
THE ROLES OF JUDICIAL JUDGMENTS IN CURBING CRIME IN NIGERIA**Ebere James Okorie**

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Abstract

This paper examines the role of judicial judgment in curbing crime in the society with special interest in the Nigerian society. To examine this successfully, some cases handled by the judicial system in Nigeria are analysed, and the judgment passed on these cases are stated in this work which gives a clearer picture of the role judicial judgment plays, in recent times, in curbing crime. Defining the concept of crime by various scholars such as Paul Wilbur Tappan, as well as a brief look into Emile Durkheim's view that crime is inevitable and a normal aspect of social life are also areas touched in this work. This study adopt, the content analysis methodology and the classical theory of Jeremy Bentham to explain the topic. Other theories reviewed in this work include: Marxist theory of crime control and the Legalization and Decriminalization theories. In conclusion, it is recommended that judgments passed on cases should be given higher publicity and judicial judgment should be swift as the punishment meted on offenders should be severe enough to have a deterrent effect on others, as this would help in curbing crime since man is a rational being.

Keywords: Crime, Judicial Judgements, Offenders, Courts, Curbing crime

Introduction

Crime control guarantees a situation of being protected against danger or loss. In a general sense, it is a concept similar to safety. The nuance between the two is an added emphasis on being protected from dangers that originate from outside. Individuals or actions that encroach upon the condition of protection are responsible for the breach of security (Monahan, 2006).

The role of judicial judgment in curbing crime is embedded in its function of allocating punishment to criminals who have been tried by a court and proven guilty beyond reasonable doubt. Crime control is however not solely the work of a single institution; it is to be a product of the combined effort of members of various institutions as well as the citizens at large. Judicial judgement however plays a special role in the control of crime, since it is the final judgment passed on an individual by the judge that determines the level of punishment an offender or criminal is to face. If this judgment is inadequate, it implies that the punishment to be meted on the offender would also be inadequate, this could lead to a catastrophic situation of high crime rate as more offenders will feel motivated to get involved in crime, hence the need for a critical look into the role of judicial judgment in crime control, especially in the Nigerian society.

The Concept of Crime

Paul Wilbur Tappan, a professor of law and criminology in the university of California defines crime as “an intentional act or omission in violation of criminal law (statutory and case law), committed without defense or justification, and sanctioned by the state as a felony or misdemeanor” (Reid, 2000; Gibbons, 1977). A more simplified definition of crime is given by Haralambos and Holborn (2008), they defined crime or offending as referring to those activities that break the law of the land and are subject to official punishment.

Crime can therefore be considered as any action, inaction or activity that is against the society, and is punishable by the law. This means that there must be stated laws against a certain action before such an action can be considered as a criminal act or a crime. Crime in itself is relative. This means that an action can be considered a crime in a certain society whereas the same action might be legal and completely normal in a different society. A perfect example is homosexuality. It is considered a crime, punishable by law, in Nigeria as well as many other African countries, however, it is completely legal in the United States of America and some other western countries of the world.

For some scholars like Emile Durkheim, crime is inevitable and a normal aspect of social life. According to him, crime is an integral part of all healthy societies. It is inevitable because not every member of the society can be equally committed to the collective sentiments (the shared values and moral beliefs) of society. Since individuals are exposed to different influences and circumstances, it is impossible for all to be alike Haralambos and Holborn (2008).

Judicial Judgment

The judiciary is one of the three arms of government (Executive, Legislative and Judicial arms of government) existing to ensure separation of power and for the purpose of effective governance and protection of citizens’ rights. Each branch has its separate function or responsibility, however they all work hand in hand. The judiciary has the responsibility of administering justice according to the law, they interpret the laws made by the legislative arm of government. Some important terms associated with the judiciary or the judicial system include, but is not restricted to, Courts, Judges, Magistrates, Adjudicators as well as Judgment, which is of high relevance as regards this work, and many more. According to Igbo (2006), following the conclusion of a court trial, the judge returns a decision as to whether the defendant is guilty as charged. Such a decision announced by the judge is called the judgement.

Judgments are passed with reference to the law of the land. It is often said that our political system is a “government of laws, not men.” This means that individuals in our system are governed by law and not by the whims of those in power; it also means that the law applies to every one even to those in power and that no one is above the law. Related to this is the notion that the law is a set of rules transcending time, geography, and circumstances surrounding specific cases (Eisenstein, Flemming and Nardulli, 1988). With all these in mind, these questions come to mind: Does judicial judgment really play any role in curbing crime in the society? If it does, then what is (are) its role(s)? Does the law, in reality, apply to everyone even those in power in the Nigerian society? And finally, is no one really, in practice not on paper, above the law? Real life court cases and the judgment passed on such cases are cited in this work to help answer these questions as well as give a clear picture of the role of judicial judgment in curbing crime in the society generally and in the Nigerian society particularly.

Cases Handled in Nigeria and the Judicial Judgment Passed

The following are five cases treated in the Nigerian Court and the judicial judgment passed on them, four of which are cases treated in the Supreme Court.

1. **Asuquo Okon Asuquo vs. The State**

In the Supreme Court of Nigeria

On Friday, the 17th day of June, 2016

Appeal No: SC.705/2014

The appeal borders on the offence of murder.

The appellant (Asuquo Okon Asuquo) was charged before the High court of Cross River State at Calabar with the offence of murder contrary to section 319(1) of the Criminal Code Cap C16, vol. 3, Laws of Cross River State of Nigeria 2004 in Charge Number HC/59C/2006. In order to prove the offence the prosecution called four witnesses and tendered six exhibits. One of the four witnesses who testified as PW2 (Prosecuting Witness 2) the wife of the deceased who gave an eye witness account on how the appellant went to the deceased house armed with a machete and when the deceased sighted him, he tried to escape but fell in front of the Presbyterian Church which was not far from the house. It was there the appellant inflicted the machete wounds on the deceased. The deceased died shortly after, while he was being conveyed by PW1 to the hospital. PW4 was mandated to investigate the case after it had been transferred from Odukpani to the State C.I.D Calabar. He recorded a statement from the appellant tendered as Exhibit 5. An earlier statement of the appellant which was recorded by Sergeant Jane Dickson on 30/8/2006 was tendered without objection and admitted as Exhibit 4.

He was sentenced to death by hanging. Dissatisfied with the judgment of the trial judge he appealed to the Appeal Court and his appeal was dismissed. He further appealed to the Supreme Court and the sentence of the appellant by the High Court of Cross River State Calabar was further affirmed by the apex court (Igbokwe, 2016).

2. **Freeborn Okiemute vs. The State**

In the Supreme Court of Nigeria

Friday, 1st July, 2016

Appeal No: SC.501/2012

The criminal appeal borders on the offence of conspiracy to commit armed robbery and robbery. After evidence were presented and Freeborn Okiemetu was proven guilty beyond reasonable doubt, he was convicted.

3. **Emeka vs. The State**

In the Supreme Court of Nigeria

Friday, 29th day of June, 2001

Suit Number: SC/7/2000

A case of murder where the Appellant Emeka Samson was sentenced to death and this decision was upheld by the Court of Appeal and Supreme Court to which he further appealed respectively.

4. **Shina Akinrionola vs. The State**

In the Supreme Court of Nigeria

Friday, 1st July, 2016

Appeal No: SC.524/2014

This appeal borders on the offenses of Conspiracy and Armed Robbery.

This is an appeal against the judgment of the Court of Appeal, Akure Judicial Division. The facts leading to this appeal as can be gathered from the record of appeal shows that the appellant (Shina Akinrionola) on or about the 11th of December, 2003 at about 9.00pm at number 126 Oba Adesina Road, Akure popularly known as NAO Supermarket in the Akurre Judicial Division, while armed with guns and other dangerous weapons did rob one Ndubisi Agatha (the Director of NAO Supermarket) of properties and cash valued at about Four Hundred and Forty Thousand Naira (N440,000.00) only.

In January 2004, while a team of detectives were investigating a robbery case at Araromi, the appellant and one other confessed to a previous case of robbery which happened at NAO Supermarket on the 11th day of December, 2003.

At the close of evidence and addresses of Counsel, the learned trial Judge delivered judgment on 2nd November, 2010 and found him guilty of conspiracy and armed robbery and thereby sentenced him to death accordingly. He appealed to the Appeal Court where his appeal was dismissed on 25th June, 2014, he then further appealed to the Supreme Court which upheld the conviction and sentence of the Appellant to death for the offence of armed robbery by the High Court of Ondo State was affirmed.

5. **The case of Chief Bola Ige's murder in 2001**

Recently on 18th, 19th, 20th as well as on 25th July, 2016 Vanguard, Tribune and other Nigerian newspapers even online sources carried the news of a re-opening of the case of Chief Bola Ige's murder. He was the former Attorney General of the Federation and Minister of Justice. His killing caused national outrage with Nigerians calling on the government of the former President Olusegun Obasanjo to fish out the killers.

According to Vanguard, Nigeria online news site, it can be recalled that Chief Bola Ige was shot dead in his bedroom in Bodija, Ibadan, at about 9pm on December 23rd, 2001, after he arrived Ibadan from Lagos at about 8:30pm. His security details were said to have sought permission from the former Attorney General to go and eat before the incident occurred. The gunmen who were said to have been waiting in the vicinity then stormed the house and tied up the family members. Chief Bola Ige was eventually shot in the chest. Following his death, several unsubstantiated allegations were made against politicians and interest groups with some even saying he was killed to halt the rise in his political profile. While others said it had to do with his impending probe of the corruption in the power sector of the nation's economy.

The point is that; of all the persons arrested and tried as regards this case, none was found guilty. Otunba Iyiola Omisore the former Deputy Governor of Osun State was also charged for conspiracy in the murder case of Chief Bola Ige, he was also discharged and acquitted. Up until September 2016, no one had been convicted for Chief Bola Ige's murder. This makes one wonder; are these criminals invisible? Or is it because the persons involved could be highly placed in the political sector as suggested in the Vanguard Nigeria online news site? This is one of the cases that shows that despite the hard work being done by the members of the judicial system, there is great room and need for improvement.

The Role of the Court and its Judgment in Curbing Crime

From the cases cited above, it can be deduced that the role of judicial judgment involves correction, deterrence, punishment for crime as well as prevention of further occurrence of crime. The Court's role in crime prevention and control as pointed out in Igbo (2006) is limited to two strategic tasks. These are the tasks of determining the guilt or innocence of a criminal suspect through the process of court trial and the assignment of penalty to convicted offenders, which is sentencing based on the judicial judgement. The

ultimate purpose of punishment as imposed by the criminal court is to control crime. There is wide acceptance that crime can be controlled through punishment. The latter is believed to have a deterrent potential. Classical criminological theory of the Jeremy Bentham's (1823) holds that human beings are pleasure seeking, pain-avoiding creatures. They would refrain from crime if penalties of sufficient severity are applied. According to Bentham, crime can be controlled by punishment if the penalties are not only greater but also not smaller than necessary to deter the individual offender in the future. Bentham's prescription will imply that harsher penalties should be given to persons who have stronger motives/motivation to commit crime. Punishment produces both primary and secondary deterrence provided that such punishment is both severe enough, swift, and certain of punishment (Igbokwe, 2016).

It is the court and not the police and prison, that determines whether an accused is guilty or not and therefore whether an offender is punished or not. Again, as already contended, it is the court that assigns punishment and in some cases actually determines the degree of punishment to be suffered by a convict. In a number of instances where the penal code does not prescribe a single flat penalty for an offence, the penal statute actually allows the trial judge discretion to choose a penalty from within a specified statutory maximum and minimum penalty limits. Within this "indeterminate term" (some have called it "indeterminate sentence"), the judge carefully weighs out and assigns a penalty that matches his assessment of the crime situation or that conforms to his own sentencing policy. The court thus exercises wide powers in relation to judgment and sentencing. Perhaps unfortunately, the courts are normally free as it were to reach whatever judgment decision they deem fit in any given case. A court of law can actually find enough reason not to convict an accused person who is in fact guilty of an offence. Given such wide powers by the court, the court's role in crime prevention and control probably becomes even more critical and deterministic than that of the police (not to talk of the prison) as far as crime control is concerned (Igbo, 2006).

If the court would incessantly allow guilty offenders to go unpunished (for whatever conceivable reasons), then the fear or threat of punishment would be eroded among the general populace. The end result will be widespread disregard for the law and consequent widespread indulgence in crime. The point of all these remarks stress sufficiently the critical and kingpin role of the criminal court and its judgement in crime prevention and control. To be sure the courts are actually in a position to make nonsense of the gateway preventive efforts of the police in a way that the police are rendered castrated, impotent and of no consequence in the direct words of Professor Eddiefloyd Maduabuchi (Igbo, 2006). The overall implication of this conclusion is that if the criminal justice system, as a system that it is, should succeed in its crime prevention and control task, the activities of each of the three agencies that make up the system must positively complement one another. This is to avoid leakages in the system, or a tendency to work at cross-purposes thereby leading to self-defeat or a total failure of the entire system (Igbokwe, 2016).

Theoretical Approaches and Models of Crime Control

1. Marxist Approach
2. Legalization and Decriminalisation Approach

1. Marxist Approach

Karl Marx (1818-1883) argued that the law is the mechanism by which one social class, usually referred to as the ruling class keeps all the other classes in a disadvantaged position (Tibbetts, 2011). The basic Marxist conception of capitalist society is that of a social order which is characterised by private accumulation of wealth, socio-economic inequality, competition and conflict (Marx and Engels, 1976).

The greed, self-interest and hostility granted by the capitalist system motivate many crimes at all levels within society. Members of each stratum, use whatever means and opportunities their class position provides, to commit crime. Thus, in low income areas, the mugger, the petty thief, the pusher, the pimp and the prostitute use what they have got to get what they can. In higher income bracket, business people, lawyers and politicians have more effective means at their disposal to grab a larger share of the cake (Chambliss, 1976).

The shape and character of the legal system in complex societies can be understood as deriving from the conflicts inherent in the structure of these societies which are stratified economically and politically (Chambliss, 1971). The Marxist Approach to crime control is established on the basis that crime is as a result of private ownership of property exhibited by capitalism. Since properties are privately owned, there is a high level of competitiveness, such that every individual does whatever is possible to make wealth and control some level of power like the bourgeoisie and leave the class of the proletariat. Hence to control crime, in the Marxist approach, there must be a radical or revolutionary drift from private ownership of properties evident in capitalism, to government ownership of properties and eventually communal ownership.

In essence, for the Marxists, it is not necessarily the role of the judicial system to curb or control crime rather it is a complete and radical change in the system of government that is required to put an end to crime. This approach is however, not applicable to countries like Nigeria where capitalism is evident, even in countries like Switzerland where socialism is practiced some level of crime still exists. This shows that crime is inevitable.

2. **Legalisation and Decriminalisation**

According to Schur (1965) a substantial amount of property crimes are committed by drug addicts who steal in order to obtain the huge amount of money needed to sustain their addiction. Since drugs are illegal the risk in selling them is high and the price of drugs goes up making the cost of drug addiction exuberantly high. If narcotic drugs are made steadily available at regulated doses from hospital sources through prescription, the prices will go down drastically (perhaps to a ridiculous level) and most illegal drug dealers will be forced to leave the market due to low profit levels and the rate of property crimes will not only decline but also most drug related crimes will be eliminated.

A crime is a crime because the law says so. If the law therefore changes its take on a particular action being regarded as a crime it implies that such an action ceases to be a crime. This is the case with Legalisation. When a criminal action is legalized, all or most of the legal implications of such action are removed. When a criminal action is decriminalized in a state, it ceases to be a crime under the local or state law, they may still be subject of penalties under federal law. For instance, abortion is no longer considered an illegal act in the United State of America because it has been legalized.

It is important to understand that legalization approach to crime control can only be effective in the control of victimless crime. Therefore, crime with victims such as murder, armed robbery etc. cannot be controlled using the legalization approach (Igbokwe, 2016).

3. **The Classical Theory: Jeremy Bentham (1748-1832)**

This theory is adopted for the purpose of this study. Jeremy Bentham described human decision making as a hedonistic calculus. In other words, people will act in ways that maximize positive outcomes and minimize negative ones. Naturally, a person commits a crime because of the perception that the benefits of the act are greater than the costs of punishment. The corollary to this is that punishment should be painful enough to outweigh the pleasure of criminal act. Bentham believed that the purpose of punishment should be crime prevention and that punishment must be proportional to the severity of the crime in order to have a deterrent effect. Moreover, the severity of punishment should be directly proportionate to the number of persons injured by the crime. Although some of these ideas are taken for granted today, classical theorists were liberal reformers who sought to restate the definitions of crime and to reformulate punishments. Their proposed legal reforms were revolutionary – a complete break with customary practices. As a theory of crime, the classical school idea of deterrence is relatively simple: People will refrain from crime if punishment is swift, certain and sufficiently severe. The classical school theory dominated criminological thought into the late 1800s and empirical tests of this proposition are possible (Vito, Maahs and Holmes, 2007).

The role of judicial judgment in crime control cannot be over emphasized. The judicial judgment passed on a criminal is the punishment allocated to the criminal as payment for the crime committed, this

punishment according to Jeremy Bentham should be proportionate to the severity of the crime in order to deter the criminal and other prospective criminals. If punishment for crime is severe enough as regards the crime committed, criminal acts will be less attractive and crime rate will be reduced. However, those in charge of passing judicial judgment (the judge) and other members of the judicial system must try not to be influenced by negative external forces in passing their judgment. By negative and external forces here we mean bribery, corruption, blackmail and more. As the interference of such negative external forces on the judicial judgment would have a negative influence on the judgment and this would militate against the effectiveness of the roles played by judicial judgment in curbing crime. Hence, the classical theory of Jeremy Bentham is adopted for the purpose of this study. Summarily, if the criminal justice system could fast track judgment and make sure that those who deserve punishments are punished accordingly, the incidences of crime would be curbed drastically.

Conclusion

In conclusion, it has been established that adequate judicial judgment goes a long way in curbing crime through its deterrent effect on criminally minded individuals. A judicial judgement of death sentence passed on an armed robber for instance, would go a long way in discouraging other members of such gangs who hear about it, it would also deter some others who had the intension of embarking on robbery. However, if an armed robber is caught and released without any punishment at all or with a minor punishment like one month imprisonment, others will be encouraged since the punishment when compared with the gain is less, as some robbers can make huge amount of money from one or just a few movements (robbery attacks). This points out, clearly, the role judicial judgment plays in curbing crime even in the Nigerian society. The current expansion of terrorist groups, bandits in Nigeria is a case of negligence on the part of government agencies.

Recommendations

1. If judicial judgment, which is the allocation of punishment to an offender who has been proven guilty, is severe enough and swift as stated by Jeremy Bentham, it will go a long way in curbing crime especially as far as the Nigerian society is concerned. This is because humans are rational beings.
2. The judges should try as much as they can, not to prolong judgment for too long as this in some cases could give room for justice to be compromised through bribery and corruption.
3. Cases and the judicial judgment passed should be given a higher level of publicity to keep citizens informed, such will discourage those who might be nursing criminal ideas in their mind to be aware of the punishment likely to be faced with real life examples.
4. Crime control should be a general course in higher institutions, this will give room for a better understanding and guarantee a safe society.

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