergence of authority that enacts laws, violating which is regarded as offence which calls for punishment. Therefore, punishment always comes in connection with the breach of rules. Philosophical discourse on punishment is primarily concerned with the state but it extends to various contexts like home, school and organizations. The state and the authorities of the said bodies need legitimacy and power backed by law to bring punishment into force and effect for the maintenance of the societal ethics and values.

Being an ethical issue, punishment attracted philosophers to sink into debate which gave birth to the famous theories that respond to the demand of basis and reasons, though with constructive criticisms but with reflection of reasoning for justification. This brings us the sensitive questions; what is really meant by punishment as a concept? What theories of punishment were professed by philosophers? How ethically justifiable is punishment? What relevant application does punishment have to the Nigeria as a nation?

Therefore, this review paper reflects on the above questions using the analytic philosophical approach.

### **The Concept of Punishment**

As an ethical concept, punishment has no universally accepted definition to philosophers. However, Hugo, (2011) in Iornumbe, (2011) defines punishment as an authorized imposition of deprivations of freedom or privacy or other goods to which the person otherwise has a right, or the imposition of special burdens because the person has been found guilty of some criminal violation, typically involving harm to the innocent. This definition, falls short of specifying the body in person or organization that authorize the imposition of the punishment. The offences that attract punishment may not necessarily be crime or against an innocent individual, for that it may be against the state; the offence may also be civil; and even if it is against an individual, the punishable offence committed by the accused may be revenge.

Peters, (1966) described punishment as only appropriate when there has been a breach of rules. It involves the intentional infliction of pain of something unpleasant on someone who has committed such a breach of rules. He did not define punishment, but rather mentioned what it involves. Besides, he did not tell us who inflicts the pain. But all the same, he said at least most of what punishment entails.

The definition that seems devoid of errors is the one forwarded by Blackburn, (2005) as the deliberate infliction of harm upon somebody, or the withdrawal of some good from them, by an authority, in response to their being supposed to have committed some offence. It is indeed like that since sometimes innocent persons are punished when the measuring tools consider them guilty even if mistakenly.

Hirst and Peters, (1970) were of the opinion that punishment is often confused with discipline because it is a device which teachers and parents often resort to in order to maintain discipline.

### **Criteria for Punishment**

As a concept, punishment has like other phenomena some conditions as minimum requirements that make it what it is. Yusuf, (1996) was of view that the following are the conditions as criteria which must be present in anything before it is labeled punishment.

- It must involve the intentional infliction of pain or of some kind of unpleasantness.
- This must be inflicted on an offender as a consequence of breach of rules.
- It must be inflicted by someone in authority.

In essence, before we call anything punishment, it must meet the above mentioned criteria to differentiate it from what it is not.

### **The Theories of Punishment**

Philosophers differ on why there should be punishment, the basis that warrants punishment as stilt and foundation. Consequently, two theories were professed, namely:

- Utilitarian Theory
- Retributive Theory

#### **The Utilitarian Theory**

This theory stresses that punishment is entirely future-looking for that one should be punished “in-order-to” not “because of” (Hosper, 1967). He added that in this theory, punishment is applied in order to do some things or serve some purposes, not because of the wrong believed to be committed. Therefore, utilitarian theory justifies punishment on the ground that it may:

- Improve the “offender”, perhaps “teach him a lesson” so that he will not repeat his offences;
- Deter other people from committing similar offences; and
- Protect other people (potential victims) from such offenders by isolating them from the rest of society.

The utilitarian reasons seem to be ideal but are not entirely free from critique. Improving an “offender” or so-called “teaching him lesson” is not certain, because the punishment may change the “offender” negatively by provoking him to do more, he can even serve a jail term and come out worse than before in terms of the gravity of the offence committed. So, the aim of the so-called reform or improvement or teaching a lesson is defeated. Besides, the punishment can even make the ‘offender’ develop resistance to the pains which ultimately encourages him to repeat his actions with less or no fear. Deterring other people also is not guaranteed by punishment because, if it is like that, there would have been no more committing an offence in the society where one is once punished on similar. The claimed protection of potential victims by isolating the “offender” from the rest of the society is also a mirage because isolation may be temporary- like prison or exile after which one can return. In fact, it is not even isolation as in case of exile but rather a change of society, by which the new society is endangered. Besides, suppose that the reform, deterrence and protection are certain not realized as result, does that mean punishment should not be administered?

#### **The Retributive Theory**

This theory holds that punishment should be administered simply because an offence has been committed, for which the “offender” deserves to be punished (Hospers, 1967). To be deducted from this assertion is the fact that punishment is administered “because of”, not “in order to” as held by utilitarian view. The retributive view of punishment is “past-looking” which is “paying back” by the “offender”. According to this theory, it does not matter whether or not the punishment will serve any purpose in future as utilitarian theory holds; as long as offence has been committed by an individual, the “offender” just deserves to be punished simply because he/she has done wrong and violates the rule.

This theory seems to have religious backing for that a Qur’anic verse stipulates retribution of “life for life, eye for an eye, and tooth for a tooth” (Qur’an, 5:45) which correspond with Biblical verses (Exodus, 21:23-25) on the same account. Even though religion has consideration for future out of punishment, yet it is inevitable and cannot be compromised even if it is apparent that the future consequences would not be realized as argued by utilitarian. Therefore, an “offender” must be punished for the offence he is accused of committing, whether or not the punishment will give any positive effect in future.

Some critics especially among post-Socratic philosophers frown at retribution as unwise, for the simple logic that “an eye for an eye only succeeds in making the world blind”. But one inconsistency of the critique is from the question posed that is: what “criminals” deserve, just ignore? However, retributive theory did not tell us the prime aim of the retribution as other phenomena have.

### **Justification of Punishment**

As Blackburn, (2005) observed that the philosophical problem with punishment is that it transgresses normal ethical boundaries since it involves infliction of harm or withdrawal of some good, therefore, it requires some ethical justification. More necessarily, because of the emphasis of radical utilitarian that must be administered even on an innocent once an offence is committed so as to restore the social morale, peace and respect for law; probably obtainable in sovereign states as in the political case of Osama Bin Laden. We must open our lips against this provision for that harming an innocent knowingly is not punishment but rather pitilessness and wickedness, exactly what caused the clash between act-utilitarian and rule-utilitarian.

Notwithstanding, punishment may be justified on the following grounds:

- **Retribution:** That an “offender” deserves corresponding punishment for the offence committed to taste the pains of what he/she did regardless of the consequence.
- **Reform/Rehabilitation:** That “offender” is punished, he/she is taught a lesson on how to behave better in future; which is reforming and rehabilitating for better.
- **Deterrence:** That by administering punishment, the potential or would-be “offender” is deterred from doing the same act that one cannot escape the punishment.
- **Protection:** That when an “offender” is under punishment especially custodial sentence, the potential victims are protected.
- **Incapacitation:** That punishment incapacitates an “offender” from committing the same offence or crime especially when the punishment cripples the means.
- **Restoration:** That the damage caused by an “offender” as a result of the offence committed can be through fines, compensation or “righting the wrong”
- **Condemnation:** That punishment tells the members of society that the offence committed is condemned and abhorred, and attracts punishment.
- **Peace and Respect for Law:** That after administering a punishment, the offended would have peace and be at ease that justice is done, also the image of the authority and law would be highly respected.
- **Religious Dictations:** Almost all the religions both scriptural and non-scriptural have provisions for punishment on various offences, so they are stucked to, since almost everybody claim to be practicing one religion or the other; and on this, no more explanation because it is authoritative and claimed to be revealed.

### **Punishment in Nigerian Educational System**

Looking at Nigeria generally as a society, it is observable that punishment is relegated to zero. We frequently feel sad of seeing “criminals” and other sort of “offenders” moving freely, sometimes with protection; we hear stories from others and media of individuals found guilty by court of law but suffer no punishment at all.

Going by history, perpetrators of religious and ethnic clashes suffer no punishment even if convicted, the architects of Zangon Kataf crises as example and one can hardly count the number of crises we experience since then, but almost nobody is punished. It is also obvious that majority of road accidents are caused by the negligence of the drivers, but we hardly see one punished for that, upon all the damages caused ranging from brutal death, disabilities, serious economic setbacks and fatal injuries. Other accidents like conflagration and electric disasters are also caused by negligence, but nobody is punished on that whosoever the gravity of the damage. We also experience acts of indiscipline that result to health hazards like defecation and improper waste disposal but without any decisive control, even the leaders known to be so strict and uncompromising on these issues are today mocked and considered autocratic. In fact, countless number of social, economic, environmental and ethical offences and crimes are committed openly and rampantly but no punishment is administered. In traditional setting too, people personally object to punishment when one offends another in society. The worse part of it is how some persons who pretend to be religious vehemently oppose administering punishment on an “offender” in the pretext of patience, mercy, kindness, forgiveness, religiosity, God and other unnecessary terminologies; is it not irony or even blasphemy for a self acclaimed religious person to openly detest what the religion prescribes and in the name of religiosity?

Nigerian education as a system is just a subset of the Nigerian society, so manifesting similar attitudes with the larger society is not surprising in any way, despite the fact that it is expected to at least attempt doing the right thing, although the argument between the adherents of ethical relativism and ethical absolutivism still continues on the precise code of ethics (Angough, 2007). All the same, some philosophers consider punishment in school setting as the last option to correct students’ behavior only if other means are not feasible (Bagudo, 2004). But we need to ask if punishment is a measure of correcting the behaviour of students only, excluding the teachers.

### **Issues in the Nigerian Educational System to which Punishment Applies**

In the Nigerian system of education, the stakeholders get involved in different sorts of attitudes and activities considered to be serious offences and crimes, therefore call for strict administration of authorities according to the law. Some of the issues are as follows:

**Forgery of Certificate:** Today in Nigeria, forging documents is something almost common because both staff and students of institutions of learning forge results and certificates for some material benefits. Students do get themselves admitted into schools or secure job, with the conspiracy of some insiders of the concerned schools who are mostly academic and non-academic staff and the unfortunate is that the culprits go unpunished. Mang, (2014) stated that the Plateau Government on Wednesday 25<sup>th</sup>, July, 2014 said it had dismissed 1,400 teachers found with fake certificates in the ongoing biometric data capturing exercise. In another vein, Mohammed, (2012) stated that Kaduna state government has sacked 1,840 teachers in secondary and primary schools allegedly possessing forged certificates. Kperogi, (2011) stated that Daniel Ishola Owoademi, the convicted man with fake credentials who taught at the Abubakar Tafawa Balewa University in Bauchi for twelve years. He was only fined a small token (#20,000). These examples are few to mention in the area of forgery that has to do with our education system. The question here is” does that mean in Nigeria the full punishment as provided in the law cannot be applied to “culprits” who engage in forgery”?

**Negligence:** Some staff of educational institutions are of the habit of being so careless that cause serious problem to students and system itself. A staff may deliberately mishandle students’ results, files and other important documents which sometimes cause the students suffer, fail or repeat or even get withdrawn; but punishment is scarcely administered. So, the students will be the victims of the mess. Sometimes, the whole system gets affected as a result of carelessness of a single person especially when he/she does wrong or refuses to do the obligatory work. Ahiazu, (1999) in Nwokocha and Uremadu, (2012) was of the opinion that most Nigerians in their self employment are very hard working but when they are in the public service, their attitude to work generally falls below expectation. He added that staff are late to work, not creative, show very little integrity, spend work time on truancy or activities not related to their employment, and slow in the acceptance of change.

**Irresponsibility of Staff:** In educational institutions in Nigeria, right from the Federal Ministry of Education down to Local Education Authority, from University down to Day Care, staff and other stakeholders are to a certain percentage found very irresponsible which consequently affect the system. In some schools, purchase of handouts by students is compulsory as imposed by lecturers, failure to do which earns the students failure. Upon all the salary they earn, such irresponsible ones victimize students by forcing them to buy their products; so, the students’ assessment is based on their financial commitment, not performance. Some staff in schools and other educational parastatals accept bribe and gratifications, some even demand for it, and majority of such acts are known by the authorities concerned. Some teachers willingly avoid classes till the end of the semester, when they would be holding the students in class for hours in the name of trying to cover the course content, thereby denying them attending other lectures. Some teachers are accused of playing dirty games with their students in the pretext of personal relationships (Hirst and Peters, 1970). Some teachers even involve their students into their private life by directly or indirectly allowing them to know their true colours as in the case of drunkard. Some are irresponsible enough that they pay much attention to other paid work to the detriment of their primary assignments. In addition to that even at the level of authorities of educational organs, we notice selfish placement of priorities and open discrimination in handling staff issues like placement of level at the time of employment and promotion. In fact, some teachers contributed immensely in bringing indiscipline among their students due to their irresponsible attitude (Sa’ad, 2009).

**Harassment:** In schools, teachers harass their students sexually and personally, also the students do the same to the teachers. We occasionally hear about established cases of sexual harassment from teachers to students and vice versa; some label false accusations against others which tarnish their image. Some personalities are attacked violently in public or ambush but less or nothing is often done even if the “culprits” are ascertained. Sa’ad, (2009) found out that some teachers do exploit their students both sexually and materially. Jega, (2014) was of the view that the recent stories coming out from citadel of academic and moral excellence is not encouraging at all; especially as regards to campus prostitution, sexual harassment and gratification, as well as cultism and bribery from the suppose mentors and tutors. Upon all the types of harassment taking place in our institutions, only few cases were treated and punishment applied.

**Insubordination:** In educational parastatals and institutions, aspects of insubordination by junior staff are noticed and sometimes even reported, but we hardly witness any tangible action taken to that effect, in most

cases for the simple fact that the insubordinate person has someone on top, so he/she can turn down all instructions and behave the way he wants without any fear of repercussion.

**Examination Malpractice:** Both staff and students, even the personnel at ministries and boards level are involved in examination malpractice but some factors halt any strict action. Teachers and other non-teaching staff connive with students to expose to them the question papers to answer in an examination ahead of time. Some conspire to leak answers to students during the examination via phones and other smart means. Some teachers facilitate malpractice by not covering the prescribed syllabus, so students resort to dubious means to get through the prescribed examination like WAEC, NECO and JAMB UTME. Abdulkarieem and Alabi, (2004) were of the opinion that the rate at which examination malpractice occur in the Nigerian educational system is highly disturbing and therefore, needs prompt attention by all stakeholders. They added that the phenomenon has both moral and legal implications. Odidi, (2014) was saying that during one of the recent courtesy visits of the present Registrar and Chief Executive of Joint Admissions and Matriculation Board, JAMB Professor Dibu Ojerinde to the Economic and Financial Crimes Commission (EFCC) to curb the myriad of malpractice plaguing the conduct of public examination in Nigeria which is yet to be curtailed by this law enforcement agency under the leadership of Mr. Lamrode.

**Thuggery and Cultism:** In Nigerian educational institutions today, cultism and thuggery by students increase rapidly which render the life and wealth of many into great danger because such activities do not discriminate who to befall, any person and everybody is prone to be attacked. The “criminals” today even have the courage to carry with them signs and symbols of their groups openly, which tells who they are and at the same time serving as warning to everyone not to dare them. Eladoko, (2014) said that several reports showed that between 1997 to 2012 hundreds of students were expelled or suspended from their various institutions, while some were arrested and detained by the law enforcement agencies. He added that some of the arrested students were charged to court and eventually jailed. But all these are just few cases which very small compared to the crimes taking place in our schools. However, the majority of those who commit crimes in school just go unpunished.

**Drug Abuse:** In education circle, especially students, taking hard drugs is almost common because the remains and containers of the taken drugs are seen at remote areas of the school premises especially fences and other less patronized places that tend to be isolated and quiet. Essien, (2010) was of the view that the marijuana with generic names has been reported as the most accessible drug amongst students. In another vein, Simmens and Paidés, (1977) in Essien, (2010) reported that students who are involved in drug abuse are likely to suffer the consequences of having low performance in their academic activities. However, a lot of students who are taking abusing drugs are just there roaming our institutions and in most cases no any punishment applied to them.

The above mentioned issues require strict application of punishment to sanitize the system which is more important than any individual. Whatever theory Nigeria adhere to pertaining to punishment, it is applicable in the educational system because there are issues in which it is call for. Schofield, (1972), considers education in general as the process of man’s reciprocal adjustment to nature, to his fellows, and to the ultimate nature of the cosmos. Hyble, (2000) was of the opinion that school is depended upon by society to promote social change, also to educate and socialize the young.

## II. Conclusion

Both the theories uphold that punishment should be administered in the fullest sense and strictly, despite the discrepancy between them on why should the punishment be administered, and it has viable ethical justification. But in Nigeria, even though punishment is applied in few cases in our schools but on general note it is seen as inhuman and crime, the crude ideology that results from our indiscipline, immorality, irresponsibility, egocentrism and total misconception of “God” and religion. The result especially on education is nothing better than *laissez-faire* and breach of law and order which sustains, stilts, regulates, moderates, coordinates and controls all organs of the system; so everybody does as he/she wishes since there will be no punishment even when “wrong” is done. But the state ministries are charged with the responsibility of proving appropriate education laws and ensuring their enforcement (FGN, 2004). The consequence of breach of law and order also, is the collapse of the educational system since the law that protects it is rendered worthless and ineffective.

Hence, the overall repercussion and serious challenge to Nigeria as a sovereign nation is that all sectors would be suffocated to death because education that gives breath of life to them is collapsing. It is so, because education is regarded by the National Policy on Education as the only tool and instrument of “par excellence” through which Nigeria would achieve its national objectives to take the country to the greater height (FGN, 2004). The Nigerian system has collapsed; the nation’s institutions have fallen (Jonathan, 2011).

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