

CRIMINAL LAWS AND PROSECUTIONS IN THE OLD TESTAMENT AS AN OPTION FOR PEACE IN A CRIMINAL STRICKEN NIGERIA

Cliford Meesua Sibani

*Department of Religious and Cultural Studies
Rivers State University, Nkpolu-Oroworukwo, Port-Harcourt*

&

Ohaeri Nnaemeka Ndubuwa

*Department of Theology, College of Arts
Wesley University, Ondo State*

Abstract

Every society has threats of criminalities ravaging the environment and robbing them of peace. Criminal issues were found and addressed in the Bible times as a compass for the contemporary society to follow. Some humans constitute themselves as nuisance to the society and there are laws and law enforcement agents that stand to these challenges otherwise the society would have been tormented daily without protection. Criminal laws in any society act as watch dog that bark and bite. Obviously, this research strides to looking into criminal laws in the Old Testament, prosecutions and remedies, offences against God and their punishment in the Old Testament, offences against human Life in the Old Testament and offences against family. However, this research made use of the historical method in its analysis in which research materials were consulted. It went further to recommend amongst others that appropriate measures be taken to punish criminals in the manner of the Old Testament times for peace to prevail in Nigerian society.

Keywords: Criminal Law; Persecution; Old Testament; Criminal Stricken

Introduction

The question of what the Bible say about criminal law (capital crime) and punishment is a pertinent question that received several answers from deferent scholars. According to Bible Gateway Blog contributors (2016: 112):

It is a topic that requires modern readers to distinguish between descriptive Bible content (that simply describes, in a historical sense, the state of things in Bible times, without necessarily requiring it of believers today) and prescriptive Bible content (that imparts an authoritative command or guideline for Christians of all eras).

Ogba (2004: 157) also says “Most modern readers find the law of the Old Testament dull and uninteresting. However, they can still give us a number of insights into important aspects of the Old Testament faith.” Obviously, the issue of criminal law and punishment is a significant feature in the justice system of the Old Testament Israel, thus, execution were made in response to extreme civil crimes such as murder, rape, and offenses against God’s holiness, like false prophecy and witchcraft. Although, there are some mechanisms in place to avert the death penalty in some situations, also sometimes God Himself spared the lives of some people whose actions, legally speaking, would have ended in death penalty.

Salihu (Citing Dambazau, 1994) said the origin of Nigeria legal system is traceable to Britain; which in turn originated its laws from the common law. He said that originally, English judges applied norms and rules peculiar to each community whenever they were settling disputes. It was through such rules that Britain eventually established what came to be known as the common law. According to him common law is a judge-made law, because, the rules were determined by judges and not by any legislative body. Also, the common has two principal divisions which are: Criminal and Civil law. Criminal law according to him is a body of rules listing the various criminal offences, identifying the ingredients thereof and specifying the potential punishment. Clarkson (1989) opines that the major goal of the criminal law in Britain is the prevention and control of crime, through which the Nigerian legal system later originated. However, in the Old and New Testament the unique author of law is God who is just in his judgment and who abhors sin. Hence it can be said that most of human moral laws originated from God who is the creator of every being.

The establishment of capital punishment in ancient Israel is often used to argue for the death penalty in the modern time justice and it seems reasonable to conclude that since God incorporated it into Israelite society, capital punishment is not antithetical to His nature. Criminal, according to Enchanter Dictionary (2009), is an adjective of the word crime; crime is defined as a breach of a rule or law for which a punishment may be prescribed by a governing authority. The English word crime comes from the Latin word "crimen" and Greek word "krino" meaning judge. Thus, crime in the context of this research work is any breach of law that is punishable by judges. Law, from the same source is defined as a rule of conduct or procedure recognized by a community as binding or enforceable by authority. It is imperative that Judicial System is the system of courts that interprets and applies the law in the name of the state. The judicial also provides a mechanism for the resolution of dispute under the doctrine of separation of powers and ensures equality before the law. Hence, in this research work, we shall be considering criminal cases and punishment in the Old Testament and how peace can be enjoyed if

implementation of the criminal laws governing our society can imbibe the Old Testament approach in dealing with criminals.

Criminal Laws in the Old Testament, Prosecutions and Remedies

The Biblical law distinguishes between crime and sin. Sin is referred to as any thought or action that is prohibited by God. Thus, the Old Testament judges do not deal with all sin but rather they are limited to the dealing with crimes. Danny McCain (2009:48) commenting on sin says “Sin is a terrible tragedy that not only had immediate effects upon the original sinners, but also carried over into future generations”. Hence sin is divided into wilful sin, sinful nature and sin of ignorance.

Hence, in the Old Testament Judicial system, those sins that are regarded as crime are been treated accordingly to avert the punishment on the future generation. Berkhof (2000:219) commenting on sin posits:

Sin is one of the saddest but also one of the most common phenomena of human life. It is part of the common experience of mankind, and therefore forces itself upon the attention of all those who do not deliberately close their eyes to the realities of human life.

Sibani (2009:27) also affirmed “sins of ignorance committed inadvertently required a sin offering. The violation of negative commands punishable by excision could be rectified by a prescribed sacrifice.” Considering the above scholars views on sin and crime in the Old Testament; it is obvious that sins and crimes are punishable by the Law, though with different measures of punishment. However, Ogba (2004) classified criminal law in the Old Testament into three groups, which are: Offences against God, Offences against human life and Offences against the family. Offences against God include; Idolatry, Blasphemy and magic. (Exodus 22:20, Leviticus 20:1-5, 24:10-16, Deuteronomy 13:1-18). While offences against human life and family include; Intentional murder, kidnapping, sexual sins, assault and theft (stealing) respectively.

Offences against God and their Punishment in the Old Testament

According to Ogba (2005), offences like Idolatry, Blasphemy and Magic are serious offences against God in the Old Testament, because, they interrupt the basic relationship between God and His People. Hence, they are accompany with a more severe punishment like death by the sword or stoning; as it is seen in the case of the Golden calf in (Exodus 32: 26-29) and the case of Naboth in (I kings 21: 1-16); though, Naboth’s case was false accusation of blasphemy, yet the action they took against him was in accordance with the law. Sometime those who are convicted of these crimes are sidelined from the ‘Assembly of God’s people’.

Offences against Human Life in the Old Testament

Murder

No human was expected to kill or take the life of other humans. Murder is the wilful killing of another human. In the Old Testament there are two kinds of murder, intentional murder and accidental killing (Man slaughter), however, the two does not carry the same measure of punishment. Intentional murder carried death penalty as directed by God Himself while accidental killing (man slaughter) has the penalty of been sent to the city of refuge as stated in (Numbers 35: 22-34):

Whoever strikes a man so that he dies shall be put to death. But if he did not lie in wait for him, but God let him fall into his hand, and then I will appoint for you a place to which he may flee. But if a man wilfully attacks another to kill him treacherously, you shall take him from my altar that he may die. (Exodus 21:12-14).

Intentionally and deliberately killing a person is such a serious crime in the Old Testament that death penalty was ordained by God Himself. This is because; man was created in the image of God, so killing a person is like striking at the image of God and the family of the deceased is been robbed of all the benefits they would have derive from the person; hence, intentional murder is such a costly crime that nothing can avert the effect easily, except the death of the criminal. Death penalty provides a strong deterrent for murder in the Old Testament, though, this was not the primary purpose, but rather justice requires it. A human life is so valuable that deliberately destroying a life deserves the ultimate sanction. Justice requires that a penalty for a crime is equal to the crime.

Hence, death penalty was never employed arbitrarily or frivolously in the Old Testament; rather, it is an order from the Sovereign LORD of justice. Who placed so much value on human life which He created in own image, therefore He says “Whoever sheds the blood of man by man shall his blood be shed; for God made man in His own Image” (Genesis 9:6)

Kidnapping

Another criminal offence against human life mentioned in the Old Testament is In the Old Testament period, the primary purpose of kidnapping was to use or sell the person into slavery; an example of kidnapping case in the Old Testament is the case of Joseph who was kidnapped by his brothers and sold into slavery to the Ishmaelites, found in (Gen. 37: 28, Gen. 40:15). However, kidnapping freeborn Israelites either to sell or to use them as slaves is a serious crime that is punishable with death penalty in the Old Testament. “Whoever steals a man, whether he sells him or is found in possession of him shall be put to death.” Exodus 21: 16. In Deuteronomy 24: 7 it states: If a man is found stealing one of

his brethren, the people of Israel, and if he treats him as a slave or sells him, then that thief shall die; so, you shall purge the evil from the midst of you.

However, in the modern society, the primary purpose of kidnapping is to extort ransom from the family of the victim. Unlike the Old Testament judicial system where kidnappers are being punished immediately with death sentence, the Nigerian Judicial system, has deferent treatment for kidnapping, for instance, some imprisonment, some payment of fines, while in some cases the accused or suspects are been charged to court. In some cases, where some public personalities were discovered involved in the crime, justice would be perverted. Today, most of the Local Government Chairmen and chief security officers in Local and State levels are criminals and kidnappers and some serve as “Body-guides to top political leaders.

Offences against Family

Sexual sins

Criminal law in the Old Testament is vast and covers the offences against family which deals squarely on sexual relationship. According to Kalu (2016), all illicit sexual relationship, whether incest, homosexuality, lesbianism, buggery, rape, and adultery are criminal offences in the Old Testament which is accompanied with severe penalty of death (Levi. 18: 1-24, 20:10-16). In the Old Testament, every illicit sexual relationship is regarded as criminal offence by God; hence, He placed an uncompromising punishment on it, as stated below:

If a man commits adultery with the wife of his neighbor, both the adulterer and the adulteress shall be put to death. The man who lies with his father's wife has uncovered his father's nakedness; both of them shall be put to death, their blood is upon them. If a man lies with his daughter-in-law, both of them shall be put to death; they have committed incest, their blood is upon them. If a man lies with a male as with a woman, both of them have committed an abomination; they shall be put to death, their blood is upon them. If a man takes a wife and her mother also, it is wickedness; they shall be burned with fire, both he and they, that there may be no wickedness among you. If a man lies with a beast, he shall be put to death; and you shall kill the beast. If a woman approaches any beast and lies with it, you shall kill the woman and the beast; they shall be put to death, their blood is upon them”. (Leviticus 20: 10-16).

Obviously sexual sin like raping is highly prohibited in the Old Testament in that convicts are made to face the penalty immediately without mercy. A clear example of it is the case of Dinah Jacob's only daughter, who was raped by Shechem a Canaanite, and her brothers Simeon and Levi descended upon Shechem and his people and slaughtered them as a

result of Shechem's action with their sister. Though, one can argue that the reaction of Simeon and Levi was not condemned by their father Jacob, however, they could be justified by the law considering the wicked act of rapping done to their only sister by an uncircumcised Canaanite, whom God Himself warned them never to associate with nor marry. Confirming this point, Kunhiyop (2008: 277) says "Rape like all violence is a sin against God and a crime against humanity...." Child rape in Nigeria is rampant. Homosexuality and lesbianism is on the increase in the Nigeria and society especially in countries where it has been legalized. Let the society go back to the Old Testament era and implement the sanctions and retributions for a better society.

Honestly, sexual crime supposed to be treated immediately without compromise especially in a morally decay society like Nigeria, so that others will take precaution, but the reverse is the case with the Nigerian Judicial system, where justice are being delayed so much that some convicts would buy out their freedom and continue with their evil. Adoyi (2015) commenting on this says the slow delivery of judgment as well as the several judgments passed humanly and not objectively has led to a great distrust for Nigeria the judicial system.

Theft (Stealing)

God in the Old Testament specified two types of sin for which remedy or punishment can be imposed by a human court. These sins are: 1. Theft or damage to property and 2. Physical injury to a human person.

Theft or Stealing is another criminal law specified as sin in the Ten Commandments. However, there are specifies punishment for it. This means that theft or stealing is both sin and crime (Ex 22:1-4). Once a man covets and steals from his neighbour, Judges have authority to act against him. According to the law of God in the Old Testament, the person is subject to be judge by the law, because, his action is now visible, thus, witnesses can observe and testify against him. This provides Judges with a basis for dealing with theft. However, the basic principle of the Old Testament on the crime of theft (stealing) is centered on the concept known as "Restitution". Restitution is an act of returning something to the rightful owner; it is also an act of paying compensation for a loss, damage or injury.

In this context a person convicted of theft is made to pay back what he or she stole to the rightful owner as commanded by God. However, in most cases the person is made to pay more than what he or she stole. For example, a thief caught is expected to make restitution of four or fivefold to the victim. "If a man steals an ox or a sheep and slaughters it or sells it, he must pay back five head of cattle for the ox and four sheep for the sheep" (Ex 22:1). The thief must pay his victim four times the value of what he has

sold. The compensation beyond the value of what was stolen makes up for the cost of tracking down the thief. It also acts as a deterrent against theft. A thief will not get caught every time, so if he only had to pay back what was stolen, he might decide to risk the crime, knowing that if he gets caught, he can just give back the stolen goods. Thus, the fourfold repayment reduces the economic benefits of theft.

However, an ox gets additional restitution because it can be used to pull a heavy load. It is a capital good that can be used to produce a stream of income into the future, so is more valuable to its owner than a sheep. Stealing an ox makes the owner less productive for the lifetime of the oxen. Using a modern example, the theft of a carpenter's tools (his capital goods) costs him more than the theft of something he has made. This is why additional restitution is required. Biblical law requires five-fold restitution for any capital goods that are stolen. Ojaka (2016) holds that this is very different from the modern system of fines and imprisonment, which gives little or no benefit to the victim, because, in most cases the fines are paid to the state, so the victim gets nothing at the end. If the criminal is sent to prison, innocent citizens pay the cost and the victim still misses out, which is very unfair. In the biblical system the victim gets compensated for their loss.

Meanwhile, for this principle of restitution to be effective in the Old Testament, a system known as "Detective" was formulated. This system "Detective" is an act of tracking down a criminal for instance a thief, in the Old Testament period to pay compensation to the victim. Fortune (2015) avers that this is done by the use of some skillful individuals who will also be paid at the end of their services. The compensation a victim receives most at times is sufficient to pay for the cost of tracking down the criminal; this gives some level of comfort and power to the victim.

However, in the modern system, the victim in most cases has to rely on the police to track down the criminal and when the case is not a priority to the police in concern; may be because of the benefits involved is not appealing to them, their commitment to the case will be minimal, and at some-point they may not do anything on the case. Also, in the Old Testament system, the victim has some level of power to persuade the detectors to hasten or intensify their pressure on the criminal to get the compensation, but in the case of the contemporary society, the victim has no legal power to intensify the Police pressure on the criminal.

Another system that is employed in the Old Testament to make the issue of restitution possible is what is called "Bonded Employment". This is the process through which a convicted criminal who could not afford to pay the required restitution is made to become an employee of the victim. Abu (2014) holds that in this case, every convicted person is made to fill the pains of his/ her crime irrespective of the class. If a poor person is

convicted and he/she is allowed going with impunity, the person will go on committing the crime or even other more complicated act. That is why in the Old Testament, this problem of the poor criminals like thief is being offered a solution with what is called "restitution loan". In this case if the convicted thief owns property, they would probably need to sell something to make restitution. If the person does not own property, they would have to find someone, hopefully a family member or neighbour from their Kindred who will lend them the money to make restitution.

In exchange for this loan, the criminal would become a "bonded employee" of the lender. While under the bond, the criminal would be provided money to cover food and shelter, but the rest of their earnings would go towards repaying the loan (Ex 22:3). The bonded employee would be under travel restrictions and would not be able to travel far from their place of work. An electronic tracking device may be needed to ensure that they do not escape to avoid payment. The criminal would probably have to promise good behaviour to the person making the loan. This should assist with the rehabilitation of the criminal. However, strict rules were applied to the treatment of "bonded employees". If they are mistreated, they could go before a Judge and claim their freedom as compensation (Ex 21:26-27; Deut 15:12-18).

The length of the bond would depend on the amount stolen and the size of the restitution. If the items stolen were valuable, the restitution might be quite a large amount, so the criminal might lose their freedom for several years. The thief would be giving the lender a mortgage over their life. This confirms the bible teachings that "a borrower is a slave of the lender" (Prov 22:7), so the penalty for theft will be a slave-like life. The length of the bond could also depend on productive capacity of the criminal. Unlike a charity loan to someone who falls into poverty, the debt would not be cancelled after seven years (Ex 21:2), so a thief with a bad attitude might be under bond for a long time. The thief could have an incentive to work hard and increase his skills. By becoming more productive to his employer, he might be able to negotiate an earlier release from the bond. Developing good work habits and increasing his earning power would make the thief less likely to offend in the future.

Bonded employment is a new concept for many Christians, but it is very similar to modern social welfare systems. The state gives poor people sufficient money for food and shelter, but in return it takes control over its beneficiaries and puts limits on their lives. It can make them go to work, and if they earn more than a certain amount, it can take it off them. This is a form of "state slavery". Under the biblical system of justice, convicted thieves will face a similar lack of freedom, but they will be bonded to relatives or people from their local community who know them, rather than an impersonal government department.

It is a pity that in Nigeria, criminals are walking freely on the streets. Those who stole Billions of naira are celebrated and given more appointments into top political positions. If they are arrested, the next day they bribe their way out. Those that should be free are in prison wasting away. There is no restitution of four to five-fold of looted money; rather a fragment of stolen money and property will be taken from them. No political thief in Nigeria is serving the nation with hard labour to make-up for what has been stolen.

Assault

Another criminal case that is punishable in the Old Testament period is Assault. Assault is a violent physical or verbal attack, or an unlawful threat or attempt to do violence or harm to somebody else. In the Old Testament, the principle of restitution is also applied to assault, in that the person who assaults another must pay compensation to his victim for any injuries or damage to property caused by the assault. This is in accordance with God's commandment as stated below:

If men quarrel and one hits the other with a stone or with his fist and he does not die but is confined to bed, the one who struck the blow will not be held responsible, if the other gets up and walks around outside with his staff; however, he must pay the injured man for the loss of his time and see that he is completely healed. (Ex 21:18-19).

The fairness of this solution contrasts dramatically with our modern system, especially the Nigeria Judicial system. Where victims of assault get very little help and if they try to get financial compensation most of the benefit goes to their lawyers. According to Bible Gateway Blog Contributors (2016) the Old Testament expression "an eye for an eye" is well known passage that pointed toward the issue of assault, but it is totally misunderstood. Almost everyone assumes that the law requires physical vengeance for personal injuries. Even Christians assume that the Old Testament literally requires "an eye for an eye and a tooth for a tooth", because they have never bothered to check what the law actually requires. An examination of Exodus 21:23-25 shows that its purpose is almost totally opposite to this popular view:

If men who are fighting hit a pregnant woman and she gives birth prematurely but there is no serious injury, the offender must be fined whatever the woman's husband demands and the court allows. But if there is serious injury, you are to take life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise (Ex 21:22-25).

The passage specifies financial compensation for the loss of the baby and not physical vengeance. "An eye for an eye" is nothing more than a principle for deciding the value of the economic restitution a criminal should make to their victim of an assault. Courts will decide compensation to be paid, by determining the economic value of an eye. It would

try to assess the value of the income and enjoyment lost through the lack of an eye. This is a bit like the lump-sum compensation provided by some accident insurance schemes, where the loss of an arm was worth more than the loss of an eye. An "eye for an eye" means that a person who loses an eye will receive compensation for the loss of any eye. If the victim loses the use of their leg, the criminal will have to pay compensation for the loss of that limb.

Most English translations put the word "but" at the beginning of Exodus 21:23 to make it sound like a different principle from what precedes it, but there is no "but" in the original Hebrew. The verse refers to financial compensation. Using it to justify physical revenge is only possible if Moses' words are taken out of context. However, in the contemporary society like Nigeria, cases of assault; like rape follow with a penalty of imprisonment.

Recommendations

1. Our society should ensure that criminals are sternly punished to serve as deterrents to others.
2. In so many societies today, criminals are set free and seen as sacred cow and untouchable when they pay fines, whereas they ought to be imprisoned. Culprit should serve jail terms for their wrong doings in accordance with the Law.
3. There are difficulties in the implementation of criminal laws in so many societies because those that should punish offender are corrupt and abet crime. The implementation of the Old Testament principles of an eye for an eye etc. will help to reduce crime in the society.
4. There should be proper mechanism to rehabilitate repentant criminals to mould them into better and useful humans in the society.

Conclusion

Obviously, some judicial system like that of Nigeria judicial system has a lot of lapses when compare to the Old Testament judicial system. This is because; in the Old Testament criminals are made to face the consequences of their crime squarely without fear or favour, but in the Nigeria judicial system, many criminal cases were swept under the carpet and the criminals go unpunished, whereas many innocent persons who were falsely accused are always prosecuted without following the proper procedure of the law. Sibani (2008:109) confirmed this by saying "The government of God is quite different from the government of this world. No favouritism is found there... there, equality before the law is sustained.

The Old Testament specifies the penalties that judges must apply for each crime. These penalties are still relevant in the modern world. However, in the Old Testament there is no

imprisonment as a punishment for crime as it is obtainable in the Nigerian Judicial System. Though, the Old Testament allows a person to be held in custody while waiting for their trial, but this should be only for a brief time. “They put him in custody until the will of the LORD should be made clear to them” (Lev 24:12, see also Num 15:34). The Old Testament judicial system is indeed a great challenge to the Nigerian Judicial system especially in its boldness to implement the law without fear or favour, this is because, God was fully involved in the custodian and the implementation of the laws unlike the criminal stricken society in which the custodians of the laws go about breaking the laws without being punished. Therefore, for such society to experience at least some levels of peace and tranquillity she needs, the judicial system must to be reformed with the new strategies, drawing some useful inspiration from the Old Testament judicial system, where God was fully involved and equality before the law was upheld.

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