

A Sensible and Compelling Substitute for Capital Punishment: Alternative Model; Salient Matters Arising in Nigeria and the USA

Chukwunonso Okafø[®]

Abstract

This article examines the suitability of death as a form of criminal punishment and offers a credible substitute for this sanction. After reviewing the essential nature and character of capital punishment, particularly in Nigeria and the United States of America (USA), this article offers “Life in Prison with Hard Labor and No Release Before Natural Death” – LPHLN – as a credible substitute for the death penalty. The ingredients and rationale for the preferred alternative model are given and explained. The LPHLN model was the subject of a field test via a guest lecture given at a university in Virginia, USA, in February 2010. The positive responses and contributions by the audience have helped to sharpen the model. Overall, this paper makes a strong case that adopting the alternative model will do away with the several flaws in capital punishment, while properly responding to the most vicious criminals in society.

1. Introduction

Three of the most challenging issues facing criminal justice are: (a) which offenders, if any, should be punished; (b) how best to punish them; and (c) how far to go in punishment. Logically, the first issue to be determined is whether to punish a criminal. It is trite that no criminal justice system is able or capable of punishing every “criminal”. No criminal justice system has the capacity, the will, or even the need to identify every criminal and to punish all. Consistent with this view, norm violations (including crimes) may be

[©] Ph.D., B.L., Professor of Law, University of Nigeria. Email: ChukwunonsoOkafø@lawyer.com or NonsoOkafø@yahoo.com. Website: LawPracticeandJusticeResearch.com. Professor Okafø had studied in both Nigeria and the USA. For more than fifteen years after earning a Ph.D., he taught for three US universities, including Norfolk State University, Virginia where he held a tenured Professor rank. Then, he returned home to join the Faculty of Law of the University of Nigeria.

regarded as “functional” or good for society.¹ This means that violations often trigger a society’s official and unofficial reactions that remind the violator as well as other members of the society of the proper behavior expectations in the society. Also, a society’s reaction reinforces to the citizens that they ought not to conduct themselves as the violator has done. The consequence, then, is that not all criminals in society are punished nor should they be.

Thus, the limitations on the capacity, will, and need of a criminal justice system to identify and punish all its criminals mean that offenders that are exempted from punishment abound in every system. Discretion is real and common in law and justice. Discretion is the notion that persons and agencies charged with interpreting, applying, enforcing, and executing the law could exercise reasonable judgments in the course of carrying out their duties. The real effect of this concept in the specific field of criminal justice is that whereas a law authorizes (and perhaps *requires*) a police officer to enforce a law in full, the officer often does not fully enforce the law. Rather, the officer decides whether or not to do so, in what circumstances, against whom, to what extent, etc. Those are examples of *discretion*² in criminal justice. Therefore, in the absence of “full enforcement” of the laws (arrest, trial, conviction, and punishment of all criminals as stipulated by the applicable laws), a criminal justice system necessarily allows some, probably many, “criminals” to go unpunished.

Even while focusing only on those criminals that are identified, processed, and convicted, there remains a major chasm between the views for and against punishment, especially regarding the *extent* and *forms* of such punishments. For a modern society, it seems reasonable to state that most citizens would support *some* punishment or sanction for *serious* crimes, even if the citizens’ philosophical foundations for supporting punishment would vary among such paradigms as retribution, deterrence, incapacitation, etc.

¹ Emile Durkheim, “On the Normality of Crime” (1961) *Theories of Society: Foundations of Modern Sociological Theory*, Talcott Parsons, Edward Shils, Kaspar D. Naegele, and Jesse R. Pitts (eds.) (New York, New York, USA: Free Press, 1961), pp. 872-875.

² B. Atkins and M. Pogrebin, *The Invisible Justice System: Discretion and the Law* (Cincinnati, Ohio, USA: Anderson, 1981), p. 1; Stan Stojkovic, David Kalinich, and John Klofas, *Criminal Justice Organizations: Administration and Management* (Fourth Edition) (Belmont, California, USA: Thomson Wadsworth Publishing, 2008), pp. 321-325.

The varied archetypes for managing criminal offenders are divisible according to their emphases on punitiveness.³ Restorative Justice, for example, deemphasizes punishment. One of the goals of restorative justice is to restore the victim (and the close relatives, community, and even the offender) to his/her position before the crime at issue occurred. Thus, negotiation and consensual resolution are central to restorative justice.⁴ Restorative justice is not intended to depend significantly, if at all, on the formal criminal justice system, rather “restorative justice is justice that has redress to the victim as one of its primary goals, whether or not the offender has been detected, arrested or charged”.⁵

Restorative justice focuses more on offender reform than most other sanctions models do. As stated, through restorative justice, the offender is “treated” by a mixture of strategies involving the offender, the victim, close relatives, community members, and even some public justice officials. The main aim is to put the parties back to their conditions prior to the offense, to the extent possible. Sometimes, the “treatment process” includes the offender admitting his or her crime and replacing what had been stolen, or repaying the monetary value, or giving the victim other thing of equivalent value instead.

As stated, Restorative Justice advocates *healing* the offender, rather than *punishing* him/her. Taken literally, the healing formula would require the medicalization of law and justice. The view would require the criminal justice system of a society to treat or reform every person who is identified and pronounced guilty of a crime. This is highly impractical mainly because crime victims, their relatives, communities, and the State demand and expect “tougher” State responses to crimes, especially those that threaten a community and its citizens’ freedoms and rights. A more realistic view is that in a State, crimes will be sanctioned as necessary. In particular, serious crimes will be sanctioned seriously, while lesser crimes will be sanctioned mildly.

³ Nonso Okereaføezeke, *Law and Justice in Post-British Nigeria: Conflicts and Interactions Between Native and Foreign Systems of Social Control in Igbo* (Westport, Connecticut, USA: Greenwood Press, 2002), pp. 28, 38, 200.

⁴ Daniel W. Van Ness and Karen Heetderks Strong, *Restoring Justice: An Introduction to Restorative Justice* (4th edition) (New Providence, New Jersey, USA: LexisNexis, 2010), particularly pp. 41-50.

⁵ Elmar G. M. Weitekamp and Hans-Jurgen Kerner (eds.), *Restorative Justice: Theoretical Foundations* (Cullompton, Devon, United Kingdom: Willan Publishing, 2002), p. 310.

It comes to this. A society needs sanctions to demonstrate its aversion to prohibited behaviors, especially those of the serious criminal kind. Most reasonable people in society would agree that some sanctions or “punishments” are necessary particularly for serious crimes. It is true that restorative justice emphasizes more of offender healing (rehabilitation) than punishment, to restore the parties to their original positions, as much as is possible. Even then, restorative justice’s healing formula takes a variety of forms, including some punitive elements. This illustrates the inevitability of sanctions (punishments) for crimes in a society.

Therefore, in the final analysis, the question rightly is not whether or not a society should punish for criminal wrongdoing. A society should so punish. The correct question is: What is the appropriate degree (extent) of criminal punishment? A related question is: What is the best way to implement criminal punishment? These questions are answered below with the death penalty as an example of extreme punishments.

2. How Far Should Criminal Justice Go in Punishing a Criminal?

The death penalty is *probably* the most extreme form of punishment. It is perhaps the strongest method of disapproving of a behavior. It seems that it inflicts the greatest amount of pain or harm to the convict. At least with regard to physical pain and harm, this is true. However, punishment often takes other forms besides the infliction of physical injury or pain. Consequently, when examined in a wider context, death may not be the most extreme form of punishment. To accurately determine the most extreme form of punishment, the condition and preferences of a criminal should be taken into consideration. Thus, to a criminal, the relative value of a right or object that a punishment targets ought to be weighed.

Thus, punishment that is the most extreme to one criminal may not be so to another criminal. Whereas for Convict A life may be the most valuable thing, Convict B may regard freedom of movement as most precious, and Convict C may think that preservation of his material wealth is the most important thing. Based on his belief and preference, Convict A will regard a death sentence as the most extreme form of punishment. Alternatively, Convict B will view a sentence of life in prison as the most extreme form of punishment. For Convict C, a criminal punishment that strips him of his property ownership and use will qualify as the most extreme punishment. The foregoing perspectives mean that capital punishment should not be automatically assumed to be the most extreme form of criminal sanctions. Nonetheless, without doubt, death is one of the most extreme punishment types. Therefore, the sanctions model proposed in this paper to

replace capital punishment is designed with these diverse views in mind. As such, the elements of the model in this paper are intended to apply to all persons convicted and sentenced for otherwise capital crimes. The basis for this general application is explained among the key elements of the model in the following sections of this manuscript.

In criminal justice, death is applied in relatively few cases, yet this form of punishment evokes perhaps the greatest controversy. Capital punishment is highly controversial for a variety of reasons, including the following.

2.1 Death is an extreme form of punishment

Without doubt, the killing of a criminal offender is an extreme way to condemn his or her conduct. However grievous the crime is, there are always questions as to whether or not the offender deserves to be done away with permanently in such a premeditated and brutal manner. Normal human sensibilities usually accommodate some moderation in disapproving others' behaviours. This allows the condemner to always remember that even a bad person has some good qualities. Thus, it seems unnecessary to "throw away the bath water with the baby" in the process of condemning or punishing an offender. Because of this general human incline, it is normal to wonder whether capital punishment is justifiable.

2.2 Capital punishment appears to be imposed and executed selectively

One of the main knocks on capital punishment is that it tends to be applied selectively. And, the perception that death is imposed selectively derives from the actions and omissions of the various officials in criminal justice charged with the responsibilities of determining the fate of an accused capital criminal. Thus, for examples, the prosecutor's decision to seek the death penalty in charging a person with murder, along with the decision to present a type of evidence to secure conviction and sentence of death, is based on the prosecutor's discretion. Similarly, the judge's instruction to the jury (in a jury trial) or the judge's reading of the law and interpretation and application to the relevant facts (in a bench trial) depend on the judge's guided discretion. Further, the jury in a capital case has and exercises substantial discretion to convict and/or sentence an accused person to death.⁶ Thus, it is commonly used even on such crucial issues as whether or not an alleged criminal

⁶ J. Mark Lane, "Is There Life Without Parole? A Capital Defendant's Right to a Meaningful Alternative Sentence" (1993) 26 *Loyola of Los Angeles Law Review* 327.

offender deserves to be killed. Discretion is widely used in the criminal justice system.⁷ This is inevitable and necessary.

As such, for as long as the death penalty is a sanctions option in criminal justice, criminal justice officials' discretion will continue to play roles in determining who is condemned and executed. The exercises of discretion even on death penalty decisions are unavoidable. However, the form of discretion that I find troubling is that which amounts to selectivity. Such discriminatory practice unjustly exempts certain persons from the prescribed punishment (death) on the ground of illegitimate considerations, such as wealth, influence, star power, quality of legal representation, etc. None of these variables goes to the quality of the act or omission that would otherwise lead to capital punishment. So, why then do they play such major roles in sparing privileged accused persons from capital punishment while the less privileged are routinely executed for similar crimes? This question haunts criminal justice, and the model offered in this article is designed to help in resolving the issue.

2.3 Race and capital punishment decisions

In some countries, race is a major factor in the application of capital punishment. Like the other illegitimate considerations enumerated in the preceding section, using race to decide whether a suspect should be tried for a capital crime, convicted, sentenced, and/or executed, is an unacceptable exercise of discretion in criminal justice. Thankfully, the race variable is not a prominent feature of all nations' criminal laws and justice. As should be expected, it is an important variable in those countries with diverse racial groups and extensive histories of racial discrimination and injustice. It is important to emphasize that although every country has some level of racial diversity (in the sense that every modern country has citizens/residents from all racial groups in the world), racial diversity is far more extensive in some countries than in others. However, the USA, which is one of the most diverse countries in the world, offers perhaps the most notorious examples of misuses of race in death penalty decisions.

Numerous research activities on the US criminal law and justice show that race has a huge impact on the imposition of the death penalty.

⁷ Atkins and Pogrebin, above note 2 and Stojkovic, Kalinich, and Klofas, above note 2.

Statistics show that, because of racial prejudice,⁸ Blacks or African Americans are more likely to be convicted for crimes. In particular, there is significant evidence of racial discrepancies in charging, sentencing, and imposing capital punishment in the USA, especially where the homicide victim is White and the accused is Black. In such a circumstance, the Black accused is several times more likely to be charged, sentenced to death, and executed than an accused person of another race, especially White.⁹ Thus, in those countries, such as the USA, where race is a major determinant of capital punishment, a suspect's racial category can offer a key advantage or constitute a major burden, as the case may be. The model proposed in this article to replace capital punishment (LPHLN) is race-neutral. As such, it is applicable to capital murder suspects of all races. If implemented, the model would go a long way to help in correcting the unacceptable use of race to decide capital punishment issues in some countries.

2.4 Death penalty is final and irreversible once it is carried out

The irreversibility and finality of death is possibly the greatest argument against this form of criminal punishment. As a human institution, the criminal justice system of a society is imperfect. This means that errors (omissions and commissions) span the system. And the criminal justice system of a society is typically long and mystical to the average citizen. Throughout the long criminal justice process – including: criminal law enactment, commission of a crime, victim's report to the police, police investigation, collection of evidence, arrest of suspect, prosecutor's decision to prosecute, charge in court, judge's rulings on admissibility of evidence, court's interpretations of relevant laws, applications of the laws to the case facts, court verdict, sentence, execution of sentence – the system is fraught with numerous officials exercising varied forms of discretion. Every exercise of discretion risks errors that could compromise the quality of the justice done to the parties.

Ostensibly, as a response to the threats posed by such errors from exercises of discretion, the hierarchical court model is a common feature of law and justice in nearly all societies. This is designed to check and correct such errors in the justice system. Even then, the many levels of courts are

⁸ "Death Penalty and Innocence" (2010) *Amnesty International USA*, <http://www.amnestyusa.org/death-penalty/death-penalty-facts/death-penalty-and-innocence/page.do?id=1101086>; Internet (last accessed July 9, 2012).

⁹ "Death Penalty and Race" (2010) *Amnesty International USA*, <http://www.amnestyusa.org/death-penalty/death-penalty-facts/death-penalty-and-race/page.do?id=1101091>; Internet (last accessed July 9, 2012).

sometimes unable to identify and fix every error in the system many of which result in wrongful convictions even in capital cases.¹⁰ Thus, in many instances an outside person or body is needed to identify and alert a criminal justice system to take steps to correct errors in the system, often many, many years after the offender had been convicted and sentenced for the crime. This is precisely what gave rise to the *Innocence Project* in the USA, for instance, which has helped an appreciable number of convicts to regain their freedoms many years after being sentenced to long prison terms for crimes, which it was later discovered, they did not commit.¹¹ Thus, a strong case can be made for the abolition of the death penalty on human rights grounds.¹²

Note that the many convicts that have benefited from the *Innocence Project*'s services eventually regained their freedoms because they had received prison sentences. Had the convicts been sentenced to death and the sentences carried out, it would be impossible to restore their lives on being found Not Guilty. The impossibility of restoring a person's life once it is ended is sufficient to scare every rational human being. Faced with the errors that criminal justice officials make in the administration of criminal laws, there are real chances that these officials could execute persons who do not otherwise deserve such punishment under the system. Indeed, there have been instances of such wrongful convictions and executions (or near-executions), in several jurisdictions around the world. The Nigerian case of *Aliu Bello v. Attorney General of Oyo State*¹³ is instructive on this issue.

¹⁰ Michael L. Radelet, Constance E. Putnam, and Hugo Adam Bedau, *In Spite of Innocence: Erroneous Convictions in Capital Cases* (Boston, Massachusetts, USA: Northeastern University Press, 1992); Stanley Cohen, *The Wrong Men: America's Epidemic of Wrongful Death Row Convictions* (New York, New York, USA: Carroll & Graf Publishers, 2003); Helen Prejean, *The Death of Innocents: An Eyewitness Account of Wrongful Executions* (New York, New York, USA: Random House, 2005); "Death Penalty and Innocence", note 8; David A. Graham, "Guilty Until Proven Innocent" (2010) NEWSWEEK, August 22, <http://www.newsweek.com/photo/2010/08/19/famous-people-falsely-accused-then-exonerated.html.html>; Internet (last accessed June 2012).

¹¹ See *Innocence Project* (2010), <http://www.innocenceproject.org/>; Internet (last accessed July 9, 2012).

¹² See Orchia Blessing Iveren, *Justification for and the Abolition of Capital Punishment Under Human Rights Law* (LL.B Essay Submitted to the Faculty of Law, University of Ilorin, Nigeria, April 2011), <http://www.unilorin.edu.ng/studproj/law/0640ia155.pdf>; Internet (last accessed July 9, 2012).

¹³ (1986) 5 NWLR (Pt. 45) 828.

In the case, Nasiru Bello had been convicted of the offence of armed robbery¹⁴ and was sentenced to death by the High Court. He appealed against the conviction and a copy of the Notice of Appeal was served on the Attorney-General of Oyo State. While the appeal was pending, the Attorney-General recommended to the Governor that the convict be executed. Consequently, Bello was executed. At the hearing of the appeal, the state Solicitor-General informed the court that the convict had been inadvertently executed. As a result, the Court of Appeal struck out the appeal. The convict's dependents filed a suit in the High Court of Oyo State claiming one hundred thousand naira (N100,000:00) as damages for the illegal killing of the deceased. One of the defendants' defences was that the plaintiffs' claim disclosed no cause of action. The plaintiffs disagreed stating that they had a cause of action in that the constitutional right of appeal of the deceased was illegally terminated and that the benefits the plaintiffs expected from the deceased were abolished. The plaintiffs also argued that the Attorney-General's recommendation was irresponsible, reckless, and malicious because the defendant knew of the deceased's pending appeal. In his decision, while stating that the suit was not brought within the Torts Law,¹⁵ the trial High Court however found that the execution of the deceased was wrongful because it deprived him of his constitutional right of having his appeal determined by the Court of Appeal and, if necessary, by the Supreme Court (SC). The High Court awarded seven thousand four hundred naira (N7,400.00) damages for the wrongful execution. The plaintiffs appealed to the Court of Appeal, which confirmed the High Court's decision. On further appeal to the SC, the SC allowed the appeal and clearly stated that the wrongful execution of the deceased deserved to be remedied. According to the SC, the premature execution of the deceased by the defendants while the deceased's appeal against his conviction was still pending was unconstitutional; it was both illegal and unlawful. Also, the SC held, by the execution, the deceased lost his right to life and his right to prosecute his appeal. Further, the deceased's dependents were unjustly deprived of the benefits of the life of the deceased. The court then allowed the appeal and confirmed the damages awarded by the trial court.

Clearly, the finality and irreversibility of capital punishment, once

¹⁴ Punishable under section 1 (2) (a) of the Robbery and Firearms (Special Provisions) Act 1970 as amended by the Robbery and Firearms (Special Provisions) Act 1974.

¹⁵ Cap. 122, 1959, Laws of Western Nigeria, now Cap. 124, the Laws of Oyo State of Nigeria, 1978.

implemented, means that a person who is made to suffer this punishment will not be around to receive any apology or remorse from the State or its agency. In the permanent absence of an executed innocent convict, several jurisdictions resort to paying monetary compensation to assuage his or her close relatives. However, no amount of money will suffice to compensate the relatives for their extreme and invaluable loss. This means that the State is obligated to devise a credible alternative sanction to avoid wrongful capital convictions, sentences, and executions. The LPHLN model presented in this paper is designed with that goal in mind.

2.5 Great expenses are involved in the implementation of the death penalty

The criminal justice process leading to the execution of a condemned person is long and very costly. Capital cases are known to last for decades – through trial, multiple appeals, other judicial reviews, executive reviews by political leaders in each jurisdiction,¹⁶ long wait for execution, chance of conviction or sentence error resulting in unjustified killing, leading to State apology, embarrassment, and monetary payment to the deceased's relatives, etc. In the USA, for instance, trial, appeals, and judicial reviews often swing between federal and state jurisdictions, each jurisdiction with its various courts. The inputs by the several federal and state courts further lengthen the time before the enforcement of the final verdict. In the process, both the State and the accused person spend money stupendously to secure capital conviction or acquittal, as the case may be. Note that in some jurisdictions, such the USA, the State is legally required to provide an indigent accused person with quality (reasonable) legal representation in the process.¹⁷ As should be expected, this legal obligation adds to the State's expenses in such cases. Understandably, a person at risk of receiving capital punishment will do everything possible to avoid the sanction, and for most people this includes spending everything they own. This is especially because such an accused person is confronted with the might and vast resources at the State's disposal. Therefore, for the accused, great expenses will be necessary to contest the State's case.

2.6 Capital punishment arouses high emotions and needless eruptions of sentiments for and against the penalty

Not surprisingly, many citizens in society readily express strong views on the

¹⁶ Such as governor or president.

¹⁷ Amendment VI to the United States Constitution.

death penalty. Often this pits opposing parties against one another. Such discourses are passionate, again as they should be, because of what is at stake: life or death. Public arguments and demonstrations are common, especially whenever there is an execution going on or planned. Individuals and groups regard such occasions as their opportunities to state publicly their positions on this form of punishment. Although these contestations are avoidable, they are sure to continue unless a credible alternative to the death penalty is devised. In Nigeria, as in the USA and many other countries, the death penalty debate remains a contending issue because of the diverse interests it engenders.¹⁸ Ostensibly, the opposition to capital punishment in Nigeria has been so strong that in 2003 the National Assembly came close to passing a bill to abrogate the penalty from the country's criminal justice system.¹⁹

2.8 Capital punishment erodes the State's moral standing

The State's claim of a high moral pedestal that preaches and observes the sanctity and value of every human life comes into serious question when the State presides over a variety of *dramatization of evil*²⁰ that plans, carries out, and celebrates the deliberate killing of a human being. It should make no difference that an executed human being has committed one of the most heinous crimes known to a society. The point is that by opting to kill and deliberately planning and killing the condemned criminal, the State has assumed essentially the same position as did the criminal when he/she committed the capital crime. Add to these the fact that the State goes on to broadcast the State killing of the condemned person to the world.

Moreover, it is understandable that a close relative of a murder victim, for example, would want vengeance. And, if allowed to do so, the relative is likely to inflict the same punishment (death) upon the murderer. The relative's desire to kill the murderer seems consistent with a primordial inclination to protect a blood relative at extreme costs, if necessary. However, the State has a duty to rise above such familial relationships and desires. As such, the State is expected to safeguard the society and protect the

¹⁸ Adewale Kupoluyi, "The Death Penalty Debate" (2010) *Daily Trust*, January 17, <http://allafrica.com/stories/201001180060.html>; Internet (last accessed July 2012).

¹⁹ See Okechukwu Emeh, "Capital Punishment: A Humanistic Response" (2004) *Vanguard*, February 18, <http://allafrica.com/stories/200402180345.html>; Internet (last accessed July 10, 2012).

²⁰ See Frank Tannenbaum, *Crime and the Community* (Boston, Massachusetts, USA: Ginn, 1938).

members in general. This means that the interests of individual members should always be considered along with the interests of the society. Thus, it may well be that even a murderer should not be killed.

For the reasons stated above, among others,²¹ it seems necessary for criminal justice to devise a sanctions model that appropriately punishes persons that commit the most serious crimes, such as first degree murder, and at the same time avoids unneeded controversy. This need led to the sanctions model presented below.

3. How Can Criminal Justice Avoid the Controversy Surrounding Capital Punishment While Ensuring that a Serious Criminal is Adequately Punished?

3.1 “Life in Prison with Hard Labour and No Release before Natural Death” – LPHLNR

While considering the broad and specific ingredients of the best model to replace capital punishment, I am aware of the relative popularity of the alternatives to this form of criminal punishment. The literature on alternatives to the death penalty shows the following: “The most popular alternative to the death penalty is life imprisonment without the possibility of parole plus restitution. This alternative not only costs much less than capital punishment, but also keeps the criminal in jail for the rest of his life - so he cannot return back to society”.²² With this in mind, the “Life in Prison with Hard Labor and No Release Before Natural Death” – LPHLNR – model is propounded here for managing persons convicted of otherwise capital crimes, such as first degree murder. I had introduced this model in *Reconstructing Law and Justice in a Postcolony*.²³ I now provide a more in-depth explanation of the paradigm’s various elements and related issues. As stated earlier in this article, LPHLNR is a punishment, rather than healing, model. Unlike Restorative Justice’s healing brand, the prototype I recommend here does not aim to change or correct capital convicts, such as

²¹ See “10 Reasons to Oppose the Death Penalty” (2010) *Death Penalty Focus*, <http://www.deathpenalty.org/article.php?list-type=24>; Internet (last accessed December 2010).

²² “Alternatives to the Death Penalty” (2010) *End the Death Penalty*, <https://www.msu.edu/~millett/DeathPenalty/alternatives.html>; Internet, p. 1 (last accessed July 10, 2012).

²³ Nonso Okafø, *Reconstructing Law and Justice in a Postcolony* (Surrey, England and Burlington, USA: Ashgate Publishing, 2009), pp. 202-207, 204-205.

first-degree murderers. Instead, this model is designed to punish such convicts because of the extreme nature of their crimes (remember that the murders were premeditated). However, the elements of the LPHLN model are crafted to address the legitimate arguments against capital punishment and its other alternatives.

3.2 Gauging the Reactions to the LPHLN Model: A Field Test

Before presenting and explaining the elements of the LPHLN model, I wish to intimate the reader that I have carried out what can be described as a field test of the model. The aim was to further enhance and strengthen the prototype before formal publication. In February 2010, I gave a guest lecture to an audience (faculty, students, and staff) at a university in the USA state of Virginia, on this sanctions model. The lecture served as a constructive avenue for gauging the model and its many elements. In the exchanges I had with the participants at the event, many useful comments, suggestions, and critical appraisals were shared. The participants received the LPHLN model very well. As should be expected, they also offered recommendations for its improvement. To the extent necessary, those recommendations have been incorporated in the model offered in this article. Without a doubt, the ideas proffered at the event have helped to better ground and strengthen the model. Wherever appropriate in this article, specific challenges, questions, suggestions, and other ideas of the Virginia, USA audience for improving this model have been reproduced and addressed.

3.3 Key Elements of the LPHLN Model

The key elements of the Life in Prison with Hard Labor and No Release Before Natural Death (LPHLN) model that I offer are:

1. Life in prison, with hard labor, without the possibility of release before natural death. This form of imprisonment is really for life, meaning that by law no application for an early release of a convict sentenced accordingly will be filed or considered. Research shows that one of the reasons many citizens support the death penalty is because they fear that a convict sentenced to life in prison is invariably paroled after some years. In the USA, for example, the fear is pervasive (including among jurors). “Everybody believes that a person sentenced to life for murder will be walking the streets in seven years”, per Weltner, J. (Georgia State USA

Supreme Court).²⁴ Also, “some of the jurors were wanting to know would he get out in like seven years on good behavior If we were gonna put him in prison, we wanted to make sure he would stay there. But ... we didn’t really feel like he would ... we really felt like we didn’t have any alternative” (Juror in an interview following a death sentence).²⁵ It is unsettling to know that a convict could be sentenced to death because a jury (or judge) wishes to preempt a criminal justice system that does not require a life imprisonment term to run its full course.

Consequently, research also demonstrates that where citizens are assured that a life in prison sentence means that a convict will spend the rest of his/her life behind bars, the citizens show weakened support for the death penalty, thus strengthening their backing for alternatives to capital punishment. In the USA example, the data show that contrary to the idea that Americans unreservedly support the death penalty, more people would opt for an alternative sentence that assures both protection and punishment over the death penalty.²⁶ The LPHLN model presented in this paper, which requires that a convict sentenced to life in prison actually spends the remainder of his/her life behind bars, is designed to address the relevant concerns of juries, judges, and other citizens.

2. The “hard labour” ingredient of the LPHLN model deserves to be explained. An exchange I had with a participant in the guest lecture in Virginia, USA should help to clarify the concept. The participant asked: What qualifies the incarceration in LPHLN as “hard labour” any more than what already applies to many prison inmates? I responded thus: The fact of working does not by itself make the incarceration under LPHLN hard labour. The hard labour quality is based on the following characteristics. (a) The LPHLN model requires a convict to work for 15 hours per day, 6 days per week. This ensures that the convict produces/earns enough to pay for his/her incarceration, reasonable maintenance, as well as restitution to the close relatives of the victim. (b) The inmate does not receive salary or wages directly. Instead, the earnings are paid to the State, which distributes them as recommended in the model (recommended distribution guidelines are provided and explained below). (c) The convict’s responsibility to work and

²⁴ Quoted in Richard C. Dieter, “Sentencing for Life: Americans Embrace Alternatives to the Death Penalty” (1993) *Death Penalty Information Center*, <http://www.deathpenaltyinfo.org/sentencing-life-americans-embrace-alternatives-death-penalty>; Internet (last accessed August 2010).

²⁵ Quoted in J. Mark Lane, note 6.

²⁶ See Dieter, above, note 23; Lane, above, note 6.

earn money to be paid to the victim's relatives does not end until the convict dies. Therefore, "hard labor" derives from all the circumstances of the incarceration to which such a convict is subjected, to demonstrate society's strong condemnation of the extreme crime.

Further, hard labor means that the convict will be required to work in a productive profession, trade, training, and/or competence (for at least 6 days per week, no less than 15 hours per day), according to his/her education. A convict without any or much education, training, or competence can still be very productive in many work situations, such as serving as an assistant to a skilled professional (bricklayer, mover, farmer, construction engineer, etc.). Thus, lack of education or formal skills training should not prevent such a convict from working and producing under this model. In any case, the managers and personnel of the prison where such a convict is housed will be responsible for determining where a convict would be most useful and productive and the prison may reassign a convict as necessary. By the "6 days per week, no less than 15 hours per day" ingredient of LPHLN, a convict that is made to work hard for so long will produce substantially to compensate the close relatives of his/her victim. In addition, the long, hard work will surely emphasize the society's strong disapproval of the grievous crime.

3. The convict's earnings under the LPHLN model will be paid to the State initially, not the convict. The State, as explained here, will consider the interests of the stakeholders and distribute the convict's earnings accordingly – see Key Element 6 below.

4. The State will owe the convict no more than what is necessary for reasonable health and sustenance (a small portion of what the convict produces should be enough to satisfy the necessities).

5. The State will determine the appropriate percentage of the convict's earnings to be applied to the convict's other custodial expenses.

6. The State will pay the balance of the convict's earnings as compensation to the surviving close relatives of the murder victim (spouse, children, parents, siblings, etc. – in the order mentioned). This sequence for the payment to the survivors seems reasonable to accommodate the relative interests of the survivors. However, with good reason, the sequence may be changed if a competent court determines that a subsequent stakeholder's interest should be accommodated before the interest of a preceding party. In

any case, it is expected that a substantial portion of a convict's earnings will be paid to the survivors of a victim because the expenses to be deducted for the convict's necessities and upkeep should form a relatively small portion of the convict's total earnings. Where a convict is sentenced under this model for two or more first-degree murders, for instance, it is recommended that the State should give up its deductions from the convict's earnings. This means that the State should absorb the costs of maintaining the convict while allowing all his/her earnings to be paid to the multiple beneficiaries resulting from the double or multiple crimes. By sacrificing its share of the convict's earnings, the State would ensure that all the affected survivors of the victims receive meaningful compensations.

7. The LPHLN model should be mandatory. In the questions and answers phase of the Virginia, USA guest lecture I gave on this model, a participant asked me if the model I proposed would allow a convict to choose capital punishment. That is, whether the model would give a convict the option of death rather than what this model stipulates – life in prison with hard labour without the possibility of release from prison before natural death (LPHLN). The Answer: No. Denying a convict the option of death is designed mainly to ensure that a convict does not have a chance to veto or thwart the essence of the LPHLN model. And these three goals constitute the essence of LPHLN:

- (a) To avoid erroneous capital convictions, sentences, and executions.
- (b) To restore the State's moral standing and authority as the custodian of its citizens' lives, and do away with the State's premeditated killing of its own.
- (c) To ensure that a convict does not escape from his/her important responsibility of catering to the needs of the surviving close relatives of the murder victim. Within the LPHLN model, a convict assumes and should be made to carry out the responsibility of contributing to the upkeep and maintenance of the surviving close relatives of a murder victim.

Therefore, the criminal justice system of a society should go as far as is needed to punish its criminals. Without pretence to the contrary, it is important to emphasize that the LPHLN model is of a punitive genre. As one participant at my Virginia, USA presentation and debate of the model intoned matter-of-factly, "So your proposed model is a punishment model." "Yes", I responded without equivocation. Consequently, the model envisions stiff but prudent punishment for the persons convicted for some of the most serious crimes in a society (otherwise known as capital crimes).

4. Significance of the LPHLN Model

The following are the main advantages of the LPHLN model. One, consistent with the widely held view that persons who commit grievous crimes should be penalized severely, the model deals sternly with persons who have committed some of the worst crimes in society (example, first-degree murder). However, the paradigm also eliminates the drama surrounding capital punishment. Two, specifically, the character of this punishment model lends it to great credibility and wide acceptance even among constituencies that otherwise oppose other alternatives to the death penalty.²⁷ Often, those other alternatives are rejected because they are perceived as “soft” on crime. No reasonable person can accuse the LPHLN model of being a soft response to capital crimes. The model’s various elements, as explained, show that it is punitive, but with good sense.

The credibility of capital punishment depends substantially on its sensibility to the standards of the people to whom it applies. A criminal justice system that prescribes the death penalty contrary to the culture of the citizens concerned is likely to be without (sufficient) credibility among the citizens. Thus, the application of the death penalty in those societies whose cultures oppose the punishment (or at least the version prescribed by the modern State criminal justice system) is bound to be problematic. Demonstrating the divide on capital punishment between cultural expectation and State standard, Oke²⁸ presents a Yoruba (Nigeria) belief, rationale, and philosophical argument against capital punishment. The Yoruba society, which, like most African societies, is essentially communal and humanistic, offers a strong argument against capital punishment. Although the Yoruba argument differs from the Nigerian State law authorizing capital punishment, the reasoning has “a contemporary universal relevance and applicability”.²⁹

Further, three, implementing the model will leave room for error correction by releasing a deserving convict where evidence subsequently shows that the conviction and/or death sentence should be overturned. The finality and irreversibility of capital punishment, once

²⁷ See Dieter, above, note 23; Lane, above, note 6; B. A. Robinson, “Alternatives to Capital Punishment”, *Religious Tolerance* (2001), <http://www.religioustolerance.org/execut2.htm>; Internet; “Alternatives to the Death Penalty,” above note 21.

²⁸ Moses Oke, “An Indigenous Yoruba - African Philosophical Argument Against Capital Punishment” (2007) *The Journal of Philosophy, Science & Law*, Volume 7, July 11. See at <http://www6.miami.edu/ethics/jpsl/archives/all/AfricanCapitalPunishment.pdf>; Internet (last accessed March 23, 2011).

²⁹ *Ibid*, p. 1.

enforced, makes the recommended LPHLN model particularly attractive. Four, the LPHLN model will make for a fairer application of serious criminal sanctions among convicts. The model will likely create a more even playing field by doing away with the *status quo* (the prosecutor's invocation of the death penalty, the court's and jury's application of the sanction, as well as the prison's and State's execution of condemned criminals), which often leads to unfair application of capital punishment against indigent accused persons. At present, the extreme nature of capital punishment, the skepticism of some of those charged with applying and implementing the sanction, and the influence of well-to-do accused capital offenders conspire to effectively minimize, if not eliminate, the likelihood that wealthy and other advantaged suspects in society will be charged, tried, convicted, and executed as capital criminals. The proposed LPHLN model is far more likely to create an equal atmosphere among capital criminals in society regardless of the relative wealth or other advantage of these criminals.

Finally, five, in some jurisdictions, there is a visible chasm between a legal provision for capital punishment and its implementation. Whereas the law may allow the imposition of death on a convict, State officials charged with the responsibility of enforcing the law are sometimes reluctant to do so. The officials' reluctance may derive from religious beliefs, ethics, politics, or other consideration. As should be expected, the reluctance would impede the enforcement of the law. Where the reluctance extends over a long period, there is bound to be an accumulation of capital convicts, leading to prison congestion with the attendant consequences for the other inmates and the general society.

The described divide between a legal provision for capital punishment and its implementation features prominently in contemporary Nigeria. For example, many Nigerian governors, whose legal responsibility it is to sign a death warrant before an execution can be carried out, have refused to sign the warrants for some of the reasons already mentioned (religion, politics, etc.). Thus, due at least in part to cultural sensitivity, Nigerian governors essentially refuse to sign death warrants, thereby declining to authorize executions of capital convicts. The lack of enforcement of the death penalty led C. O. Okonkwo, the distinguished retired professor of law and Senior Advocate of Nigeria, SAN, to remark as follows at a roundtable on responses to kidnapping in Nigeria: "Some call for death penalty, but I always ask, which governor has ever signed a death

warrant? Capital punishment is not practicable in Nigeria".³⁰ Therefore, besides legal authority for capital punishment, the cultural, social, political, religious, etc. will to implement it is critical. Further, it is important to recognize that in the Nigerian example, the deep divide between the legal provision for capital punishment and its enforcement is not limited to the governors. The citizens have also demonstrated that they are similarly conflicted on this issue. There is a dearth of executioners in the country because there are too few Nigerians willing to work in this area.³¹ The LPHLN model, if implemented, will eliminate these problems with capital punishment.

5. Additional Issues and Steps to Ensure that the LPHLN Model Works Well

It is recognized that promulgating and implementing the LPHLN model may require taking active steps to address the following issues. One, for each country, it may be necessary to amend the relevant laws to bring the elements of LPHLN in line with the constitutional provisions in the country. For example, in the USA, the "cruel and unusual punishment" clause of Amendment VIII to the *Constitution of the United States of America* may prohibit some elements of the LPHLN model for being "cruel and unusual". However, a constitutional amendment to permit the LPHLN provisions would avoid the undesirable consequence of a court intervening to prevent the implementation of the LPHLN model. Thankfully, for other countries LPHLN may be enacted into law and implemented without a constitutional obstacle. For instance, in Nigeria, Section 34 (1) of the *Constitution of the Federal Republic of Nigeria, 1999* prohibits "forced or compulsory labor" (which could be interpreted to include the "hard labor" component of LPHLN). However, section 34 (2) (a) of the Constitution exempts any law promulgated to effectuate the LPHLN elements as well as a court sentence implementing such legislation.

Two, for some jurisdictions and communities, (extensive) civic education may be necessary to enlighten the citizens on the public and private gains accruable from the implementation of the LPHLN model. In as much as many societies and people oppose capital punishment, there are

³⁰ "Experts Proffer Solution to Kidnapping" (2010) *The Nation*, March 16, <http://thenationonlineng.net/web2/articles/39741/1/Experts-proffer-solution-to-kidnapping/Page1.html>; Internet (last accessed February 2011).

³¹ "Death-row Prisoners and the Government" (2009) *The Guardian*, http://www.nguardiannews.com/editorial_opinion/article01//indexn2.htm?pdate=12010...; Internet (last accessed January 2011).

many other people that strongly support this form of punishment despite its flaws. For the supporters, any sanction less than the killing of a first-degree murderer amounts to “letting the murderer off the hook”. Many of these supporters of capital punishment actively seek out opportunities to witness and otherwise involve themselves in the process for executing capital convicts. A conscious, sustained, and expensive mobilization and enlightenment campaign will be required to get these (vocal) supporters of capital punishment to accept the LPHLN model. Thus, the State through its criminal justice agency (such as the Ministry or Department of Justice), social welfare agencies, professional organizations (such as the Bar Association, Criminology and Criminal Justice Associations), private bodies, and individuals have responsibilities to advance the course of LPHLN and make this model acceptable to the majority of the citizens.

With proper citizen education and wide publicity of its elements, the LPHLN model is likely to enjoy extensive support in society. As shown, its elements address the core concerns of the most prominent sides to the death penalty debate. For the “pro-death penalty” citizens, LPHLN offers stiff punishment of the capital convict by requiring that the prisoner be incarcerated for life with hard labor. Also, while behind bars for life, the convict works compulsorily, earns money, and pays for the maintenance of the victim’s close relatives. Regarding the “anti-death penalty” citizens, LPHLN assures that a convict who is subsequently found Not Guilty of the capital crime would be released from prison. If the advantages that LPHLN affords the opposing sides to the death penalty debate are made available to the different constituencies, they are likely to support the model.

Three, to ensure that the deceased victim’s close relatives derive the maximum benefits obtainable from this model, the following question, which a participant raised at my Virginia, USA guest lecture on this model, should be addressed. Question: In this model, how can we ensure that prison officials do not divert some of the inmate’s earnings away from a murder victim’s relatives or otherwise behave corruptly in the State’s role in the administration of the proposed punishment model? Answer: As it should be, the State and its criminal justice officials will play a central role in managing convicts and their earnings under this model. Much of the State’s role is particularly intrusive, and as such, it would be unwise to leave this role to private persons or even delegate it to them. Nonetheless, the existing mechanism in the internal structure of each prison facility and in the larger society’s legal framework for monitoring the activities of criminal justice officials in relation to prisoners should apply in cases under this model.

Consequently, the rights of convicts, victims, and other interested persons to Constitutional and other legal protections should be preserved and enforced.

Also, this model should encourage victim's relatives to periodically review the records concerning such things as a convict's earnings under this model and make sure that the records of those earnings are accurate and that the earnings are managed and distributed fairly as stipulated. Where errors are found, the relatives should challenge the officials in charge through judicial proceedings and/or other legal options. The State should ensure that victims' relatives are apprised of their rights to investigate and challenge misuse of a prisoner's earnings. Where errors are found, the State should encourage the relevant victim's relatives to proceed against the responsible officials.

The following related questions are the other posers that came up at the Virginia, USA lecture. Questions: How long should the convict's responsibility to work, earn money, and compensate the surviving close relatives of the murder victim last? Does the responsibility end or change when, for example, the victim's surviving children and/or siblings attain adulthood and/or become gainfully employed? Answer: The convict's responsibility should begin at conviction and sentence for an otherwise capital crime and continue for the rest of the convict's natural life. A change in the status of an eligible surviving close relative, such as by attaining adulthood, finding gainful employment, marriage, etc., should not affect the convict's responsibility. Note that even a surviving close relative whose status changes continues to suffer the loss of a loved close relative (the victim), which the convict caused. The enormous loss could never be replaced. The least the convict should do is to atone for his/her action by making the periodic compensatory payment in this model. However, a convict's obligation to pay to a particular qualifying survivor should end if the survivor dies before the convict. Considering the sequence of beneficiaries identified in this model, all of the convict's payment obligation will not soon end and is far more likely to remain through the remainder of his/her life. On the death of a beneficiary, the convict's payment obligation should simply transfer to the other beneficiaries.

6. The LPHLN Model versus LWOP

Finally, it seems necessary to state that the model of criminal punishment proposed in this article to replace the death penalty (LPHLN) differs from life in prison without parole (LWOP). Ordinarily, "life sentence" should mean imprisonment for the remainder of a person's natural life. However, the term is used in various other ways hence the confusion over its meaning. In

fact, it includes several undetermined sentence terms that may be affected by such things as pardon, parole, or commutation. Similarly, the expression “life without parole” (LWOP) ought to mean a sentence in which parole is not possible. Such incarceration should go on for the remainder of the prisoner’s natural life. In its correct sense, LWOP should be indeterminate since no one can be certain about the end point of another’s natural life. Thus, sentencing a 30-year-old man to 100 years in prison, for instance, does not qualify as LWOP (an indeterminate sentence) mainly because the imprisonment term is specified. It makes no difference that the convict’s natural life is unlikely to go on for a total of 130 years.

However, there is a distinction between the proper meaning of LWOP and its application. As stated in the preceding paragraph, LWOP should mean that a convict so sentenced is not to be released from incarceration before his/her life ends naturally. But, in some jurisdictions, including the USA, LWOP often means a prison term much less than life in prison. Typically, a person sentenced to a life term is incarcerated for a decade or less, and then released on parole. As should be expected, the public is dissatisfied with the situation, hence the evolutions of “sentencing guidelines, mandatory minimums, and truth-in-sentencing laws to restrict parole eligibility”.³² Thus, in the USA for example, LWOP continues to be expanded in different states to ensure that life sentence means sentence for the remainder of the prisoner’s life. Until the confusion surrounding the true meaning of “life sentence” or “life without parole” (LWOP) in many jurisdictions is resolved, those terms remain imprecise.

On the other hand, the substitute recommended in this article for the death penalty (Life in Prison with Hard Labor and No Release Before Natural Death” – LPHLN – does not carry the burden of confused meanings that saddles LWOP and its equivalents. As explained in the section of this paper on the elements of LPHLN, the proposed model does not allow a prisoner to be released before the end of his/her natural life. Unlike LWOP, there is no exception to this stipulation under LPHLN. In addition to this distinguishing characteristic, LPHLN differs from LWOP in some other significant ways, including the following. LPHLN is not just about a convict spending the remainder of his/her life in prison. An important feature

³² Ashley Nellis and Ryan S. King, “No Exit: The Expanding Use of Life Sentences in America” (2009) *The Sentencing Project: Research and Advocacy for Reform*, http://www.sentencingproject.org/doc/publications/publications/inc_noexitseptember2009.pdf; Internet, p. 5; Dieter, above, note 23; Lane, above note 6.

of LPHLNR, which is absent in LWOP, is the requirement of “hard labor”, which I have explained as a prisoner’s obligation to work for long hours to earn money. In addition, the bulk of the prisoner’s earnings will be paid as compensation (restitution) to the close survivors of the deceased crime victim. Further, the hard labor and payment will continue for the remainder of the prisoner’s life, regardless of changes in a beneficiary’s condition (such as attainment of adulthood, marriage, or employment). In sum, with LPHLNR, unlike LWOP, “life means life”, plus hard labor, and the prisoner pays restitution to the surviving close relatives of the deceased crime victim.

7. Conclusion

The vexed issue of capital punishment is a major headache for criminal law and justice worldwide. The Nigerian, United States, and other criminal justice systems that allow the conviction, sentencing, and execution of criminal offenders are dogged by a variety of contests and arguments for and against this extreme form of sanctions. For various reasons, many of which touch on the fallibility of the justice process and officials, as well as the unfairness of capital punishment and its nature as an extreme societal reaction to crime, many people within and outside each jurisdiction oppose, question, and express discomfort with this punishment. Thus, the role of the State as an entity that values all lives seems compromised by the continued resort to capital punishment. The chance of wrongful conviction and/or sentence of a capital convict remains one of the most topical issues in criminal justice. Research and common sense show that even substantial monetary compensation to the relatives of a person wrongfully executed cannot assuage the immense injustice to the victim and the relatives.

In this circumstance, then, it has become necessary to fashion a credible model for managing persons convicted for what would otherwise result in capital sentences. The literature on capital punishment shows that alternatives are available to criminal law and justice. However, each alternative has its limitations. With these in mind, I have offered “Life in Prison with Hard Labour and No Release before Natural Death” – LPHLNR – as the best alternative to capital punishment. In this article, I have identified and explained the elements of LPHLNR. Key elements of the LPHLNR model include the following. One, an otherwise capital convict will serve life in prison, with hard labor, without the possibility of release before natural death. Two, the convict will work for 6 days per week and 15 hours per day to earn money. Three, the convict’s earnings will be paid to the State and the State will consider the interests of the stakeholders and distribute the earnings accordingly. Four, the State will owe the convict no more than what

is necessary for reasonable health, sustenance, and other custodial expenses. Five, the State will pay the balance of the convict's earnings as compensation to the surviving close relatives of the deceased victim (spouse, children, parents, siblings, etc.).

The LPHLN model, if implemented, will punish deserving convicts who have committed some of the worst crimes in society, while eliminating the drama surrounding capital punishment. The model will also allow for error correction by releasing a deserving convict where evidence subsequently shows that the conviction and/or death sentence should be overturned. The finality and irreversibility of capital punishment, once enforced, makes the recommended punishment model particularly attractive. Finally, by balancing appropriate punishment for the worst criminals in society and error correction opportunity in the case of wrongful capital conviction and/or sentence, the LPHLN model will enjoy significant credibility on both major sides of the capital punishment debate.

It remains to add the following. This LPHLN model should not be read as a naïve or narrow idea. On the contrary, this model is designed to replace capital punishment broadly. Thus, in offering this model, I am cognizant of the fact that the realities in a State may cause the State to take limited steps to ensure the advancement of the State and the welfare of its citizens. In particular, the State's political and social realities are instructive. This means that in a State, such as Nigeria and some other less developed countries, where economic sabotage, corruption, and all manner of abuse of office have stalled the State's development, or even threatened the continued corporate existence of the State, temporary use of the death penalty to cleanse the State's political, economic, and social institutions should be regarded as a viable and necessary option, especially where other sanctions have failed. The Nigerian reality is such that government and corporate leaders view themselves as above the law and superior to the rest of the citizens. As such, these leaders operate with impunity. Diversion of public funds and properties, bribery, corruption, and other abuses of public positions are rife and *normal* in Nigeria. Ostensibly, the present circumstances in the country mean that prison terms and refunds of some of the stolen public funds may not suffice to reduce these crimes. Therefore, a temporary, targeted, and efficient death penalty policy to cleanse the Nigerian State of those persons that have crippled the country and its citizens seems necessary.³³ In this connection, Jerry Rawlings' Ghana offers an example of

³³ See "Corruption: Yusuf Alli Canvasses Death Penalty for Corruption" (2012) *The Sun* <http://www.sunnewsonline.com/article/corruption-yusuf>

an efficient use of capital punishment in this manner. That effort became the foundation for the renewal of Ghana, which is widely adjudged to be a modern success story.

alli-canvasses-death-penalty-corruption; Internet (last accessed July 10, 2012), for support for this view.