

Nigeria and the Incidences of Homicide

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Abstract

Homicide is the killing of an individual by another. This grievous act has been frowned at from history. It is unfortunate that this barbaric act can be associated with Hobbes' "State of nature" which every society tries to prevent and control to ensure the continuous existence of humanity within the context of the sense of security. Drawing largely from secondary sources, this paper seeks to examine the incidences of homicide in Nigeria. The paper is divided into nine subtopics consisting of: Introduction; definition; homicide typology; homicide mechanisms; criminal justice system and cases of homicide; prevention and control of homicide; conclusion; and recommendation based on the findings. It is suggested that improvement in police resources would add immensely to its effective management of homicide, while quick dispensation of justice by the courts among others would go a long way in reducing prison over crowdedness in Nigeria due to the prevalence of awaiting trials, while propping up prison rehabilitation activities is believed would reduce recidivism which will correspond to reduce incidences of homicides. The findings from this work are believed would enlighten the general public on the need to join efforts to ensure that homicide is reduced to its barest limit.

Introduction

The sanctity of life falls within the context of universal law. This is because, life is considered as God given, hence, sacred. Therefore, the willful and unlawful termination of the life of any human being is usually viewed as grievous not only to God but humans as well. Historically, killing of person(s) outside the dictate of cultural and traditional demands was considered inexcusable, except in very few cases (The case of Okonkwo whose gun exploded accidentally killing a sixteen year old boy in Chinua Achebe's (1958) *Things Fall Apart*, is a typical example). However, no matter the degree of innocence, or un-intentionality, having brought about the death of another individual has imputed the status of a killer on the said actor. Over time, early English common law divided homicide into two distinct categories of felonious and non-felonious crimes i.e. lawful and unlawful homicide. It is within these contexts that this paper shall discuss homicide from global down to Nigeria; relationship with other crimes; responses by law enforcement agencies to homicide, as well as challenges to adequate security measures; and make recommendation

Definition

Homicide is generally conceived as the killing of an individual by another. However, to (Brayan, 2004), it is the killing of one person by another, and criminal homicide as the act of purposely, knowingly, recklessly or negligently causing the death of another human being. According to (Coke in the Nigeria Law Repository, 2014), it is when a man of sound memory and age of discretion, unlawfully killeth within any country of the realm any reasonable creature in rerum natura under the king's peace, with malice, aforethought, either expressed by the party or implied by law, so as the party wounded or hurt, etc within a year and a day after the same. The legal import of the above definition is that homicide entails: killing of a human being lawfully or unlawfully; death due to hurt/injuries sustained by a party (individual) from another party within a year and a day after the incident. Simply put that homicide is the killing of a human being due to act of omission. According to Section 310 of the Nigeria Criminal Code, homicide also involves cause of death by threats. As such "a person who, by threats or intimidation or any deceit causes another person to do an act or make omission which results in death of that other person, is deemed to have killed him." It is important to note that not all homicides can be considered crime, most importantly if the said act lacks criminal intent.

With the emergence of mens rea doctrine, i.e. guilty, wrongful purpose, or criminal intent, distinction was placed between intentional homicide, and unintentional homicide; lawful and unlawful homicide, as well as distinction on the degrees of liability for lawful homicide. This boundary is set in order to clearly examine, determine and distinguish between purposeful and non-purposeful act of killing.

Categorization of Homicide

The purpose for this categorization is to place not as much, a clear cut boundary, but rather some degree of distinction on homicide incidences. This is owing to the fact that some causes of death are clearly accidental, others are approved by state authorities, while some are clear cases of well planned and executed act of killing. These categorizations are:

- (1) Lawful homicide (justifiable, excusable)
- (2) Unlawful homicide (unjustifiable)

Lawful Homicide

Every human society is governed by body of laws – codified, or non-codified which determines human actions. As such, some causes of death are usually approved by these bodies of law. Therefore any death which falls within the context of a society's jurisprudence is regarded as lawful homicide hence justifiable due to legal backing. This type of killing has the full support of the nation's authority, and as such not considered criminal. Some of these include:

- (i) **Death caused by defending the sovereignty of a nation:** For example military operations during wars, repelling of insurgencies, violent riots etc may be considered excusable and justifiable since it is backed by legal authority except it is proven that the said operation(s) negate the conventions of war(s), and as such not carried out on the basis of rules of engagement-which is why some countries are accused of genocide/war crime after executing war(s) against another nation(s). It is equally important to mention that not all death caused by law enforcement agents (police, soldiers, vigilantes etc) are lawful, some are unlawful, hence they are held accountable. Some good examples include: the killing of Michael Brown by a police officer in Ferguson, Missouri, USA on August 9, 2014 which attracted global attention; the popular Apo (district in Abuja, Nigeria) June 2005 killing of six innocent young men (Ekene Isaac Mgbe, Ifeanyi Ozor, Chinedu Meniru, Paulinus Ogbonna, Anthony Nwokike and Augustine Arebu) aged between 21 and 25 years by some police officers on their way from a night party.
- (ii) **State mandated execution:** These are authorized killings by the state e.g. death by hanging, firing squad, electrocution etc. These are considered justifiable and excusable. This is premised on the fact that the state is higher and above every individual in it, as well as the fact that the state is for all within it, as such, acts for the interest of all. Under this circumstance, the killings approved by the state are considered to be for the interest of all. However, not all state authorized killings are accepted as justified by relations and friends of the victims. Hence, some of these killings are challenged in the law courts especially if there are substantial evidences to prove that there was a mistrial, or that the said judgments were characterized by various forms of motivation. Under this circumstance, compensation is usually pressed for on behalf of the victims' families.
- (iii) **Death associated with arrest:** It is unarguable that death may occur as law enforcement agents carry out their lawful assignments. This kind of death may arise from preventing criminals/offenders attempting to escape; preventing prison inmates attempting to cause jail break especially after seizure of fire arms and other dangerous weapons, or attempting to escape after jail break; during exchange of fire with criminal gangs etc or, attempting to rescue arrested persons or convicts.
- (iv) **Self-defence:** According to Section 286 of the Criminal Code it is lawful for an individual to defend his/herself from unprovoked assault/aggression which threatens the life of the individual. Some country's laws have it that it would be better to withdraw or retreat if possible, but in case of non-availability of escape route, the use of lethal instrument in self-defence especially if the said individual(s) life is in danger, or the individual at the risk of serious body hurt. Under this circumstance, death of the oppressor/assailant would be considered lawful if substantially proven that he/she meant harm, or threat to life of the individual who defended him/herself, or those of others.
- (v) **Defence of property:** Section 285 of Nigeria Criminal Code gives credence to the use of force to protect one's dwelling. This is because criminals use various forms of force to gain entry into people's property (residence, business premises, etc).

Death may occur while preventing them from gaining access into these properties. Such deaths are excusable especially if it is proven that the said criminals have intent of causing body harm or threat to the life of the occupant of the said property. The aforementioned and more constitute justifiable, excusable, or lawful homicides.

Unlawful Homicide

We have established the fact that lawful homicides are excusable, and justified by the criminal law of a given nation. On the other hand, unlawful homicides are non-excusable and as such non-justifiable – hence the law seeks to prevent its occurrence as much as possible. According to Section 306 of the Nigeria Criminal Code, “it is unlawful to kill any person unless such killing is authorized or justified or excused by law. According to Section 315 of Nigeria Criminal Code, any person who unlawfully kills another is guilty of an offence which is called murder or manslaughter, according to the circumstances of the code. Unlawful homicide as such includes:

- Murder
- Manslaughter
- Suicide
- Infanticide

We shall attempt brief explanation of the above concepts.

Murder

Every human society views murder as a hideous crime. Section 316 of Nigeria Criminal Code outlines what is required for a crime to be considered murder. These are: the intention of the offender to cause the death of the person killed, or that of some other person; the offender’s intention to do to the person killed or to some person some grievous harm; death caused by means of an act done in the prosecution of an unlawful purpose, which act is of such a nature as to be likely to endanger human life; the offender’s intention to do grievous harm to some person for the purpose of facilitating the commission of an offence which is such that the offender may be arrested without warrant, or for the purpose of facilitating the flight of an offender who has committed or attempted to commit any such offence; death caused by administering any stupefying or overpowering things for either of the purposes last aforesaid; death caused by willfully stopping the breath of any person for either of such purposes; these constitute the crime of murder.

From the foregoing, once it is established that an offender intends to do grievous harm to the person killed; the occurrence of death of an individual from execution of unlawful act by another e.g. during armed robbery operation, etc; or the administering of any stupefying or overpowering things e.g. drugs etc, or stopping the breath of a person which ultimately results in death, it is immaterial that the said offender meant no harm or did not know that death would be the likely outcome of his/her action. The underlying determinant for the establishment of the offence of murder include: clearly established fact of intention to kill, or the desire to cause grievous harm to the person killed. This is the dividing line between first and second degree murder. While first degree murder is determined by the clearly defined intent to kill a human being, or cause the said person grievous body harm, which the offender know is likely to cause the death of the victim, and as such is reckless about whether death occurs or not as a result of his/her action. Second degree murder on the other hand occurs when a clear defined intent to kill an individual, or cause the said person grievous body harm which the offender know is likely to cause the death of the target but mistakenly or accidentally causes the death of another human being – even though he/she had no intention of killing the said person(s); or due to unlawful objective, an individual does anything he/she know would likely cause death, as such causes the death of a human being – even though he/she desires to carry out his objective without the intention to kill anybody or cause grievous body harm.

Manslaughter

The offence of manslaughter is of less grievous consequences than murder. Manslaughter is conceived by Nigeria Criminal Code Section 317 and 318 as, unlawful killing of a person by another on such circumstances as not to constitute murder. This includes the cause of death in the heat of passion caused by grave and sudden provocation, before there is time for the said passion to cool. This means that if the said passion cools and the said offender goes on to attack and kill the other when time and events have acted on his/her temper, he/she would be guilty of murder and not manslaughter. It is important to note that some professions e.g. driving, medical/health workers sometimes due to negligence or recklessness cause the death of others.

These are not considered murder offences but manslaughter. For example, a medical doctor may mistakenly give wrong diagnosis of ailment as such, wrong drug prescription which may cause the death of the patient who he/she is expected to preserve. This act of omission would be considered manslaughter. Section 343 of Nigeria Criminal Code specifies other acts of negligence and recklessness which if brings the death of a person can be considered as manslaughter.

Suicide

This is the act of someone taking his/her own life. While attempting to kill oneself is considered a misdemeanor (very bad action), and as such liable to imprisonment if the said individual is caught, however, aiding suicide is considered homicide. Thus, Section 326 of Nigeria Criminal Code indicates that, any person who procures another to kill himself; counsels another to kill himself; counsels another to kill himself and thereby induces him to do so; or aids another in killing himself is guilty of felony as such liable to imprisonment for life. It is important to note that killing to end one's pain or euthanasia is as good as aiding an individual to kill him/herself. As such it is considered a homicide within the context of some country's law, but is not within the context of some others which conceives it as service to humanity. Therefore, it is not the act of suicide, but the aiding of the action to successfully take place that is deemed as homicide. This is made clear by Section 299 of the Nigeria Criminal Code which states that: consent by a person to the causing of his own death does not affect the criminal responsibility of any person by whom such death is caused.

Infanticide

This type of unlawful homicide refers to the killing of infants who are below 12 months of age by their mothers, through any willful act or omission due to disturbed balance of her mind by reason of having not recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, she shall be guilty of felony to wit of infanticide. As such, she may be dealt with and punished as if she had been guilty of manslaughter of the child. Furthermore, any person who when a woman is about to be delivered of a child, prevents the child from being born alive, hence, still-birth, by any act of omission is deemed to have unlawfully killed the child, and as such guilty of felony. The aforementioned and more constitute unlawful homicide as such inexcusable, and unjustified forms of killing which are punishable under the criminal laws of any given society. It is important to note that infanticide can be distinguished from abortion which is the termination of foetus in a woman's womb. Most western countries have legalized this form of killing not due to posing health risk to the mother, but as a matter of choice for the would-be mother to decide whether or not to have the baby or not, however, the reverse is the case in a good number of countries in Africa but Nigeria in particular where the law still frown at it only if it constitutes a risk to the life of the would-be mother, otherwise, such acts of killing are usually carried out illegally/ through the use of pregnancy termination drugs.

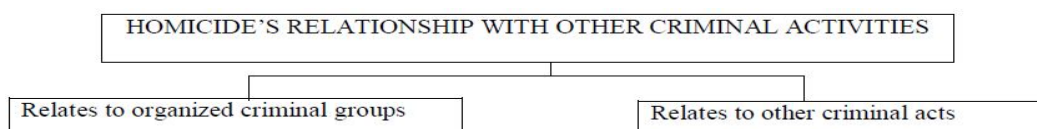
Typology of Homicide

According to United Nations Office on Drugs and Crime (2013) report, homicide typology indicates the fact:

- (1) Homicide relates to other criminal activities;
- (2) Prevalence of interpersonal homicide;
- (3) Existence of socio-political homicide.

This typology is based on some elements which include: predetermination/ premeditation i.e. a careful and systematic plan to kill; motivation i.e. defined sense of fulfillment based on subjective/objective interests of actor(s); context i.e. situation and the availability of opportunity to commit the said offence – which brings the issue of the scene of the said crime to bare, in terms of favourability or otherwise for the said act to be carried out; careful selection of, or spontaneous use of lethal weapon; the degree of relationship between the offender and the victim. These elements form the basis for the aforementioned classification of homicide. We shall briefly examine these typologies.

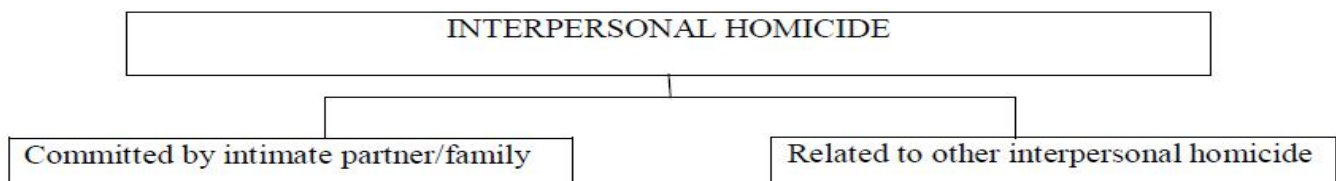
Figure 1



Source: UNODC 2013

This typology reveals that homicide relates to other criminal activities which aims, are directly or indirectly acquisition of illicit profit (gain). Centrally, homicide may be committed by organized criminal groups whose interests are generating of illicit profit. Hindrances or obstacles in form of state agents, rival groups etc, including their own member may be killed in order to make their operations smooth e.g. drug barons. Other factors for committing homicide by organized criminal groups may include: quest for supremacy; and territorial control. Under this circumstance, homicide becomes the propeller for achieving long term goals which can be said to be predetermined and purposeful. On the other hand, other conventional criminal activities like armed robbery may result in homicide in order to attain the desired goal. The point being made is that homicide may/may not be part of the original plan of both organized and conventional criminal groups. However, to be sure of clean operation, avoid being detected, homicide becomes inevitable to them. Take for instance, the National Crime Victimization and Safety Survey carried out by CLEEN Foundation on Nigeria in 2013 revealed an increase on the rate of robbery victims from 17 percent in 2012 to 18 percent in 2013. The import of the above is that, the more the prevalence of robbery incidences, the likelihood of the occurrence of homicide brought about by the said criminal acts.

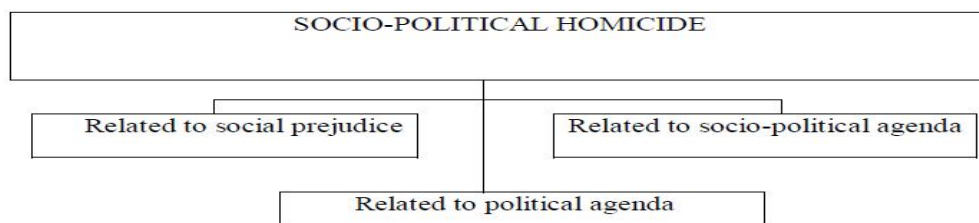
Figure 2



Source: UNODC 2013

This typology reveals that homicide is not carried out largely due to profit, but rather a means of resolving dispute, or punishing the victim through act of violence resulting from strained relationship. As such, in intimate/family relationship where perpetrators and victims share so many things in common, a friction in the said relationship due to high degree of emotions attached may result in some form of random act of violence which may result in the death of an intimate partner or family member. Such act of homicide like: patricide (killing of one’s father); matricide (killing of one’s mother); fratricide (killing of one’s brother or sister); or parricide (killing of one’s father, mother or other close relatives), femicide or feminicide (gender related killing of women and girls) as stated in the UN General Assembly resolution 68/191 as criminalized by some countries falls within this context. On the other hand, other interpersonal homicide may occur between individuals who may, or may not know each other, here, the act of homicide is conceived as premeditated, conditioned most often by economic, or legal nature between the perpetrator and the victim.

Figure 3



Source: UNODC 2013

This typology indicates that homicide occurs as a result of power relationship between and among social, ethnic and political groups jostling for influences over, and against the other. This power relation is often exercised directly or indirectly. Thus, various forms of killing and death occur as means of driving home one’s point. Hence people are killed for what they stand for, or for proving a point by the opponents. Such homicide like: assassination; terrorism; genocide; war; hate crime (racial killing, religious killing, ethnic violence resulting in death of members of the conflicting ethnic groups, protest against government policies and agenda(s) resulting in conflict(s) between government agents/security personnel and members of given community/group hence death on both ends etc) fall within this category. Most often, the victims of this typology are anonymous (unknown) to its perpetrator.

The above discussed typologies reveal the fact that homicide is a global problem, cutting across interpersonal relationships to inter-ethnic, religious and social interactions, as well as transcends trans-border and transcontinental activity.

Homicide Mechanisms

Homicide mechanisms deal with various instruments used by offenders in killing their victims. It is important to note that not all incidences of homicide involve the use of weapons, but generally, weapons play significant roles in facilitating homicide due to their high lethality capacity. According to the UNODC report of 2013, firearms are the most widely used lethal weapon for homicide, accounting for (41 percent) of the total global homicide rate in 2012, which represents 177,000 out of the total of 437,000 homicide; the use of physical force and blunt objects among others accounts for about (35 percent) of the total global homicide rate for the period, which represents 157,000 out of the total of 437,000 homicide cases; while homicide due to sharp objects (knives, machetes, razors, swords, bayonets, broken glass, screwdrivers, ice picks, and stilettos) accounts for (24 percent) of the total global homicide rate for the same period which represents 104,880 out of the total of 437,000.

The regional representation of the above global homicide statistics for 2012 as revealed by the report indicates that Africa, with about 54 countries surveyed, recorded (28 percent of its homicide through the use of firearms; (42 percent) through blunt objects and other means; while (30 percent) of its cases occurred through sharp objects. Americas, with about 36 countries surveyed, recorded (66 percent) of its homicide through firearms; (17 percent) through blunt objects and other means; while another (17 percent) was recorded from sharp objects. Asia, with about 50 countries, recorded (28 percent) of its homicide through the use of firearms; (47 percent) from blunt objects and other means; while (25 percent) occurred through sharp objects. Europe, with 42 countries, recorded (13 percent) from firearms; (54 percent) from blunt objects and other means; while (35 percent) accounts for homicide through sharp objects. Oceania, with 10 countries, recorded (10 percent) of its homicide occurrences from firearms; (35 percent) from blunt objects and other means; while sharp objects, account for (55 percent) of its homicide cases as revealed by the survey. As at 2012, Honduras has the highest homicide rate at 90.4 incidences (per 100,000) persons followed by Venezuela 53.7 (per 100,000) Belize 44.7; El Salvador 41.2; Guatemala 39.9; Jamaica 39.3; Swaziland 33.8; Saint Kitts and Nevis 33.6; South Africa 31.0 making it the highest incidence country in Africa; Colombia 30.8. Furthermore, the regional level of intentional homicide (rate per 100,000 population) between 2008 and 2013 indicates Americas as the highest prevalence region followed by Africa while Europe, Asia, and Oceania recorded the lowest incidence rate over the period.

While in 2012 only 437,700 persons were victims of intentional homicide globally which represents 6.2 persons per 100,000 population (UN's Secretary General's report on Crime Prevention and Criminal Justice, 2015). Available (UNODC 2012) data indicates that, of persons convicted of homicide, by sex and by region globally as at 2012, America recorded (96 percent for convicted males, and 4 percent for female convicts); Asia recorded (95 percent convicted males; 5 percent female convicts); while Europe recorded (92 percent males, and 8 percent for female homicide convicts). On the global scale, of the 53 countries surveyed, males constitute (95 percent of global homicide convicts, while females represent 5 percent of the convicts). Another gender dimension to homicide is the fact that females are often the victims of intimate partner and family homicide globally. Of all the women killed in 2012, about 93,000, 43,600 of them which represents (47 percent) met their death on account of family members or intimate partners. Records from various regions reveals that (42 percent) of women killed in Africa occurred through these medium, Americas (38 percent); Asia (55 per cent); Europe (55 percent); while Oceania recorded (73 percent). Conversely, of all the male homicide victims, only (6 percent) were killed by family or intimate partners. Records reveal that (5 percent) of men in Africa out of the global (6 percent) were killed by intimate partners; Americas (5 percent); Asia (6 percent); Europe (18 percent); Oceania (26 percent). The above revelation upholds the central focus of the United Nations (1996) Declaration on Beijing Conference of (1995) which states that: "Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men..." These gender related killing of females have been attributed to so many factors which include: honour and dowry related killings etc (UNODC, 2013).

Psychoactive Agents (Drugs & Alcohol) and Homicide

As complex as homicide is, its socio-psychological explanation would be incomplete without linking with certain influencing factors. This is because not every human action can be said to be entirely subjective. Some are but others are not – hence, the search for various forms of factors which condition or determines human actions. Simply put that not all human action can be located within the context of freewill, some are deterministic. The point being made is that not all homicide can be said to be committed out of individual's freewill. Some of the incidences of homicide can be said to have been influenced, since the perpetrators at the point of the offence were not in the best frame of their minds. Research findings have linked some of these incidences to the influences of psychoactive agents (drugs and alcohol). The concern of criminologists is the fact that the overbearing influence of psychoactive agents can increase both the risk of becoming a victim or perpetrator of homicide (UNODC, 2013). Homicide laws give serious consideration to the offender's state of mind at the time of committing the said crime. Due to this, some criminals hide under the guise of psychoactive influence to commit various forms of crime – homicide inclusive. It is the responsibility of the criminal justice system to determine that the said act was committed under some deterministic influence, or due to freewill. Since the state of mind largely determines whether one has clearly defined intent to commit a said offence or not. Section 320; 321; and 322 of the Criminal Procedure Code and Section 51 and 52 of the Penal Code lays emphasis on the above. While section 52 places no liability on individuals acting under involuntary condition which they have no control over. Section 44 of the same Penal Code places liability on individuals with presumed knowledge of intoxication

Criminal Justice System and Cases of Homicide

According to (Dambazau, 2009), the criminal justice system is the procedure of processing the person accused of committing crime from arrest to the final disposal of the case. From (Clare and Kramer, 1976), view, it is a sequence of decision making stage. This stage starts with the police who receive report of offence(s) committed; effects arrest; investigates the said claims or case to determine its nature; then prosecutes the case in court. The court on the other hand adjudicates over the matter on the basis of its merit or demerits based on substantial evidence, backed by legal provisions and takes decision (pass judgment) which may either be discharged and acquittal of the individual or sentence to prison term. This paper shall give consideration to some of the legal provisions which affect the determination of what constituted homicide in Nigeria. In dealing with cases of homicide, the Nigeria judiciary has legal provisions in both the Criminal Code and the Penal Code which specifies requirements for an offence to be deemed culpable homicide, punishable by death; and culpable homicide not punishable by death. For example, while Section 220 of the Penal Code defines what constitutes culpable homicide, the provisions of Section 221(a) and 302 of the Penal Code specify acts which are culpable homicide punishable with death; while Section 319(1) of the Criminal Code states that any person who commits the offence of murder shall be sentenced to death. On the other hand, Section 222; 224; 225; and 226 of the Penal Code specify various culpable homicides not punishable by death, but attract various other sanctions; while Section 325 of the Criminal Code states that any person who commits the offence of manslaughter is liable to imprisonment for life. Various other sections of the Penal Code; Criminal Code, and Criminal Procedure Act dealing with issues of homicide exist. However, it is important to note that, for a matter to be judged culpable homicide punishable with death, or not punishable with death, the capacity of the solicitor/advocate of the accused to prove beyond reasonable doubt, that the accused had no defined intention to kill, or cause grievous body harm – which may lead to death of the deceased/victim; establish the fact that the instrument for committing the said offence was not systematically selected and arranged before the incidence, hence, was used spontaneously in the situational context. However, there are exceptional issues which even though are clear cases of homicide which the criminal justice system – especially cannot pass death sentence on the offender. Such issues border around age of the offender, pregnancy, and the state of the mind of an offender at the time of the incident (as stated above). This is clearly stated in Section 28 and 29 of the Criminal Code – this we have discussed earlier; accidents etc. We shall therefore consider exceptions of death sentence as conditioned by age or condition of the offender.

Homicide: Juvenile Delinquents and Pregnant Women

The exceptionality of how the criminal justice system handles juvenile offences with regards to homicide is of utmost concern to not only criminologists, but the society in general.

This is because, while it can be said that an offence which attracts capital punishment or prison sentencing has been committed, yet the individual(s) who is said to have committed the said offence is considered a minor, as such cannot be tried or convicted within the provisions of criminal laws. Rather, such offences are referred to the juvenile courts. Under this circumstance (Bartollas and Miller, 2007) opined that: "The juvenile courts must dispose of cases referred to them by intake divisions of probation departments, make detention decisions, (and) monitor the performance of juveniles who have been adjudicated delinquent or status offenders..." From the foregoing, a person below the age of 17 years is considered a minor, as such would not be punished with the same measure or degree of punishment which an adult who commits the same offence would be punished with. For instance, Section 30 of the Nigeria Criminal Code states that: A person under the age of seven years is not criminally responsible for any act or omission. Further, a person under the age of twelve is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission, he had capacity to know that he ought not to do the act or make omission.

However, Section 368(3) of the Criminal Procedure Act and Section 270 of Criminal Procedure Code provides that a person under age of 17 years convicted for capital offence(s) shall not be punished with the capital punishment of death. He/she shall however, be detained for as long as the Governor deems fit. Furthermore, exceptionality is also placed on the condition of a woman facing capital charges. For example, if it is proven that she is pregnant at the time of the said offence and trial, a sentence of imprisonment for life will be passed on her instead of capital punishment. Section 270; 271(1) and (3) of the Criminal Procedure Code; and Section 368(2) and 376 of the Criminal Procedure Act alludes to this.

Control and Prevention of Homicide

The control and prevention of homicide is a holistic approach which involves the control and management of homicide mechanism; various policy initiatives which involves the production, distribution and use of psychoactive agents (drugs and alcohol); down to improvement in the criminal justice system (away from the adoption of only punitive measures, to rehabilitation (reformatory measures) of homicide offenders. In virtually all the regions of the globe, efforts have been made and measures put in place in a good number of these countries to regulate the manufacture, importation and circulation of firearms – especially small and light weapons in line with the United Nations Resolution S/RES/2117 of September, 2013, and S/RES/2220 of May, 2015 to support the realization of the Arms Trade Treaty (ATT), adopted by the UN General Assembly in April 2013 – which aims at regulating, and improve existing regulations of the international trade in conventional arms. This is aimed at preventing, disrupting and possibly eradicate the illicit trade in the said arms, as well as guide against their diversion. The ATT is making efforts towards preventing arms diversion (due to high incidences of their negative alternative uses). This is usually done by prohibiting the authorization of transfer of arms under some defined circumstances which include: knowledge of the said arms to be used for committing war crimes, genocide, attack civilians, as well as other acts contravening the Geneva Conventions-which was first articulated in 1995 in the UN General Assembly resolution (A/RES/50/70B).

Two expert groups was constituted by virtue of the Secretary General reports on issues of small and light weapons i.e. (A/52/298(19997) and A/54/258(1999), after which the UN conference on the illicit Trade in small Arms and light Weapons in All its Aspects was convened in New-York between 9th-20th July, 2001. This conference afforded the International Red Cross and Red Crescent Movement the opportunity to enlighten member states delegates of the danger posed to security of lives due to circulation of small and light weapons. The ICRC thus urged member state governments to take measures that would control the transfer of these weapons due to mounting humanitarian crisis posed by the uncontrolled movement of these arms. It is believed that success in regulating the circulation of small and light weapons would ultimately bring about drastic reduction on the rate of homicide due to firearms globally. Specifically, Nigeria has in place under Section 402(2a); 403B and 428 of the Criminal Code, rules prohibiting free access to firearms. As such, under defined circumstances, the possession of firearms is considered illegal within the country. The use of sharp instruments (knives etc) for homicide is equally receiving attention. For example, the United Kingdom has in place, the Violent Crime Reduction Act of 2006. This Act propped up the minimum age for buying a knife from 16-18 years of age; increased the maximum sentencing for illegal possession of knife from 2-4 years. In 2008-2010, the UK launched the Tackling Knives Action Programme (TKAP) as a reaction to the increasing rate of knife homicide among youths and teenagers.

In Nigeria, illegal possession of sharp objects (knives etc) is classified as illegal possession of dangerous weapons under Section 79, 80 and 403B of the criminal code which attracts various sentencing of imprisonment. The intent is to dissuade/deter youths and adults from handling and misusing these dangerous weapons as means of settling scores which may result to homicide. The increasing rate of homicide due to the use of psychoactive agents (drugs and alcohol) is of great concern to the criminal justice system in Nigeria, and indeed of growing concern to other regions of the globe, and the UNODC. Towards this end, policy strategies which limit the availability of alcohol have been put in place by various countries and have proved effective in reducing violence associated with intoxication due to alcohol consumption, which may likely result to homicide. These strategies involve restrictive and relative lax measures limiting the sale of alcohol in public places. The fact is that Nigeria has very weak legislation to this regard. As such, control of alcohol (sales and consumption including driving drunk) poses serious threat to life in Nigeria. However, a number of states in Nigeria have at one time or the other legislated/regulated (not the production of alcohol but its sales). These regulation however, borders on religious ground –Section 403 of the Penal Code (especially as it relates to some states clamouring for Sharia law in the northern part of the country); and consumption of certain kind of ethanol popularly referred to as guskolo as well as stipulated time for operation for both local brew (burukutu) sellers and operators of gin and beer palaces in a place like Plateau state around 2008. The regulation aimed at stemming the tide of getting drunk before office hour; deserting places of work for drinking outfits before closing hours, as well as control the said guskolo intake among youths in the area. This policy yielded positive result; however, overtime the incidences of guskolo intake re-emerged. This can be attributed to non-effective control of the production and distribution of the said illicit gin.

Suffice to say that a good number of Nigeria communities have one form of local brew or the other, ranging from pito, kaikai and what have you, all of which have varying degree of intoxication which various federal and state governments may not effectively regulate due to their wide acceptability within their communities, resulting in high level of patronage. Hence, homicide associated with alcohol intake remains a challenge. With regards to the control of illicit drugs, it is evident that the effects of drugs, is dependent on the psychoactive ingredient(s) present in the said drug(s). Hence drugs produce different effects on individuals based on their types. As such, drugs like cocaine, and amphetamines are more associated to violence (than other drugs), which may lead to homicide – even though said action (violence leading to homicide) may be the outcome of various complex interactions. Intervention on drugs especially those without pharmacological direct positive benefits to consumers, would ultimately have effects on the whole chain of the said product from (cultivation, production, distribution, transit, sale, and eventually use of the same) UNODC (2013). That notwithstanding, various laws regulate the production, distribution and consumption of these illicit drugs globally. It is important to note that the global drug war is not an easy one due to its high level of connectivity in terms of being a high and complex kind of organized system cutting across class, creed, etc coupled with its high profit yielding nature. However, Nigeria has various agencies and laws for the control of drugs.

For example, Decree 48 of 1989 empowers the National Drug Law Enforcement Agency (NDLEA) to control drug trafficking and abuse; Decree 15 of 1993 brought the National Agency for Food and Drug Administration and Control (NAFDAC) into existence to control not just the importation, production, distribution and consumption of food, but illicit drugs, as well as counterfeit drugs in the country. Furthermore, the federal government launched the National Drug Control Master Plan (NDMP) in 2015 to combat drug trafficking, abuse, as well as other drug related issues in the country. This Master Plan is an inter-Agency effort between the NDLEA and NAFDAC expected to run for a period of four years starting from January of 2015 to 2019. In considering prevention and control of homicide cases within the context of the criminal justice system, the first point of call would be the Police, due to the fact that it is the first in the said process as such, is the first point of contact (receives report) on the occurrence of homicide. For effective prevention and control of homicide to be possible, an utmost concern is the adequacy of police resources, human resources – including levels of training which correspondingly determines level of intelligence; availability of equipment, its adequacy, as well as quality in terms of modern technological update e.g. various communication gadgets, CCT cameras, patrol and surveillance vehicles etc. The afore-stated coupled with intelligence go a long way in determining how well the police would respond to distress calls, arrest and investigate suspects etc. It is however regrettable that the incidences of police brutality and manhandling of suspects, all in the bid to, or unravelling homicide incidences, is what is prevalent especially in Nigeria. This may be attributed to shortfall in the various police resources mentioned above. Another challenge to effective management of homicide in Nigeria may be attributed to corruption within the Police. According to (Dambazau 2009)

The Nigeria Police has been under intense public criticism in the last three decades over its apparent inability to effectively prevent and control crime. So many factors have been attributed to this failed situation. First, there is the issue of lack of professionalism, generally attributed to the recruitment policy, which has effect on the quality of manpower; the problem of poor training; and general atmosphere of indiscipline. Secondly, corruption in the Nigeria Police is said to be endemic, and has eaten deep into the very fabric of the system. The above falls in line with Odekunle's (1977) assertion that Nigeria's control and correctional instrumentality are ineffective and as such tilts towards self-repressive end. Next to this is the fact that the Nigeria police is not only understaffed but also ill-motivated to perform its functions effectively (Alemika, in Hunduh, 2014). The import of the above is that the police would not engage itself in such daunting enterprise which by and large may be threatening to the life of its personnel when little or nothing can be said to be the security of the personnel engaged in the said security risk.

Therefore, for the police to effectively live up to its responsibility and expectations of the Nigerian public with regards to management of homicide incidences, the above factors as outlined by Dambazau must be properly addressed. Very important also is the need to prop up the man power of the police as well as equip the police with latest sophisticated gadgets that would make their work easy (having in mind that they are also humans and not super-humans). Expecting the police to perform credibly in this information and hi-tech age with obsolete resources is nothing but mountainous deception. If this is achieved, it would go a long way in minimizing non-proper investigation of homicide incidences (no matter the scale or frequency of occurrence), such that led to asking the Chief Judge of Enugu state by the National Human Rights Commission in June, 2015 to convene a coroner inquest into the killing of 50 persons whose bodies were deposited in UNN hospital Enugu.

The responsibility of the court on the other hand is to adjudicate on matters of homicide brought before it by the Police, and pass judgment on merit based on evidences before it. Of growing concern is the increasing gap between homicide incidences and the number of convictions. It is important to note that the extent to which the police are able to investigate and come up with concrete evidences on offenders, as well as the extent to which solicitors on such cases make good the provisions of the laws guiding homicide, would largely determine the direction of the said gap. However, of utmost concern to Nigerians is the increasing number of Awaiting trials languishing in various prisons. Police crime statistics for Nigeria in 2008 reveals an overwhelming number of 36,037 persons awaiting trails in various Nigeria prisons for various crimes. This figure is from about 24,522 awaiting cases arising from 90,156 reported cases, out of which 51,816 were prosecuted, while 3,705 cases were acquitted and 23,589 cases were convicted for the same period (CLEEN Foundation, 2014). This is a challenge to the criminal justice system, which criminologists are very much concerned with. Prison before now was considered as a place for punishing criminals especially homicide offenders. This idea of penal administration to offenders was found to be ineffective hence, efforts by various governments across the globe to modify the system. This can be attributed to the fact that offenders leave the prison more dangerous and deadly than when they were confined. This growing concern by psychologists and criminologists has gradually turned the prisons to places for rehabilitating offenders.

This is aimed at changing, or reforming the mind set of offenders, so that after their prison sentences, they would have been adequately transformed to contribute positively to the society. This is believed would reduce the incidences of recidivism. This means that if criminals are freed after serving their jail term, and do not recidivate, the possibility of reducing crime is high. Over time, the Nigerian Prison Service which was first established in Lagos by British Colonialists in 1892 for penal purpose has transformed to incorporate the philosophy of rehabilitation/reformation of offenders with the following constitutional functions: safe keeping of offenders under its custody; safe keeping of persons awaiting trials pending their demand by the law courts; execution of penal sanction as specified by the law courts; by all intent, reform convicted offenders; rehabilitate and reintegrate persons who have completed their prison term into the society (Alemika; Adetula, Adetula & Fatusin, in Gulleng & Omble, 2014). It is however regrettable that so many factors militate against the actualisation of these mandates by the prisons. These include: slow dispensation of justice, giving rise to overcrowding in the prisons as well as congestion of inmates in the cell; inadequate rehabilitation facilities for vocational training of inmates; inadequate staff; inconsistent policies; human rights violation and torturing of inmates. The emphasis here is on the fact that even in the prisons, various forms of homicide do occur. These can be linked to injuries sustained by inmates as a result of torture, or those sustained as a result of violent clashes between and among inmates. The UN human rights bodies has therefore called on prison administrations to initiate and, or facilitate prompt, thorough and impartial investigations to determine the cause of all incidences of death in the prisons, or shortly after ones release from custody.

This is to be achieved through independent forensic and post mortem examination (UNODC, 2013). Nigeria really needs to do a lot to this regard. Therefore the political will to achieve this and conducive environment must be guaranteed otherwise, it would be tantamount to wild goose chase. Worried by the plight of persons awaiting trial in various Nigerian prison in 2011, the Senate notes an increase in the number; which indicates that about 33,692 out of 48,124 inmates were awaiting trial; and worried that these inhabit in very dehumanizing and sub-standard conditions which often led to either death or contraction of diseases threatening to life like tuberculosis etc; majority of these spend more time in prison than what they might have spent if they had been sentenced; the ineffectiveness of the well-intended prison decongestion programme of the Ministry of Justice. As such the following resolutions were reached: the Federal Ministry of Justice was mandated to put more efforts in the prison decongestion programme; the judiciary through the various State Chief Judges to ensure unhindered progressive court appearances and more frequent jail delivery exercise for deserving detainees; overhauling of the criminal justice system by the Federal Ministry of Justice to accommodate alternative sentence mechanism such as parole and community service and, or fine instead of using the prison as the only deterrent mechanism; the legal aid council and Non-governmental organisations to increase their legal services to persons charged for criminal offences; to review and evaluate the measures for prison decongestion taken by the Federal Ministry of Justice and the Nigeria prison Authority and recommend a coordinated approach to it by the Senate committee on judiciary, Human Rights and Legal Matters (The Senate, Federal Republic of Nigeria Order Paper, 2011). It is unfortunate that in spite of these laudable efforts, it was reported that persons awaiting trial in Nigeria prisons accounts for about 70 percent of inmates in 2014 (Sahara Reporters).

Conclusion

It is non-arguable that one killing another person is a grievous act, which societies from historical time frowned at. However, placing boundary between intentional and unintentional act of killing has brought some degree of respite especially to perpetrators of accidental killing (but not to the family and friends of victims). As such the law comes in as an arbiter to resolve these discontents and antagonisms to keep the perpetrator(s) away from the sight of these associates of the victim(s), but for the perpetrators of established intentional act of killing, some countries have capital punishments while others have long term prison sentences including life imprisonment. Many countries have however reviewed their homicide laws – especially those with capital punishment. Nigeria has however not completely abrogated capital punishment for some cases of homicide. It is a fact that efforts are consistently being made towards reviewing its homicide law, but caution should be the watchword to avoid providing safe-landing for perpetrators of criminal homicide.

Recommendations

There is a growing global effort to improve security agencies – especially the police ability and capacity with regards to modern facilities, coupled with proper personnel training to enhance their intelligence, in order to effectively manage the incidences of homicide. Therefore, the Nigerian government should ensure that a corresponding manpower capacity development is made available to security agencies towards this end; provision of modern hi-tech facilities that would assist in quick response of the police on alert of homicide, and proper investigation and prosecution of cases. It is equally important that the court (judiciary) ensure quick dispensation of homicide cases brought before it. This would go a long way in reducing the overwhelming incidences of awaiting trials which have overcrowded Nigerian prisons (some of whom have spent more than the required prison term if they had been sentenced). Very important is the need to prop up the rehabilitation activities in the prisons in order to make inmates self-reliant – which would correspondingly reduce the incidences of recidivism. Furthermore, there should be well articulated policy on licensing of drinking palaces (coupled with time of operation, and age of would-be customers). This may assist in reducing alcohol related homicide.

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