

PREROGATIVE OF MERCY, BANE OF ETHNIC DISUNITY AND CRIMINALITY: USING SOCIO-LEGAL AND CULTURAL INTERPRETATIONS ON THE VICTIMS' OR VICTIMS' FAMILIES IN NIGERIA

Adeleke Gbadebo Fatai

Department of Sociology, Osun State University, Okuku Campus, Osogbo, Osun State, Nigeria

Corresponding Author's email: lekegbade@yahoo.com



DOI: 10.29816/sjss.7.1.5

ABSTRACT

Modern prerogative of mercy is comparable to the monarchical absolute power to punish offences in the past. Studies have centred on the offenders' plight, however, the grief of the victims/victims' families is overlooked. The paper examines the effects of prerogative of mercy on the rate of ethnic disunity, crime and socio-cultural implications on the victims/victims' families in Nigeria. Questionnaires were administered to 840 respondents, 64 respondents were interviewed and 4-Focus Group Discussions were conducted. Majority of the respondents claimed that victims/victims' families were uncared for, despite the psychological trauma and pain they encounter from the offenders. Most respondents vowed that there would be no unity between them and offenders/offenders' families; they portrayed an eagerness to revenge at the slightest opportunity. The paper argues that despite the political pragmatic exercise of this power, it conflicts with their cultural values, perpetuated culture of criminality and leads to communities' disunity. The paper concludes that victims and families of the victims often live with hatred because of this unfair treatment. The need to confront the menace of crimes and constant communities' attack demands a total exclusion of these laws and a need for social policy which aims to relieve the grief of the victims/victims' families.

Keywords: Prerogative of mercy, Ethnic disunity, Criminality, Socio-legal and Cultural, Victims, Victims' families

Introduction

Often times, the judicial system and administration in Nigeria protect the offenders than the victims in its application and delivery of justice. Professionals and activists speak for the accused person while only a few police officers and prosecutors protect the interests and rights of the victims. Also, the compassion that the victims receive often comes from the investigation or enforcement officers, family members and friends who pity the victims or families of the victims. In support of this legal

care to offenders, the 1999 Constitution of Nigeria paves way for the offender or convict to go scot-free through this modern concept of prerogative of mercy (Constitution of Federal Republic of Nigeria, 1999). This concept is contrary to *Section 230 (1)* that establishes a Supreme Court as the highest court in Nigeria to finally determine all criminal cases. The Constitution further states in *Section 235* that without prejudice to the powers of the President or to the Governor of

a State with respect to prerogative of mercy, no appeal shall lie to any other body or person from any determination of the Supreme Court. Specifically, both *Section 175(1) (2)* and *Section 212(1) (2)* are indications of the power of the executive arm of government to overturn the power of the judiciary arm in terms of final determination of cases (Constitution of Federal Republic of Nigeria, 1999). Thus, the President and the Governors seize the power thus:

- (a) grant any person concerned with or convicted of any offence created by an Act of the National Assembly/any law of the state a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either for an indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence;
- (d) remit the whole or any part of any punishment imposed on that person such an offence or of any penalty or forfeiture otherwise due to the State on account of such an offence.

He shall exercise the powers of the President/Governor under subsection (1) of this section after consultation with the Council of State/the law of the state may establish such advisory council of the state on prerogative of mercy.

This subsection relates to the President only:

The President, acting in accordance with the advice of the Council of State, may exercise his powers under subsection (1) of this section in relation to persons concerned with offences against the

army, naval or air-force law or convicted or sentenced by a court-martial.

With the above sections from the Constitution, it is well spelt out that the concept of separation of powers has been hindered through the same constitution that clearly provides the duties of the different arms of government. Though, it can be termed as an act of check and balance from one arm to another, however, regarding this section of the law, it is one-sided. Literarily, interpretation showed that the concept of prerogative of mercy allows many criminals to escape punishment, which has therefore been so painful to the victims of crimes (Gaus, 2002). Besides, there are so many unanswerable questions bothering the minds of many victims and their families. How do we weigh the execution of the convicted murderer against the life of victims and if possible victims of other potential murderers? Let us imagine this kind of pardon of murders or criminal violence whose victims suffer injuries, sustain a sizeable monetary loss, miss time from work, incur costly medical expenses, and suffer untold mental anguish. Alternatively, how can one measure the pain of defilement to a three months old baby by an adult of fifty years? Also, what are the effects of economy and corruption-related offences on the masses? However, in Nigeria, the executives grant pardon to somebody found guilty of felony or capital offences without examining the gravity of pain to the victims or the family of the victims (Dakas, 2011).

The president extended presidential pardon to ex-governor of Bayelsa State, Mr. DSP Alamieyeseigha and six others- official corruption, grand larceny to alleged coup (Adebowale, 2013; Fabiyi, Akosile and Odiegwu, 2013). Likewise, pardon was granted to Mr. Shetima, the former Managing Director of Bank of the North, who was convicted by

the court of official corruption and misappropriation of bank funds (Adegboyega, 2010). In 1998, Chief Olusegun Obasanjo, Major Bilyaminu Mohammed (rtd.), Major Saliba Daddy Mukoro, Lt. General Oladipo Diya, Major-General Tajudeen Olanrewaju, Colonel Lawan Gwadabe, Col. R.S. Bello Fadile (May 24, 2007) were also granted presidential pardon. The applicant, Okongwu, then solicitor-general of Old Anambra State, was cited for contempt of court in *facie curiae* (in the face of the court), which led to his conviction and sentence to 21 days imprisonment. On that same day, Chief Jim Nwobodo, then governor of old Anambra State, issued two instruments - Instrument of Remission and Instrument of Pardon - pursuant to the prevalent section of the 1979 Constitution and he was allowed to go home. This leniency derived from the concept of prerogative of mercy by the Governor and President has worsened the growth of violent crimes in the past decade and the out-cropping of the attitude of permissiveness with attendant increase in the rate of victimisation (Fabiya and Adetayo, 2013). For example, during Nigeria's nascent democracy, especially in the Fourth Republic (1999 to 2015), some political thugs reportedly killed innocent political opponents with the intention that the executive will eventually grant them freedom under the pretext of this concept (Hampton, 2007).

Historically, prior to pre-colonial days, some warriors that disobeyed the traditional authority were banished by the king from the territory against the customary verdict of death. The king assumed the power to control life and death of his subjects and this power is similar to the power of executives in exercising the constitutional concept of prerogative of mercy in the modern government. In democracy, there is fairness, justice and equity and the constitution protects every citizen, therefore, laws should protect both the

victims and offenders. Past studies have centred very much on the use of prerogative of mercy and the exercise of offenders' pardon. Scholars like Honderich (1989) and Pojman (2004) have identified a number of factors which prompt the major reasons that the society needs the entrenchment of prerogative of mercy on the constitution. Many advocates have related with the concept from religious perspectives while others have emphasised the moral grounds and spirit of forgiveness (Ikhariale, 2013). There is no known studies that has centered on the effects of this exercise on victims or families of the victims in Nigeria, and the current study fills this gap in knowledge by examining the socio-legal implications of prerogative of mercy on the victims and families of the victims in Nigeria. Against this background, the paper, therefore, examined the effect of prerogative of mercy on ethnic unity, level of criminality and pains of victims and families of the victims in Nigeria.

Literature review and theoretical frameworks

In the past literatures, three forms of the royal prerogative of mercy were used to grant pardons to convicted criminals and this followed the three separate schools of thoughts in this regard. Bedau (1978) categorised pardon as free pardon, which means that pardon is free from any conditions that involve summary driving offences. In another development, Honderich's (1989) argument gave the second line of argument on the concept of pardon as conditional pardon, which literarily means that the penalty is removed on the condition that a lesser penalty is served. In this direction, the law may stipulate that certain judgements await the wrongdoings of this type of offence but the judiciary or executive deems it fit to reduce the offence based on the power vested in them as the custodians of justice in the

constitution. Lastly, Feinberg's (1992) remission type of pardon means that a prisoner is released from having to serve some or all of the remainder of the sentence; this type could also mean that someone who has been subject to a monetary penalty is released from such obligation; therefore, such person may pay nothing at all or part of it. Remission pardons are usually considered in cases where the applicant provides assistance to the authorities or in recognition of meritorious conducts, such as saving the life of a fellow prisoner or a member of the prison staff. Although, prerogative of mercy may lay great emphasis on public interest in ensuring remissions of sentences in such instances, making it clear that even if the defendant is a major criminal—as he was in that particular case— a reduction in sentence still remains appropriate. Pojman (2004) stated that in principle, a failure to consider exercising the power to grant a pardon should be reviewable, at least if an individual can demonstrate that there are some reasons the President or Queen should consider the case. Considering all these three schools of thoughts, one can easily deduce the love that the society has for the convicted person.

Bedau (1978) and Honderich (1989) noted that the prerogative power to pardon is invoked more frequently than one might imagine because of the infrequent discussion of it. In his academic argument of the English law, Bergman (2006) contended that the power should frequently be examined to ensure that no abuse is possible. Ciocchetti (2003) distinguished pardons as parole for prisoners, plea bargain for the accused and amnesty for insurgents. It is an exchange for good behaviour or an anticipation for change in behaviour. These are legal instruments used to either aid prosecution or reward offenders for good behaviour. Recently, pardons are used all over the world as a political tool of unification or assimilation. In Nigeria, a typical

example in this direction is the pardon granted to the former Biafran warlord, Emeka Ojukwu (leader of Biafra civil war in Nigeria between 1967 and 1970), as well as other soldiers who were pardoned decades later. In logical terms and with reference to the focus of this study, those who suffered and died during the civil war were left untouched either socially or economically. Pardons are used as a conflict resolution tool, recently, they have been used in the form of amnesty for militants (Niger-Delta militants) as proposed for the Boko Haram sect in Nigeria.

Retributive and expensive theories are one of the oldest theories of criminal punishment based on retaliation and vengeance. They conform to the archaic law of 'an eye for an eye and a tooth for tooth' (Chandrachud, 2009). The crudest form of this principle involves vengeance by the injured person. Cobb's (1989) principle involves a process of looking back at the crime committed and deciding what punishment is appropriate to the accused for their conduct. The approach involves mere retribution and wreaking of vengeance. Moore (1989) defended the power to pardon as an extension of retributive justice; that is, punishing offenders because they deserve it. Murphy and Hampton (1988) believe strongly that a pardon is highly justified in cases of procedural injustice against the offenders. Thus, pardon is expected to be exercised as part of a broader constitutional scheme to ensure that sentences are assigned to offenders justly. They argued further that an act of clemency is an official act by an executive that removes all or some of the actual or possible punitive consequences of a criminal conviction. This theory is adopted in this paper because the criminal punishment is justified once the offender is morally accountable, regardless of whether deterrence or some other good consequence would result. Further, Clark (1971) argues that

a criminal is thought to be indebted to the society, therefore, they serve a punishment which is the act of paying back the society for the wrongdoing.

However, Moore (1997) assumes that the law exists for a reason - a moral reason - and all crimes, even victimless crimes, involve a social and moral harm. Therefore, violating the law concerns not only the law but also the moral code of the society. Retributive theory of punishment yields the legal moral theorists (Walker, 1991; Moore, 1997) of criminal legislation with great emphasis that all and only morally wrongful behaviour should be forbidden by criminal law. Also, Feinbergs' (1992) expensive theory expatiates the purpose of punishment as a public act to authoritatively condemn wrongful acts, express symbolic non-acquiescence with their performance, re-affirm and re-establish the law, supplement compensation for harm in the form of punitive damage and absolve others of responsibility of wrongdoing.

Methodology

The study is a cross-sectional survey and it utilises both primary and secondary sources of data collection. On primary sources, quantitative and qualitative methods were used while the secondary methods consisted data from archival and historical records of police and judicial institutions.

The study covered all the families and victims of offence released through the constitutional concept of prerogative of mercy between the 1999 and 2015 in Nigeria. In quantitative methods, questionnaires were administered to the respondents. The selection of sample size for the study was based on multistage sampling methods that combined purposive, stratified and simple random techniques. The first stage involved the purposive selection of four geographical zones in Nigeria; Southwest, South-south, North Central and Northeast out of six

geographical zones. These zones were selected because of the frequent community and ethnic clashes within the selected duration. Also, the geographical and wide spread population justified the choice of two geographical zones in each of the Northern and Southern parts of Nigeria. The second stage involved using simple random sampling to choose one state in each zone due to homo-cultural and unique traits within a geographical zone. In the South-Western Nigeria, Osun State was selected out of the six states (which include Osun, Ondo, Ekiti, Oyo, Ogun and Lagos). In the South-South geographical zone, Bayelsa state was chosen out of the six states (which include Bayelsa, Rivers, Cross-River, Akwa-Ibom, Delta and Edo) In the North-central zones, Plateau State was also selected out of the six states in the geographical zone (which include Plateau, Niger, Benue, Kogi, Nasarawa and Kwara). Adamawa state was selected from the North-East zone out of the six states in the zone (which also include Adamawa, Bauchi and Borno, Bauchi, Gombe and Yobe). The researcher employed four research assistants to man and gather data for the study from each of the selected states. The dates, which were compiled included those of all the released convicts that enjoyed pardon through the exercise of this prerogative of mercy of a Governor or the President of Nigeria during these years (between 1999 and 2015). The researcher established the victims and victims' families through records in the judiciary arm of government in each state and applied simple sampling methods to select the required number. With the assistance of research assistants, the addresses of the victims and victims' families were located. In the South-West zone, Osun State had 534 pardoned convicts, which indicated an equal number to victims/families of the victims. In the South-South geographic zone, Bayelsa State had 723 pardoned convicts, which

indicated an equal number to victims/families of the victims. In the North-Central zone, Plateau State had 598 pardoned convicts and this equally represented the number of victims/families of the victims. Lastly, in the North-East geographical zone, Adamawa State had 653 pardoned convicts with equal number of victims/families of the victims. In all, a total number of 2508 pardoned convicts were selected, and an equal number of victims/families of the victims were regarded in this study as population sample.

The third stage involved selecting the required number of sample randomly. The researcher assigned each member of the population a number and then used a computer to generate a random list from which a sample size was derived. As a result of a difference in numbers of released convicts in each state, the paper selected samples on equal proportional number in each state. In all, 840 cases of pardoned conflicts were selected and the researcher developed a great interest in some areas within the state where the rate of occurrence of community crises was rapid and alarming. With this simple random sampling, 840 victims or victims' families were selected and questionnaires were administered to the respondents.

In addition, 43 in-depth interviews were conducted for the victims, families of the victims and police and judicial officials. In this approach, some key informants were identified through pilot study and 5 respondents among the victims and families of the victims in each state were selected. Interests were focused on areas where the communities had constant fights, attacks and where there occurred political crises during the general elections in the selected years. Also, 12 respondents were selected from the Police and Security institutions within the community and the researcher considered 3 Divisional Police Officers in each state. The researcher considered the impact of the judiciary in resolving quarrels

and crises, therefore, 4 respondents, principally the magistrates and judges were selected from the States' judiciary. Lastly, 5 communities' leaders and the traditional kings were selected for interview in each state. In all, 64 key respondents were selected for interview (Victims/Victims' families: 20; Police and Security agents: 12; state Judiciary: 12; Community Leaders and Traditional Kings: 20). In order to complement the in-depth interview, 4 Focus Group Discussions were conducted, one in each identified community, and each was labelled a 'crisis centred' in each of the selected states. Records were also sought on relevant issues pertaining to police and judicial cases on issues of prerogative of mercy. Data collected from quantitative method were analysed using the descriptive statistical tools such as frequency count and percentages. Data from the qualitative method were transcribed and the were content analysed.

Findings

Socio-demographic factors

The findings reveal that respondents' mean age was 48.7 ± 11.8 years, 73.1% were male and 26.9% were female. Also, 56.3% were Christians, 39.7% were Muslims and 4.0% of the respondents practised African traditional religions. The data further showed that 27.3% were secondary school certificate holders, 16.4% had primary school leaving certificate while majority of the respondents (56.3%) had no formal education. These findings indicate that majority of the respondents practised the two major religions that centre much of their preaching and tenets on forgiveness. The result buttressed Ikhariale's (2013) submission that the concept of prerogative of mercy is justified based on religions that are founded on moral grounds and the spirit of forgiveness. The result also implies that most respondents are illiterate as indicated in Makulu's (2010) findings that most under-developed countries are unable to read and write.

Psychological trauma and solo pains

The result shows that 79.3% of the respondents are in psychological trauma and they experience different types of pain after the demise of their breadwinners. Majority of the respondents (64.7%) lamented on the unwelcome action of many Governors' mercy on the offenders. Most of the respondents (67.2%) claimed that the exercises have been politicised and that the exercise is based on the influence of parties' connections. Many respondents claimed that the executives released political thugs who committed various electoral offences and crimes during these exercises. The result tallies with Gaus' (2002) notion that many criminals escape punishment, and this brings immense pain to the victims of these crimes. Similarly, the result collaborated Dakas' (2011) lamentation that executives grant pardon to people found guilty of felony or capital offences without examining the gravity of pain to the victims or the family of the victims.

One of the respondents corroborated these results and said that:

I lost my blood brother who happened to be a breadwinner in the family in an ungodly circumstance; the wound cannot be healed and the centre of the family happiness can no more hold since the departure of our breadwinner. I find it difficult to pay the school fees of my children, not to mention the deceased's children and to have three-square meals remains an obstacle for the entire family. Painful enough, seeing the murderer freely moving up and down in our society has weakened my health status and currently I do not believe in the judicial system or constitution but jungle justice (Female/Victim family/Esa-Oke/Osun State/South Western/2016).

Another respondent complemented this finding and said:

All my juniors' responsibilities including feeding fell on me after the death of my father. I had to stop my ambition of becoming a medical doctor and I quickly went to National College of Education to become a teacher in order to urgently cater for the need of my brothers and sisters. Despite several letters of assistance to the State authority, nothing tangible or worthwhile came from their end (Male/ Victims' family/Ibia/Plateau State/North-Central/2016).

Complementing this, one of the respondents further commented thus:

I was amazed to hear the release of the offenders after 2 years of imprisonment and wondered what at the moral justification for their release. It is most annoying that the system has been characterised with political colouration. It is painful to see the political thugs that killed my brother in our midst, working freely without any intimidation or severe punishment, it is highly sorrowful. The entire family is still feeling the pain and languishing in abject poverty over the death of our bread-winner. I am always disturbed emotionally anytime I see this set of hooligans and thugs on the street again (Female/Victims' family/ Basku/ Bauchi State/ North-East/ 2016).

Community disunity and ethnic crisis

The principle of public morality seeks to regulate social behaviour and practices, which would have profound effects on the people living together in a community and consequently affect their communal interaction (Adegboyega, 2010). Buttressing this, the findings showed that majority of the respondents (59.4%) claimed that the exercise of this power has fostered disunity among their clan. Most of the respondents (71.3%)

believe that state pardon always fuels crisis and incites people to revenge at the slightest provocation; this in turn leads to communities' crises and disunity.

One of the respondents corroborated these findings and said:

...though I am still living in the same community with the pardon-convicts, I am always sad anytime I see them. I have it in mind to revenge one day. I can never be friends with those who killed my childhood friend. They turned me to a one-handed man. Despite the outcry of my people for assistance, nobody turned up to assist us and it is rather unfortunate that the government can release them on the mere exercise of prerogative of mercy (Male/Victim/Ahmadhu/Plateau State/North Central/2016).

A respondent complemented these findings; expressing the immediate effect of this power, he says:

The action of the State government on the exercise of prerogative of mercy has polarised the community into two warring factions. We have never had 2 months of peaceful relationship in these two groups, today community clashes on land, tomorrow there is a mass killing on chieftaincy titles (Male/Police Officer/Bau/Adamawa State /Police State Command/2015).

During the Focus Group Discussion, one of the respondents had to this to say against the concerned section of the law:

It is an abuse of power and a misuse of presidential discretion. Though, the president or the governor has the power to do that but the way they go about it is unfortunate. The kinds of pardon given to criminals are unwelcome and inhuman. Take for instance, the Ami Magaji the president pardoned was convicted by the

Supreme Court of Nigeria for sodomy and later pardoned under this exercise. There is no doubt that power to pardon is legal but in most cases, it triggers victims' anger and pain (Male/Ifon-Ilobu Community Focus Group Discussion/Osun State/ /2016).

Cultural trait of retaliation and revenge

Majority of the respondents' families (91.2%) agreed that they could not unite with the families of murderers and their traditions were even against any re-union. The result agreed with Clark (1971) that a criminal is thought to have a debt to pay to the society and this debt is paid by serving a punishment. This implies that the only way unity and peace can return to the community is when an offender pays for the wrong done or committed against the society. This result collaborates Gaus (2002) that retribution is justified in terms of revenge on the offenders especially when the state punishes those who deserve. This punishment also prevents jungle justice or vigilante justice.

One of the respondents who claimed to have participated in the clash that led to the death of his friend in Niger State, North Central lamented:

I lost my right hand in a communal clash and I was still in the hospital with pain when Governor pardoned the offenders. I lost my best friend and two other of our family members. Can you imagine the contradiction in government decision to our tradition? The community contributed money to employ the service of legal practitioner and we won the case and five men were sentenced but they were later released through this prerogative or State pardon (Male/Victim/Ifon-Osun/Osun State/South-West/2016).

One of the police officers interviewed also corroborated the effect of pardons to constant unrest within the community and he said:

The two families have been in a long-existing land battle and we had recorded almost ten disputes and clashes since 2005. There was a clash between the two families in 1999 and four members from one family were sentenced to prison for a range of 5 to 10 years. Since 2005, when the president released the 5 convicts, the victims' families have been nursing an ambition to revenge the action from the other family. We were unable to curb the revenge mission of the other family because they felt cheated by the government's decision to free the murderers. Since then, the action has led to constant unrest and dispute between the two communities (Male/Police and Security officials/Bayelsa State/South-South/2016).

Perpetuated culture of criminality

Most of the respondents (67.3%) opined that constant attacks within the communities have increased the trend of militants within the communities. Majority of the respondents believe that people in their communities often take laws into their hands and the rate of murders and other crimes were higher. The finding further reveals that 87.0% of the respondents lamented that some of the actions on pardon have attracted both personal and public anger. These results attest to Fabiyi and Adetayo's (2013) findings that the concept of prerogative of mercy by the Governor and President has worsened the growth of violent crimes in the past decade.

In order to complement these findings, a male respondent lamented that his father's murder had not been intentional because his father had run to the mob who noticed he was an indigene of another rival clan in Plateau State. He said:

I saw the use of prerogative of mercy as an insult to good morality and norm of society. I discovered my father in a pool of blood during the attack by the

neighbouring community. It was morally wrong and was an act of criminality and I reported the case to the police and security officer who later charged the six perpetrators to court. The Court Tribunal later sentenced them to death in 2005 and the State gave them pardon in 2009 without an appeal from the judgement of the court or a seeking for clemency or pardon from the State. I weep every time I see anyone of them moving freely in my community at the 5-day market (Male/Victims' family/Bau/Adamawa State/North-East/2016).

In one of the Focus Group Discussions, one of the respondents emphasised that:

There was no measure of decorum and decency in the exercise of the constitutional powers by the Governors and the President. Though, pardon is not new to the political landscape, but to pardon murderers is morally wrong. Even in civilised societies, taking advantage of the privileged presidential office or governors' position to facilitate state pardon for murderers and close political associates would be considered purely an abuse of public office (Female/Itsekiri-Ijaw Focus Group Discussion/Bayelsa State / South-South/2016).

One of the respondents who was a major victim during the political rally during the 2003 general elections said bitterly that:

The act of prerogative of mercy or pardon has turned into mockery and an act of bitterness in the society during this democratic rule. I was stabbed in the back mainly because I am an indigene of a community. We organised Boys' Carnival in my village and I attended, unknown to me, other nearby community militants invaded our community and started attacking the people in the rally with hoes and cutlasses. I reported the case to the Nigeria police and the offenders were

arrested and prosecuted. The three ringleaders were jailed for a period of 7 years but they were later released based on State pardon by the newly elected Governor(Male/Victim/Obribo/Bayelsa State/South- South/2016).

One of the respondents who was a staff of State judiciary submitted thus:

It is better to fling open the gates of all prisons and ask all the inmates to walk out than to pardon political assassins, murderers, hardened criminals and those who force otherwise decent Nigerians to take to crime as a way of life. However, we acknowledge that it is a lawful act, but with what moral prism does the President/Governor justify such act. Criminals going free after they have committed horrendous crimes against innocent individuals are uncalled for. Pardoning them is the worst thing to do, and it is like murdering and torturing the victims all over again. The obvious question that comes to mind is why the victims and their families should bear the burden of a difficult moral judgment to benefit the rest of the society. Besides, they exercise these powers on the influence of parties' interference; political thugs who maimed and killed others during the elections move freely after their release by their political godfathers (Man/Magistrate/Osun Central Division Judiciary/Osun State/South-West/2016).

These results confirmed the views of Hampton (2007) that in Nigeria's Fourth Republic (1999), some political thugs reportedly killed innocent political opponents but within the twinkle of an eye, the convicted thugs were granted freedom under this exercise.

Conclusion

Despite the pardoning power as an act of grace in deserving cases, majority of the respondents perceive it as a most imperfect morality tool to protect offenders rather than the victims. Majority agreed that the victims or families of the victims have been living with economic hardship and psychological trauma because of the death of their beloved. Most of the respondents lamented that the constitution protects the offenders more than the victims, and families of the victims were feeling the pains. The victims' and their families' desire to revenge at the slightest opportunity always leads to civil disobedience, tribal and ethnic crisis within and between communities. The paper concludes that the families, friends of victims and victims in particular have been living with anger and negative emotions within their communities. These aim to take revenge at any slight and available opportunity. Majority of the respondents lamented that the exercise of these powers was mainly based on the influence and interference from political parties. During elections, convicted political thugs move freely after their release by their political godfathers. It is imperative that the procedures and standards guiding the prerogative of mercy need to be reviewed properly. Thus, there should be a strong moral ground for when and how the mercy should be used in the constitution. There is a need to re-direct and focus on palliative measures to alleviate the suffering of the victims and victims' families. The need to confront the menace of crimes and constant community attacks demands a total exclusion of these laws in developing countries where ethnicity determines all decisions.

References

- Adebowale, Y. (2013), "US Condemns Presidential Pardon for Alamiyeseigha' ThisDay Live accessed 18 June 2013.
- Adegboyega, O. (2010) Politics and the Nigerian Situation. *International Journal of Advanced Legal Studies and Governance*, 1 (1), April.
- Bedau, H. (1978) Retribution and the Theory of Punishment in *Journal of Philosophy*, 75(11) p. 601-620.
- Bergman, M.S. (2006). Review Essay: Crime, Citizen and Citizen Security in Latin America-The Challenges for New Scholarship. *Latin American Research Review* 41(June) 213-227.
- Chandrachud, Y. V., (ed) (2009), "P. RamanathaAiyar's Advanced Law Lexicon" 3rd edition Lexis Nexis Butterworths Wadhwa Nagpur, New Delhi, 943.
- Ciocchetti, C. (2003). Wrongdoing and Relationships: An Expressive Justification of Punishment, *Social Theory and Practice* 29, No. 1:74-79.
- Clark, M. (1971) 'The moral gradation of Punishment' in *Philosophical Quarterly*, 21 (83), p. 132-140.
- Cobb, P. W. Jr., (1989), "Reviving Mercy in the Structure of Capital Punishment" *Yale Law Journal* 389, 390-1.
- Dakas, D. C. J., (2011), "Impunity, Necessary Evil or Strategic Imperative? The Question of Amnesty for Perpetrators of Kidnapping (and other crimes) in Nigeria's Niger Delta Region" *Nigerian Bar Journal*, Volume 7, 184, 196.
- Fabiyi, O., and Adetayo, O., (2013), "Outrage over presidential pardon for VIP ex-convicts" *Nigeria Punch* accessed 16 June 2013.
- Fabiyi, O., Akasike, C., and Odiegwu, M., (2013), "Ikimi, others blast Jonathan for Alamiyeseigha's pardon" *Nigeria Punch* <<http://www.punchng.com/news/ikimi-others-blast-jonathan-for-alamiyeseigha's-pardon/>> accessed 16 June 2013.
- Feinberg, J. (1992). "An Expressive Theory of Punishment," in *Doing and Deserving* Princeton, NJ: Princeton University Press, 101-05.
- Gaus, J. (2002). A Defense of Pure Retribution, in *Social, Political, and Legal Philosophy*, vol. 1, ed. E.Villanueva (Amsterdam: Rodopi, 339-61. Gaus argues—rightly, I think—that concerns about retribution are essentially concerns about the notion of desert.
- Hampton, J. (2007). Correcting Harms and Righting Wrongs, *UCLA Law Review* 39:1686, 1695; reprinted in *The Intrinsic Worth of Persons* Cambridge: Cambridge University Press, 108-50.
- Honderich, T. (1989). *Punishment: the supposed justifications*, Polity Press Cambridge.
- Ikhariale, M., (2013), "The law and politics of a pardon" *Nigeria Punch* accessed 16 June 2013.
- Makulu, H. (2010). Education, development and nation-building. *Independent Africa*, 32, London: SCM Press.
- Moore, M. (1997) Placing Blame: A General Theory of the Criminal Law, *Fletchermacro* 52 *Buffalo Criminal Law Review* Vol.3:51
- Moore, K. (1989): *Pardon, Justice, Mercy and the Public Interest*: Oxford University Press.
- Murphy, J. G., and Hampton, J., (1988), "Forgiveness and Mercy" Cambridge University Press, New York, 21.
- Pojman, L. (2004). Why the Death Penalty is Morally Permissible, in *Debating the Death Penalty: Should America Have Capital Punishment?* ed. H. Bedau and P. Cassell New York: Oxford University Press 51-75.
- Section 230 (1), Section (235), Section 175(1) (2) and Section 212(1) (2) Of 1999 Constitution of the Federal Republic of Nigeria
- Walker, N., (1991), "Why Punish?" Oxford University Press, Oxford, 115.