

Kant's Retributive Notion of Punishment: A Betrayal of Afro-communalist Personhood

Etifiok Nkereuwem Udominyang
Department of Philosophy
Akwa Ibom State University
Udominyangetifiok@gmail.com

&

Inameti L. Udo PhD
Department of Philosophy
Akwa Ibom State University
inametiudo@aksu.edu.ng & inamsifon2004@yahoo.com

Abstract

This paper analysis Kant's retributive theory of punishment as a betrayal of Afro-communalist conception of personhood. Kant's theory maintains that punishment is justified solely because the offender deserves it, independent of social consequences. Within this framework, Justice demands proportional punishment as an end in itself, irrespective of communal welfare or relational considerations since the individual is construed as a fully autonomous, rational agent whose moral responsibility is self-contained. Afro-communalism, on the other hand (as articulated by thinkers such as John Mbiti and Ifeanyi Menkiti,) emphasizes a relational idea of Personhood, constituted through participation in a moral community sustained by networks of social obligations. Therefore, punishment and wrongdoing are not merely a violation of abstract moral law but a disruption of communal harmony that affects both the offender and the broader social fabric. Adopting the philosophical methods of criticality, exposition and analysis, this paper argues that Kant's retributive model, when analysed within Afro-communal context, undermines this important value within which African existence is made meaningful. The paper therefore concludes that Kantian retributivism is not merely a betrayal of Afro-communalistic personhood, but represents a philosophical imposition that distorts African interpretation of reality. In its place the paper calls for a more adequate theory of punishment that moves beyond retribution to embrace the values of restoration, reconciliation, and communal harmony that define African moral philosophy.

Keywords: Punishment, Retributivism, Afro-Communitarianism, Betrayal, Personhood

Introduction

Historically, punishment has been regarded as a necessary instrument of justice within human societies. According to Igwe, Punishment is basically "a technique of social control and every society has its own means of controlling the social behavior of her citizens in order to attain the expected goals" (119). To this end, legal systems employ punitive measures to check and deter criminal behaviors, maintain social order, and

uphold moral accountability. At its core, punishment refers to the intentional infliction of some form of suffering, deprivation, or disadvantage by a legitimate authority in response to an offense or violation of established norms. As captured by Ozumba, punishment is an act whereby an offender is deprived certain of his rights for committing an offence (101). Regarding its functions, Udo and Ette opines;

Punishments are meant to encourage and enforce conformity to the dos and don'ts of a society. Thus, they are justified based on the fact that they (punishment) serve as incapacitation, deterrence, restitution, retribution, reconciliation, education and rehabilitation etc to wrongdoer in the society (143).

Beneath the above position, lie a dense network of philosophical debates about justice, human nature, responsibility, and the purpose of social life. The justification of punishment remains a deeply contested philosophical and legal quagmire bordering on whether individuals deserve punishment, how severe punishment should be, and whether certain forms of punishment are morally permissible.

Among philosophers there are two different theories in regards to the moral merits of punishment in general. Justifications for punishment are proposed either with reference to forward-looking considerations, such as various future effects or consequences or with reference to backward-looking considerations, such as the facets of the wrongdoing to be punished (Banner 224). The latter approach often referred to as 'retributivism' is famously attributed to Immanuel Kant which holds that punishment is justified because the offender deserves it. In this view, wrongdoing creates a moral imbalance that must be corrected through proportionate suffering. To fail to punish would be to treat the offender as less than a responsible moral agent. The former approach often referred to as utilitarianism approach to punishment takes a consequentialist perspective. For a utilitarian thinker like Jeremy Bentham, punishment is inherently an evil because it inflicts pain; however, it may be justified if it produces a greater good, such as deterring future crimes, reforming the offender, or protecting society (Bentham 125). Here, punishment is not about moral desert but about social utility. The emphasis shifts from the past acts to future consequences that is, what punishment will achieve.

Be that as it may, this paper is set out to analyse the retributive approach of punishment as espoused by Immanuel Kant and its implications for African communalist personhood.

Kant's Retributive Theory of Punishment:

Kant's retributive theory of punishment is grounded in his broader deontological ethics, particularly the principle of respect for persons as ends in themselves. For him, punishment is not a means to social utility such as deterrence or rehabilitation but an end in itself. A wrongdoer must therefore be punished because justice demands it. Such punishment must be proportionate to the crime and imposed regardless of its consequences. In his *Metaphysical Element of Justice*, Kant recognizes the right of a state to punish its citizens on the basis of the offense they commit. He argues that a ruler's right to punish his citizens arises when citizens break the law and such should not be on the basis of any foreseeable consequence that punishment brings about. This is because the nature of human beings protects them against anyone who may want to use them to achieve a purpose. Let hear him;

...Whatever undeserved evil you inflict upon another within the people you inflict upon yourself. If you insult him, you insult yourself; if you steal from him, you steal from yourself; if you strike him, you strike yourself; if you kill him, you kill yourself... (141).

Accordingly, every murderer- anyone who commits murder orders it, or is an accomplice in it- must suffer death. This is what justice, as the idea of judicial authority, wills in accordance with universal laws that are grounded a priori... (143). For Kant, punishment is required as a matter of justice: failing to punish a criminal would treat the offender as less than a rational moral agent. Desert, therefore, becomes central to the justification of punishment.

Again, Kant also conceived that, inflicting pain on an individual in the form of punishment is morally excusable on the ground that anyone who inflicts evil on another should suffer the same evil he/she inflicted. This is because it is as though you inflict evil on yourself when you inflict it on another. If you kill someone, it invariably means you have killed yourself and imposing the death sentence on you is simply doing to you what you have done to yourself. This is called the principle of "just desert". In other words, the central thesis of Kant's account of the justification of punishment is that whatever undeserved evil a person inflicts upon another, he/she inflicts it upon himself or herself. The person should therefore be punished in a way that is proportionate to him/her. To this end, the law of retribution was a moral proportionality. The execution of a murderer is not

for any societal benefit but because it is the only punishment that matches the moral gravity of his act. On this note, Kant opines that;

If... he has committed a murder, he must die. In this case, there is no substitute that will satisfy the requirements of legal justice. There is no sameness of kind between death and remaining alive even under the most miserable conditions, and consequently there is also no equality between the crime and retribution unless the criminal is judicially condemned and put to death (102).

However, the salient question inherent in Kant's assertion remains, if murderers are to be killed for killing what about the event that the wrongdoer commits theft, rape, fraud and treason? It seems to imply that the merited punishment for rape is to be raped, for robbery is to be stolen from, for fraud is to be defrauded, for assault is to be assaulted, for arson is to be "burned out," etc. Kant responded by demonstrating that it is not in all circumstances that society returns the same act to the wrongdoer as punishment. So, the proper punishment for treason should be the death sentence, that of theft, penal servitude and apology, and solitary confinement as a punishment for the superior who unjustly attacked his subordinate (106).

He believes that punishment is more a moral duty than a mere practical necessity for maintaining social order. "Punishment is not a matter of social convenience or political choice, but a categorical moral duty"(100). This duty arises from his deontological framework and his famous categorical imperative, which commands that "we act only on maxims that could be willed as universal laws" (112). When a person violates the law they contradict the universal principle of right that guarantees everyone's freedom. Punishment is therefore the only way to restore moral balance by giving the offender what they, by their own rational will, have "declared permissible" through their action. To this end, When a crime is committed, the state is morally bound to punish the offender not to deter others, reform the wrongdoer, or maintain public order, but because justice demands it. Kant's view grounded the authority of law in reason and moral necessity, making his approach both uncompromising and deeply influential. Employing his hypothetical case to insist that any social effects of the death penalty, good or bad, are wholly irrelevant to its justification, Kant asserted that:

Even if a civil society were to dissolve... the last murderer in prison would first have to be executed so that each should receive his just

deserts and that the people should not bear the guilt of a capital crime...
(and) be regarded as accomplices in the public violation of justice (102).

So, even if social effects are not possible, since the society no longer exists, the death penalty is justified for murder. Kant exemplifies a pure retributivism about punishment with his famous assertion "murderers must die for their offense, social consequences are wholly irrelevant", and the basis for linking the death penalty to the crime is "the Law of Retribution," the ancient maxim, *lex talionis*, rooted in "the principle of equality." Kant's key defense of capital punishment therefore is the principle of equality, by which the proper, merited amount and kind of punishment is determined for crimes. The theory of retribution has over the years evolved through the revision of the classical theory by scholars to strengthen and respond to charges against it. However, despite its evolution, which brings about different versions, the theory retains its backward-looking nature that evaluates the moral worth of punishment on the basis of guilt.

Understanding Afro-communalistic Conception of Personhood

The conception of personhood in African world view is not purely a descriptive metaphysical conception of an isolated and atomic individual, but primarily, a normative (social and moral) conception. This normative conception of personhood in African communalism represents one of the most distinctive contributions of African philosophy to global debates about identity, moral status, and the individual–community relationship. Unlike descriptive or metaphysical accounts that define a person simply as a biological human being, the normative conception understands personhood as a moral status that must be achieved. In this framework, the individual is constituted through community, and personhood is understood not merely as a biological or metaphysical fact but as a moral achievement realized through social participation. This is owing to the interconnectedness among individuals, the living community, ancestors, and the divine (Ikuenobe, 132). Base on this view, to be human is not necessarily to be a person in the full moral sense; rather, personhood is something one gradually becomes through ethical conduct, responsible participation in communal life, and conformity to shared moral norms. This conception is most forcefully articulated in the works of Ifeanyi Menkiti, who argues that the community plays a decisive role in defining and conferring personhood. For him, personhood is not an intrinsic attribute automatically possessed at birth, instead, it is acquired through a process of moral development within the social structure. The individual is born a biological entity, but becomes a person only by internalizing communal values and demonstrating moral maturity. Thus, the community is not merely

a background context for personal growth; it is the very source of the norms that make personhood possible. "It is the community that defines the person as person, and personhood is something to be achieved through moral conduct" (87). Central to this normative conception is the idea that personhood is a moral achievement. By moral achievement, the normative advocates mean to hold that "the ability to take moral responsibility is what confers personhood on a human beings and to be morally responsible is to be able to account for one's actions; to be able to give reasons for doing whatever one does" (Obioha, 85). African communal thought emphasizes that individuals are embedded in networks of relationships characterized by interdependence and mutual responsibility. Cementing this idea, Udo Etuk (2000) opines that:

It would seem that whereas human beings share a great deal in common with the other animals in terms of physical and physiological functions, actions and passion and so on, are certainly not enough to characterize a being as a 'person'. Animals such as dogs may get dressed up and may respond to commands; but they cannot be described as persons; and once it is certified that a human being is dead, what remains of that human being is no longer referred to as a "persons", but merely as a corpse. Again, infant, the severely retarded and the insane, although they are accorded such rights and care as appertain to them, are usually not treated as "persons" on the same level as matured adults are. So it seems that beings considered a person is inseparably tied to the ability to take responsibility for one's actions (8).

This implies that a newborn child, though biologically human, is not yet a full person in the normative sense because personhood is tied to the capacity for moral responsibility. To this end, the normative conception of personhood shifts the focus of moral worth from biological life to moral participation. Personhood becomes a status embedded within communal expectations, ethical performance, and relational accountability where rights are derivative of moral agency and social membership.

The normative conception also reconfigures the relationship between rights and responsibilities. In contrast to liberal individualism, which often prioritizes individual rights as foundational and inviolable, African communalism places primary emphasis on duties and obligations. Rights are understood as emerging from, or at least being deeply connected to, one's participation in communal life. Moral worth is not defined by

autonomous self-assertion but by responsible contribution to the common good. The community thus serves as the moral framework within which claims to rights and recognition are evaluated. Human beings are seen as fundamentally relational. John Mbiti's famous expression "I am because we are, and since we are, therefore I am" (108), summarizes the ontological dependence of the individual on the community. The community is not merely a collection of independent agents but an organic whole that shapes identity, morality, and meaning. Personhood emerges within this network of relationships rather than prior to it.

Kwame Gyekye grounds his conception of personhood in the ethical and metaphysical worldview of the Akan people. For him, the ethical basis of personhood closely binds the individual to the community. Accordingly, personhood is not simply an automatic attribute of being human; rather, it is realized through active and meaningful relationships with others. In his view, one attains full personhood through sustained interpersonal engagement and moral participation within the communal framework. This implies that personhood is not simply an object that can be analyzed in terms of some physical and metaphysical characteristics; rather a subject in whom communal values are imparted. This idea of personhood requires that an individual sees himself beyond his own individuality and the descriptive physical-metaphysical features, and in the light of the communal moral values and the underpinning beliefs about reality, in terms of the need to maintain harmony. Buttressing this point, Onwuanibe (2004) argues that, "the transcendence or subjectivity of the human person finds expression in the egalitarian spirit" (58). This egalitarian spirit is exemplified in the ability to act in ways that are conducive to harmony, based on the value of caring and mutual interests, of which one's interest or wellbeing is a part or in harmony with. In this wise, Hord and Lee indicate that the African communal tradition must be seen in "the flowering of a humanism that places the community rather than the individual at the center..." (85). The connection between humanism and communalism, based on the view of ontology as a unity and harmony in reality, implies that the interests of the community and those of individuals as humans cannot be separated in a way that creates a conflict between them. Gyekye's conception of right therefore entails that rights are largely the individual's responsibility when it comes to securing personal well-being. However, within a communitarian framework, people also have a moral duty to support one another, since human life is grounded in shared relationships. Thus, ensuring everyone's well-being becomes a collective obligation that arises from our interconnectedness.

Kant's Retributive Punishment: Implications for Afro-Communalist Personhood

In every culture or organization we have people who directly or indirectly consciously or unconsciously violate the societal ethics that guide human behaviours. This ethical violation often amounts to crime against the people and the land and is always accompanied by punishment. In the traditional African society crime is really seen as an act that breaks the law (divine or human) and is punishable. Accordingly, Udo & Ette using Annangland as a specimen for traditional African societies state that "many acts were considered as crime and grave abomination in traditional Annangland and such acts tantamount to violation of either divine, human or natural laws, hence punishable" (147). However, the administration of this punishment is deeply tied to the society's conception of personhood and social order. Most often, punishments are applied to encourage and enforce proper behavior as defined by society or family.

From the domain of African communalist personhood, what makes human beings morally special is not merely their rational autonomy as Kant retributive theory holds but their ability to enter into morally significant relationships with others. Dignity, therefore, is relational rather than strictly individualistic. This makes death penalty in form of retributive justice degrading because it permanently destroys the offender's capacity for communion with others, which is precisely the basis of their dignity. Even when an offender has committed grievous crimes, executing him or her limits any possibility of moral restoration, reconciliation, or continued participation in communal life. In this sense Metz opines that Capital punishment constitutes a radical denial of the very feature that grounds human worth (155). In African communitarian thought, human dignity is rooted in the moral fabric of the community, where personhood is realized through participation in shared values such as the extended family, consensus-building and the promotion of the common good (Zaria, 58). Kant's retributive punishment by advocating for permanent elimination and exclusion of the offender from this communal network undermines this relational conception of dignity. It denies the individual the opportunity for moral rehabilitation and reintegration, which are essential to the full realization of personhood (Uduma & Nweke, 57).

Also, African communitarianism advances a form of interdependence that is not conditional upon an individual's ability to contribute to the community's welfare. Rather, it embraces all members including those who due to various limitations may be unable to make active contributions. This sense of belonging is unconditional and reflects a moral

commitment in which the community does not abandon its obligations to any of its members. In this way, the African conception of community is deeply inclusive, seeking to uphold both collective harmony and individual well-being. It is precisely this inclusiveness that provides a firm foundation for the protection of human dignity. Accordingly, Obioha states that; "by holding a deep and unrelenting concern for human welfare and happiness, the African communitarian life recognizes and respects human dignity" (13). Therefore Kant's retributive theory of punishment by permanently excluding the offender from the community contradicts the inclusive *ethos* of African communitarianism, which insists that every individual regardless of wrongdoing remains a bearer of dignity and a member of the moral community. To execute an offender is to renounce the community's responsibility toward that individual, undermining the very principle of unconditional belonging. Consistent with this thinking is Matolino reappraisal of *Ubuntu* calling it an African humanism for its strong emphasis on human dignity irrespective of a person's quantifiable usefulness (41). This expresses the idea that a person's life is meaningful as long as he or she lives in harmony with others as integral part of the society.

Furthermore, the commitment to the common good in African communitarian ethics does not justify the elimination of offenders, but rather calls for responses that strengthen communal bonds and moral order. While Kant's retributive punishment may argue that it serves as a deterrent or mechanism for the protection of the society, within Afro-communalist framework, the ultimate goal of justice is not simply the preservation of order but the enhancement of human dignity across the community. Executing an offender may offer a sense of closure, but it risks eroding the very values, compassion, solidarity, and respect for life that ground the community's moral identity.

The Incompatibility of Kant's Retributive Punishment with Afro-Communalist Personhood

Kant in his retributive theory of punishment argued that punishment is justified solely because the offender merited it. For him, the administration of justice is *sine qua non* irrespective of consequences, located in moral law and rational autonomy. In contrast, African communalist thought conceived a person not as an independent rational entity, but as a being whose existence is defined through relationships. Accordingly, injury to one is conceived as injury to all proverbially put as "*nkpo amanam ayen anam iwuo*". Following this, Kant's retributive punishment appears fundamentally incompatible on the following grounds:

- (a) Kant's theory of punishment rests on the autonomy of the individual moral agent and whose rational will determines moral responsibility. On this note, punishment is exclusively targeted at the individual offender. Accordingly, Kant as reported by Uduigwomen opines that "a person is a subject whose actions are capable of being imputed...and moral responsibility is merely nothing but freedom of a rational being under moral laws" (106). However, African communalism, as articulated by Gyekye holds that "personhood is inherently relational and defined by one's embeddedness in family, lineage, and community" (97). In this case, many African societies do not see wrongdoing as an independent act but a rupture in a web of relations. For example, among the *Igbo*, *Yoruba*, and *Annang* societies, offences often implicate family and kinship groups, who may proposed a reconciliation or rehabilitation in order to avert the consequences. An *Annang* proverb buttresses this point thus "*abut ilaad asemum ubon isimummo ilaard*" meaning it is the family that bears the shame of their mad member. Kant's retributivism, by separating the offender from this communal framework, fails to account for this ontological interconnectedness.
- (b) Kant insistence on proportional punishment to the crime committed, independent of external factors such as social conditions or consequences is vengeance in disguise. This rigid formalism disregards the socio-economic and communal contexts that often shape wrongdoing, in that African systems of justice are deeply contextual. As captured by Gyekye, moral evaluation often considers circumstances such as poverty, social pressure as communal neglect. For instance, "theft in a subsistence-based community may be interpreted not only as a moral failure of the individual but also as a reflection of communal breakdown" (Zaria, 115). Punishment, therefore, incorporates both accountability and social reflection, a position Kant's retributive theory of punishment excludes.
- (c) Again, in African moral systems forgiveness is crucial for peaceful co-existence. In this sense, Okafor states that "forgiveness is not merely a private virtue but a communal necessity that enables reconciliation and reintegration" (35). But for Kant, to forgive when punishment supposed to be meted on the offender is an injustice. He therefore conceived forgiveness without punishment as undermining justice. This position rule out compassion and mercy, which are central to African communal life. Rituals of apology, such as cleansing, and reintegration are

common across many African cultures. This demonstrates that forgiveness is integral to justice, not opposed to it.

- (d) More so, the prioritization of desert that is inherent in Kant's retributive punishment is problematic and injurious to African communal setting. This is because; there is no intrinsic concern for repairing harm or restoring relationships. Whereas, African justice systems, emphasize restoration. Practices such as compensation, mediation, and public reconciliation (Udo & Ette, 145), are mechanism set to heal both the victim and offender while restoring communal harmony. Among the *Annang* people, for example, disputes are resolved through dialogue and restitution rather than punitive measures. This restorative orientation forms a fundamental divergence, in that while Kant seeks justice as retribution, African communalism rather seeks justice as healing and restoration of harmony. By so doing, punishment becomes a means to that end, and not an end in itself. More so, Kant's retributive punishment is at risk of perpetuating division in the society. Its sole reliance on desert, has the tendency of justifying abstract justice while ignoring the relational pains unhealed. Meanwhile, African justice system upholds dialogue and mutual restoration in order to make sure both the victim and the offender are restored back as functional members of the community.
- (e) Finally, Kant's position on capital punishment which implies that, the ultimate goal of punishment is the elimination of the offender, especially on capital offences stands problematic and injurious to the African communal values. With the Afro-communal framework, personhood is not something acquired by being mere human, rather personhood is achieved through participation in the community. Eliminating an individual for crime committed as Kant will suggest, is to diminish both the individual and the community. In rare cases where the African societies adopt banishment for serious offense, the aim has often been to protect the offender rather than purely punitive measures. Thus, Mbiti avers; "the loss of one member affects the entire communal fabric, making extreme forms of punishment metaphysically and socially disruptive" (112).

Conclusion

The incompatibility of Kant's retributive theory with Afro-Communalist personhood has been exposed and analysed in this paper. It has been observed that by

emphasizing individual desert and punitive justice, Kant's theory neglects the relational, restorative, and communal dimensions of moral life which is central to African thought. As such, it can be seen as a betrayal of Afro-communalistic personhood (Okafor,57). The paper however believes that a more adequate theory of punishment must move beyond retribution to embrace the values of restoration, reconciliation, and communal harmony that define African moral philosophy. Be that as it may, their interaction reveals not only a philosophical tension but also an opportunity to rethink punishment in a way that does justice to both individual responsibility and the deeply social nature of human life.

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