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# An Afro-Christian contextual analysis of presidential pardon in post-colonial African politics

## ABSTRACT

*Presidential or royal pardon is an age-long practice in pre-colonial Africa as well as in biblical times. This practice has never been without criticisms because of how, and on whom the pardon is granted. The trial of Jesus has been vastly studied within an African theo-interpretive model. However, the demand for the release of Barabbas rather than Jesus has not been adequately studied in a contextual or comparative theo-political manner in Africa. This is the thrust of this article. Using the desktop method, the article argues that presidential pardon granted to convicted criminals who are not allowed to serve judicial punishment is a stimulant for inveterate corruption in the polity. The theoretical argument of this article is that many African political leaders often resort to this kind of pardon that has adversely affected the polity. The significance of this is that this behaviour emboldens political leaders to continue to corrupt the system with dire consequences for the people.*



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## 1. INTRODUCTION

Granting a pardon to a person is a universal practice. It instantiates a relationship, hierarchy, class, and sometimes, hegemony. However, its effects, when the pardon meets some normative standards and expectations of the community, have been argued to be positive. But when a pardon is granted to an undeserving offender, it

raises normative and legal questions because of the negative effects that it can stimulate. The pardon Pontius Pilate granted to Barabbas instead of Jesus can be compared to the practice of pardon in traditional Africa, which resonates strongly in post-colonial African politics. Many presidents in contemporary society, including Africa, have granted pardons that have generated controversies such as the pardon Pilate granted Barabbas. According to Tam-George (2022:n.p.), for instance,

the paradox of the triumph of Barabbas remains an inscrutable subject for priests, public administrators, judicial officers, and experts in crowd psychology. Barabbas has become a metaphor for criminality, anarchy, and a warning about the dangers of the jurisprudence of the streets.

Tam-George (2022:n.p.) notes that, what is more perplexing,

in Nigeria, we can see the versions of the ideology of Barabbas at work in the form of the reign of criminal gangs, arsonists, kidnappers and violent extremists

who are treated with kid gloves by the same government that deploys state forces against innocent people, particularly social critics. There seems to be a logical problem trying to reconcile why the actors in the narrative will prefer a jailed criminal to be released to an innocent person. Even though the theological significance of the Jewish Temple authorities' and the crowd's choice can be appreciated against the background that Jesus' death results in the salvation of humanity, the theo-political contextualisation of freeing Barabbas has raised existential questions in contemporary African politics.

Presidential or royal pardon arouses critical interest when it is granted to criminals. In traditional Africa as well as in the Bible, granting pardon to criminals who deserved to be severely punished is not a new phenomenon. In this article, I argue that, although the prerogative to grant pardon has been an age-long practice, its abuse can encourage official corruption, as the case of post-colonial Africa readily depicts. I make this argument recognising the practice in traditional African perspective and contextualising the biblical narrative.

## 2. DECONSTRUCTING CONTEXTUALISATION

One of the ways in which the Bible has been contextualised in much of Africa is by reading and applying its stories to daily life and national politics. In doing so, there is the near absence of technical interpretation of the

Bible, thus making it an all-comer book. Even though many other trades require technical training for mastery, theology in most parts of Africa does not go the route of technicality. As is often observed, trained theologians in Africa cannot garner a large followership that a popular theologian or pastor with a bell and a Bible at hand garners. Some have argued that a theology that results from rationalism, as in the West, is unsuitable for African experience, because theology has to concentrate not only on the study of God, but also on how God interacts with his creation in its diversity (Kunhiyop 2020). Abstract theological discourse makes sense only to the mind and leaves the heart dry. It is a top-down theology. On the contrary, a theology that resonates with the existential needs and speaks to the suffering of the people makes sense to much of Africa. This is what Gwamma (2008:99) refers to as “popular theology”. Gwamma (2008:100) defines popular theology as

the theology propounded by lay people, as well as that which simply appeals to emotional and physical needs without in-depth biblical foundation.

This mood-defined theology is not formal, rigorous, and technical, but existential, responsive, and common. Popular theology, as a form of contextualised theology, concentrates almost exclusively on mundane affairs, inspiring the listeners to hope in God’s intervention in their daily endeavours. Since popular theology resonates powerfully with the people, popular theologians tend to select verses of the Bible to meet the perceived quest of the people. According to Preus (1997:20-21), “the Bible speaks more directly and clearly to listeners than to readers”.

More critically, contextualisation is more than a mere emotional or existential form of reading and applying the Bible to a context. It is, on the contrary, a rigorous attempt to first understand the message in need of contextualisation as well as the sociocultural context into which the message is being contextualised. According to Igboin (2023:3),

an authentic contextualisation is one that is socially and culturally located, because the people to whom the Bible is being presented are socially and culturally situated and located. They are bound with their culture. They have an identity. They have a being, an ontology. They have a cosmology. They have a certain belief system and practices believed to have been authentic to them. They are indeed human in all ramifications, and thus they desire to be heard.

Igboin posits that a true contextualisation ought not to be an imposition of an idea or text on a people, but it involves a systematic understanding of the sociopolitical lifeworlds that define the humanity and identity

of the recipients of the message. This important aspect of interaction between Western Christian missionaries and Africans has been largely lacking in contextual analysis. In this vein, Simango (2018) argues that, in spite of the efforts made thus far to contextualise Christianity in Africa, evidence suggests that it has not deeply penetrated African society and cultures. One of the difficulties associated with this is that what is being contextualised is sometimes not the Bible but European cultural practices that have been presented or mistaken as the Bible. Consequently, Cezula (2015:131) proposes that, for a genuine contextualisation to take place, there must be

looking at written words and comprehending their meaning, interpreting the meaning in relation to one's life experiences, and endorsing and concretising the interpretation in action.

However, this type of "owning" the Bible resonates with both the political leaders and their numerous followers in Africa in the popular sense. Whilst the political leaders quote extensively from the Bible and usually insert themselves as the liberators that the electorate expects, the electorate reel in applause and praise their political leaders for their ability to quote or narrate a biblical story. These politicians assert themselves as either applying or fulfilling the biblical prophecy. This scenario is not limited to any political party; all political parties and even non-Christian politicians are involved in this act of popular contextualisation. However, whether or not the political leaders who use the Bible and its stories in this way to convince (deceive?) the people to ascend to political power in return fulfil their promises is a different ball game. But it is observed, in many cases, that the same electorate do not radically turn around to demand good governance after elections. In other words, the political leaders are left to exercise the powers of the law to the fullness and to their richness, and impoverish the electorate.

In this article, it is argued that presidential pardon in much of Africa is exercised to favour the politically exposed persons (PEPs) rather than the politically deprived persons (PDPs) who constitute "the crowd". Hatchard (2020:3) explicates that PEPs are "the most powerful political entities in any society with unique access to state assets and influence over state institutions". Igboin (2022:4) refers to them as "the politically influential persons (PIP)" who enjoy the privileges of the state, class, and identity, whilst the PDPs suffer from PEPs' avarice and misrule.

A presidential pardon, as I will explain later on, is a constitutional power exercised by the president of a nation, whereby a convicted person is granted pardon of the crime convicted for, and thereafter lives as if s/he

had never committed the crime. Whilst such an exercise is traditionally meant to remedy some kind of injustice that might have been carried out in the course of adjudication, the abuse of power has generated many controversies. It is further argued that presidential pardon is more often than not granted to PEPs rather than to PDPs. The article also argues that, although the PEPs have defrauded the PDPs, the latter have been found to either yearn for or celebrate the pardon of the PEPs.

This article uses a theo-political framework. According to this theory, theology and politics are not strange bedfellows. Although theology, in its traditional sense, focuses on heaven rather than on the world, there is also a sense that what happens on the political scene affects how to direct the focus on heaven. The theo-political method is thus a socio-critical theology that arouses interest in what happens in a country and that addresses such issues as justice, human rights, fairness, and political representation. It prescribes Christian active participation in political processes, with Christian ethics and principles to sanitise the processes. This world-focused theology is fundamental to Christian existential survival in an increasing pluralistic world (Van Wyk 2015; Rivera 2018, 2020).

Accordingly, the events that took place before the crucifixion of Jesus have received extensive theological attention from different contexts. These events are enacted by different groups of people with vested interests. I will mention shortly that these events are not simply theological, as the writers of the gospel want us to primarily believe; they are political and relevant to contemporary political development in Africa. This article is poised to interrogate these events theo-politically because they clearly reflect what many African countries are experiencing at present: abuse of presidential pardon.

When the crowd demanded that Pilate should release Barabbas and crucify Jesus, they were not only making a theological demand to fulfil some prophecies. They were also setting a political principle, which aligns with a traditional, pre-colonial practice in Africa, that would be appropriated by many African political leaders and followers in post-colonial Africa. Pilate's eventual release of Barabbas and the people's joy tell us a great deal about human nature, particularly within a political system. Hendriks (2015) explains that the choice of Barabbas over Jesus is a natural one based on human default value system. Hendriks notes that such a choice is not far-fetched, as the vast majority of Christians will want to view it nowadays. He argues that it is important to understand what motivated the choice of the crowd at that time and compare it with what goes on in our contemporary society. In this regard, this article argues that Pilate grants Barabbas an undeserved presidential pardon on the basis of Barabbas'

criminal activities that earned him a jail term. The crowd's demand for the pardon of Barabbas shows how the oppressed people have contributed to their oppression by supporting their oppressors. The crowd, according to Matthew (27), was pushed by the Jewish rulers to demand the release of Barabbas instead of Jesus. These two scenes of the story are critical, as we attempt to contextualise the narrative within the African political system, using more examples from Nigeria.

### 3. THE CHARACTERS IN THE NARRATIVE

There are six characters in the narrative: Barabbas, Jesus, Pilate, Pilate's wife, the Jewish authorities, and the crowd. Barabbas is mentioned by the four writers of the gospels. Matthew (27:16) refers to him as a "notorious prisoner"; Mark (15:7) and Luke (23:19) describe him as being "in prison with the rebels who had committed murder during the insurrection", while John (18:40) reports that he is a bandit. Although scanty background information can be gleaned about Barabbas, the demand for his release by the crowd and the anti-Semitism it generated cannot be underestimated. His release by Pilate and the crucifixion of Jesus have given vent to the interpretation and application of anti-Semitism, on the basis of Matthew's (27:25) account that the Jewish crowd shouted: "His blood be on us and our children." Some modern scholars have argued that the crowd that demanded the release of Barabbas consisted of the Jewish Temple authorities and Barabbas' supporters rather than all the Jewish people, as previously understood. In addition, these scholars extend their interpretation to mean that the whole of humanity supported the demand for Barabbas' release, so that humanity can be guilty before God, and then seek redemption in Christ (Petruzzello 2018).

This theological reinterpretation clearly serves two critical purposes, namely anti-Semitism and mission. Barabbas should not be viewed as symbolising all the Jews since his rebellious activities earned him rather than the Jews a jail term. By viewing the whole of humanity in the eye of a jailed Barabbas, these scholars are providing veritable ground to launch the salvific and redemptive mission of Christ to the whole world. Whilst these two interpretations are functionally rewarding and peace-waging in our contemporary society, a critical aspect of Barabbas' account is being undermined: Barabbas did not, at any time, ask to be released; the demand for his release was placed before Pilate by the Jewish authorities who also prevailed on the crowd to do same. The powers to act on the demand rests squarely on Pilate, the same powers he eventually exercised while paradoxically washing his hands off the crucifixion of Christ.

However, Redbeard (2008:7) celebrates the criminal activities of Barabbas over the pacifism of Jesus. Redbeard argues that, in a world where survival of the fittest is the rule of the game, the preference of Barabbas over Jesus by the Jewish authorities and the crowd was in order. Human nature, he argues, is naturally aggressive, and being aggressive and violent guarantees success, as Barabbas has demonstrated. Redbeard argues that the powerful, rather than the pacifists, rule the world. Jesus' non-violent approach to life is not only retrogressive, but also not worthy of emulation. The Jews knew this quite clearly and thus exquisitely wanted a rugged and violent Barabbas to liberate them. According to Redbeard (2008:7),

[f]or once the city mob were on the right trail, when they petitioned for the release of Bar Abbas, rather than the supple singer of a 'Sweet bye and bye.' Bar Abbas is described in the 'Scriptures' as a petty thief. He was really an armed insurgent leader, the slayer of Roman tax-gatherers, a guerrilla chief (like Rob Roy, Robin Hood, William Wallace, William Tell) who levied toll upon opulent Hebrews for patriotic purposes. Had I been there that day, I, also, would have joined in the demand: – 'Release Bar Abbas unto us.' – Better one Bar Abbas than a thousand Christs.

Redbeard seems to argue that the Bible under-describes the real nature of Barabbas' activities by describing him as a petty thief. Barabbas is an armed insurgent leader who slays the Roman tax collectors and forcefully exacts taxes from wealthy Jews. For Redbeard, these "patriotic" activities should not be viewed as criminal and should not have warranted a jail term in the first instance. Hendriks (2015:429) further explains:

The kingdom that Barabbas represented was based on the dream and ideology of an Israelite kingdom where the Jews will be victorious and in command of their own country and destiny. He was a hero because he fought and killed on behalf of this kingdom, something the crowd appreciated because they were opposed to the Roman emperor and empire that represented a similar but opposing kingdom.

From the above accounts, the common Jewish people view Barabbas as someone who fought for his independence from the Roman colonial authorities. Barabbas is also viewed as a nationalist, who was concerned about his people's nationalism and freedom. Since peaceful means could not grant the Jews independence from Roman colonialism, he resorted to insurgent and guerrilla tactics by killing a Roman and levying the Hebrews who were apparently gaining from the exploitative Roman rule. Such activities would resonate with the desire of the people because

they regarded Barabbas as a freedom-fighter in spite of his criminal indictment; hence, they were persuaded that their freedom-fighter should be released. This is a sturdy political aspect of the narrative, which will be further explored.

The choice of Barabbas rather than Jesus has been interpreted in political terms as depicting how the electorates have always mortgaged their political destiny. This position presents Jesus and Barabbas as political contestants who need the votes of the people. Jesus is presented as someone who will, if elected, attend to the needs of the people and ensure that they benefit from the system. However, Barabbas is presented as a criminal who, if elected, will corrupt the system and ensure that the electorates suffer. As the electorates will almost always choose Barabbas, this shows that the electorates willingly vote for suffering and pain. More often than not, Barabbas wins the elections and Jesus loses: "The people voted unanimously to free Barabbas and to crucify Jesus" (Pirina 2018:n.p.). Olusegun (2022) notes that the crowd who voted for Barabbas should be regarded as mediocre people; they lacked the capacity to make proper, analytical, and moral choices. Addressing the Nigerian situation, Olusegun (2022:n.p. ) avers:

They [Nigerians] should not vote for corrupt, self-centred, tenderpreneurs, and expect them to fight poverty, and insecurity and promote democratic values. The fact that Barabbas, a criminal, was freed and Jesus, the innocent Messiah, was crucified, confirms the chaotic nature of life and government's tendency for manipulation. For too long, we have tolerated mediocrity by voting in Barabbas and expecting him to deliver to us good infrastructure and housing, and fight corruption. This is an impossibility.

For Olusegun, it is unthinkable for the "electorate" to choose Barabbas over Jesus, judging from the ministry of the latter and the terrorist-insurgent activities of the former. In a sane society, one would have expected that, despite the pressure from the Jewish authorities, the crowd should have elected to free Jesus and have Barabbas complete his term in jail. This would have served the course of justice and set a principle for future reference for the poor when faced with similar circumstances. It is evident from the choice of Barabbas how the oppressed, who are indeed in need of freedom from the oppression of the authorities, "have favoured bad leaders over good ones" (Olusegun 2022:n.p.). In another twist, Olusegun (2022) argues that, sometimes, those who the electorates view as Barabbas might be political saints afterwards just as those they regard as Jesus might, ultimately, turn out not to be so. He uses such biblical figures as Moses, and Rahab, among others, as examples to

argue that Nigerians should support a criminal like Moses who has the wherewithal to confront the present political Pharaoh, thereafter, a Joshua should be voted for. He describes Moses as a murderer, who, after killing an Egyptian, escaped and would later return to free the Israelites without acquitting his sin.

I don't believe that the candidate you consider to be the strongest or best among your current presidential candidates has what it takes to unseat your present Pharaoh. First, there is one that is not qualified to contest because of his geographical location, though, if care is not taken, he will be handed over to, hence, another 8 years of the same people. To counter this, Let (*sic*) the most formidable criminal like Moses who knows what it takes to confront Pharaoh fire for fire do the dirty job; take Nigerians out of the land of slavery where they are at present, then, it will be the turn of Joshua to finish the journey and take the Nigerians to the promised land (Olusegun 2022:n.p.).

One observes that Olusegun's submission is borne out of ethnocentric politics that has been the bane of political development in Nigeria. First, his reference to Moses, Rahab and Joshua, in comparison with Barabbas, is questionable but politically correct for his ethnocentric position. Moses and Rahab never had the same records and justice situation with Barabbas where choice of whom to release was presented to the people. Secondly, how long will Nigeria continue to wait for "Joshua" when he himself has already identified that he is in the presidential race as "the strongest and best among your current presidential candidates"? Thirdly, the presidential candidate who, according to Olusegun, is not qualified to contest, is from northern Nigeria whence the incumbent president also hails. By the principle of rotation of the presidency between the South and the North, it ought to be the turn of the South to contest for the presidency in 2023. Fourthly, "the most formidable criminal like Moses who knows what it takes to confront Pharaoh" is from the South-western region of Nigeria, the same region Olusegun ethnically belongs. Fifthly, "the most formidable criminal like Moses" belongs to the same ruling political party with the incumbent president, hence, the idea of confrontation with the present "Pharaoh" does not arise at all. Political confrontation would have been in order if "the most formidable criminal like Moses" were to be in the opposition party. Sixthly, Olusegun's fear that the presidential candidate who is not qualified to contest might be supported to win the elections raises the question of morality of his support and preference for "the most formidable criminal like Moses". Seventhly, Olusegun is silent on the issues of justice and equity that the region of "the strongest or best among your current presidential candidates" has not been allowed to occupy the presidency since 1999, whereas his region will have had spent

16 years in May 2023. If, in the event, “the most formidable criminal like Moses” wins, Olusegun’s region will be counting additional years while the South-eastern region, whence “the strongest and best among your current presidential candidates” hails, will still have zero years. Eighthly, why should Olusegun recommend to Nigerians to vote for “the most formidable criminal like Moses” instead of “the strongest or best” and yet condemn the Jewish authorities and crowd for electing to release Barabbas? Soludo avers: “Whatever it is that makes the people choose Barabbas over and above Jesus must be stopped in our time” (Tam-George 2022:n.p.). In fact, it takes a great deal of political will to make this happen on a continent where poverty is weaponised.

Some have argued that Pilate did not sentence Jesus to death, contrary to Luke’s (23:24) account. Agamben (2015) maintains this position when he argues that Pilate fought hard to make any pronouncement on Jesus, in spite of the pressure from the Jewish authorities. Agamben argues that Pilate did not make any technical judgement in law condemning Jesus. He implies that the trial of Jesus did not follow the known Roman law of the time; hence, there was a trial without an actual judgement. Gers-Uphaus (2020:21) also makes the point that it was not clear what Pilate wanted, because if he had thought it right to release Jesus, he would not have hesitated to do so. However, on the basis of Tacitus’ and Josephus’ accounts, Dusenbury (2017) argues that, although Pilate washed off his hands, he sentenced Jesus; hence, he was crucified. Pilate might not have been fully persuaded by the evidence against Jesus, yet he nonetheless acquiesced to the pressure of the crowd. According to Moscicke (2020:217),

Matthew has Pilate transfer the pollutant of bloodguilt off his hands and onto the people, who, with their children, will bear a curse and suffer exile from Jerusalem in 70 CE.

However, Abraham (2017:63) makes the point that

Pontius Pilate, the Gentile who actually authorized the crucifixion by his soldiers, would not be able to retract the Gentile role by his manual ablutions.

The point is that, if Pilate did not sentence Jesus, Barabbas would possibly not be released. But Pilate had the power to grant pardon to either Jesus or Barabbas; such power was weighed against the political expediency or implications that would result if he exercised it for either of them. After evaluating the situation, he came to the conclusion that it would be more politically expedient for him to release Barabbas rather than Jesus.

Meanwhile, Matthew's mention of Pilate's wife is critical in many ways. But the most pertinent to this discourse is the fact that she realises that Jesus is an innocent man, a righteous man who does not deserve death. Pilate's wife warns her husband to be careful in dealing with "that righteous man". Carter (2003) notes that Pilate's wife's description of Jesus as that righteous man should be understood as being to death rather than being innocent because Jesus is being faithful to God. While Pilate asserts the righteousness of Jesus, being a Gentile, the Jewish leaders are instigating the crowd to demand for the release of Barabbas.

From the foregoing, it can be deduced that Jesus was innocent of the charges against him, yet he was condemned by Pilate. Barabbas, the murderer, who never asked to be released was freed. The Jewish authorities who stood to benefit from Jesus' crucifixion persuaded the crowd to demand the release of the jailed Barabbas and the crucifixion of Jesus. The crowd, who ordinarily suffered the consequences of the bad politics and policies, aligned with their leaders, while Pilate exercised the "presidential" prerogative to release Barabbas. The argument is that the crowd, the most vulnerable in society, contribute to their own suffering by aligning with their oppressors.

#### 4. POLITICAL AND THEOLOGICAL ISSUES ON PRESIDENTIAL PARDON

Presidential pardon is a state pardon granted to a citizen who might have been convicted justly or unjustly for a crime committed against the state or an individual. The history of presidential pardon, as the power exercised by the state, dates back to ancient times, as it is found in the Code of Hammurabi (Hatchard 2020:200). Hatchard (2020) notes that presidential pardon, as a prerogative of mercy, can also be traced to Anglo-Saxon times when it was extensively used by the English monarchs. Consequently, it found its way into colonial constitutions as colonialism expanded its reach, particularly in Africa. Although Hatchard documents how the prerogative of mercy came to Africa and was exercised by the governor on behalf of the British monarch, there is ample evidence to suggest that it existed and was exercised in pre-colonial Africa by different monarchical authorities.

The claim that pardon was brought to Africa by colonialists cannot stand the test of truth. Although it might be argued that colonial perspectives on pardon were codified and imposed on colonial Africa. Bruce-Lockhart (2022), who studied prisoner releases in post-colonial Uganda, contests the claim that the British colonialists were the first to build prisons in Uganda. Bruce-Lockhart argues that different kingdoms such as Buganda had built

and maintained prisons prior to the advent of colonialism. Since the modern development of prison in Africa is deeply tied to colonial history, much of the exercise of the prerogative of mercy, clemency, or royal pardon might not have been documented. It is clear that those who committed serious offences could be exiled from the kingdom or community. Some offenders were offered royal pardon, and reinstated to their former positions, while others had their death sentence commuted to either banishment or to be kept in royal prisons.

For instance, in the Benin Kingdom in southern Nigeria, it was taboo for a person's cow to give birth to two calves at once. It was regarded as an omen; the owner of the cow was instantly declared the enemy of the King. To be perceived as the King's enemy implied that such a person would have to die. By implication, the owner of the said cow, who was brought before the King in manacles, already knew the fate that would befall him.

Two chiefs had already suggested that the death of the man [the owner of the cow that twinned] was the only sacrifice of sufficient propitiatory potency which would ward off the communal bad luck expected of the event (Aisein 2014:7).

However, before the judgement was executed, the King requested Iyase Nohenmwun, the Iyase of Benin, to make some remarks. The Iyase acknowledged the tradition of the Kingdom, but proceeded to argue that the owner of two cows is wealthier than the owner of one cow. In the same vein, the owner of three cows is richer than the owner of two cows. He argued that the man whose cow birthed two calves has contributed more to the fortune of the Kingdom. He concluded by advocating that rather than kill the owner of the cow, the cow and the calves should be brought to the King. He further suggested that the King should give the owner of the cow an *ikihun*, that is, "a royal gift", which were a young man and a maid. The King agreed to Iyase's verdict, and the owner of the cow was officially acquitted of being the King's enemy.

He was relieved of his manacles. Anointed with the wet chalk of sanctification, and with both arms supported like those of a chief, he danced happily from the Palace, savouring the unexpected change in his circumstances – from a felon to that of an instant favourite (Aisein 2014:8-9).

The Iyase's astute ground for arguing for the release of the owner of the cow included the fact that it was then not within the natural power of the man to make his cow birth two calves at the same time. In addition, the

birth of the calves did not only enhance the economic prosperity of the owner, but also the Kingdom in general.<sup>1</sup>

As in the African monarchical system, King David granted pardon to Shemei, the Benjamite (2 Sam. 19:16-23), despite the pressure to execute him. Kobil (1991) notes that pardon can be traced to ancient Athens, Rome and England. In the Athenian practice, for a pardon to be granted, a convict would have no less than 6,000 signatories or votes from the citizens. This implies that pardon was largely determined by one's popularity or ability to sway public sympathy than recourse to fairness and justice.

This was evidently demonstrated by the way Pontius Pilate pardoned and released guilty Barabbas instead of innocent Jesus, in a bid to protect his political interest against his riotous Jewish subjects who wanted Jesus dead by all means (Oamen 2020:5).

Ngwoke and Abayomi (2022:217) express the same view that the Roman authorities often granted pardon on a political basis: "A well-known example of this is the biblical story of Pontius Pilate pardoning Barabbas instead of Jesus." From the foregoing, presidential pardon can be understood as follows:

A pardon in our days is not a private act of grace from an individual happening to possess power. It is part of the Constitutional scheme. When granted it is the determination of the ultimate authority that the public welfare will be better served by inflicting less than what the judgement fixed (Hatchard 2020:199).

This definition shows that presidential pardon is "grace" granted by the state to an individual who must have been convicted of a crime. But the consideration for pardon rests on how the criminal's pardon will positively impact on the welfare of society at large. Presidential pardon also occurs

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1 The twist to this phenomenal judgement is that one of the lyase's cows gave birth to two calves on the same day. In fact, while the lyase was in the King's palace arguing that the man's life be saved, he did not know that his own cow would birth two calves. He returned home to find his family and friends in great mourning, knowing the implication of what had just happened. On finding out the reason for the mourning, the lyase returned to the Palace to report to the King the fate that had just befallen him too. Both men looked each other in the eyes. The King reminded him of the judgement the lyase had given earlier in the day. The cow and the two calves were brought to the King, and the lyase was given an *ikthun*. This royal pardon pronounced round the Benin Kingdom, and thus ended the severe punishment meted on owners of cows that give birth to more than one calf (Aisein 2014). Recently, the Oba (King) of Benin granted royal pardon to Enogie (dukes) and other people for various offences such as plotting a coup against the King, which, in the pre-colonial era, would earn the plotters death sentences; the King granted them royal pardon (Osayande 2022).

to remedy an injustice that might have taken place during trial, or when there is a post-conviction evidence to establish the innocence of the convicted. Beyond an already determined judgement, presidential pardon can also, though controversial in some instances, extend to pre-conviction cases. Anyway, the effect of a pardon is to erase the crime a person has committed, and if the pardon is full, the offender is fully restored, and appears in the eye of the law as though s/he never committed the crime in the first instance. Accordingly,

A pardon reaches both the punishment prescribed for the offense and the guilt of the offender, and when the pardon is full, it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense. If granted before conviction, it prevents any of the penalties and disabilities consequent upon conviction from attaching; if granted after conviction, it removes the penalties and disabilities, and restores him to all his civil rights; it makes him, as it were, a new man, and gives him a new credit and capacity (Oamen 2020:7).

Whilst presidential pardon has been justified on many grounds such as correcting a wrong or miscarriage of justice, its abuse has elicited caustic reactions. For instance, granting pardon to well-known criminals who have not shown any form of remorse spontaneously generates resentments. The fact is that government spends many resources to investigate and prosecute criminals whose activities must have adversely affected both the government and the people. As I will show later, the state grants pardon to “state captors” whose corrupt acts have left the people impoverished. A pardoned offender goes home free and, in some instances, enjoys the proceeds of crime, whereas the victims of their crime perpetually bear the brunt of their crime. This normative side of presidential pardon requires that blanket pardon is not granted to politically exposed persons whose criminal or corrupt activities negatively affect the state and its people.

Different post-colonial African countries have different constitutional provisions for and reach of presidential pardon. In Ghana, a pardoned offender can be restored and thereafter become eligible to hold a public office; the same applies to Nigeria. In fact, in the case of Nigeria, one of the criticisms against presidential pardon is that there are no clear guidelines and standards for the president to grant a pardon. Everything is left to the discretion of the president (Ngwoke & Abayomi 2022). In Kenya, there is a separation between expunging a criminal conviction and acquittal. The Kenyan Power of Mercy Act 2011 unambiguously states that pardon does not mean acquittal. In other words, if an offender is pardoned by the state,

“the guilt remains”; this prevents the pardoned offender from returning to public office in accordance with the constitution (Hatchard 2020:216). In Botswana, the prerogative of mercy does not extend to pre-emptive cases, but it applies only to post-conviction cases. Since a pardon is an act of benevolence, it should be clear when it is a gift of benevolence or abuse of benevolence. The Kenyan example stands out as a veritable guide in the fight against corruption in Africa. It is my considered opinion that it is unethical for a politically exposed person who has abused his/her position entrusted by the people to be pardoned and enjoy their proceeds of the crime, and return to public office.

A presidential pardon raises a theological issue. If by presidential pardon a person’s crime is blotted out as if s/he never committed it at all in the eye of the law, does that translate to not committing the crime before God? In other words, does a presidential pardon not contradict the theological demand for repentance – turning away from evil once committed – and restitution – restoring back to the owners what one had once illegitimately dispossessed them of? By presidential pardon, a person’s sin is washed away by the law, and the pardoned may be entitled to enjoy the proceeds of his/her former crimes. However, by repentance and restitution, the person not only turns away from his/her crime or sin, but also returns the proceeds of his/her former crime, as Zacchaeus apodictically demonstrated. Having been convicted of his crime against the people after listening to Jesus, Zacchaeus repented, and promised to return four times what he had fraudulently obtained from them (Luke 19:2-9). This clear act of repentance and restitution gives him a clear conscience before God and man.

It can thus be argued that, while presidential pardon is valid on the basis of the law of the land, it is limited in that it does not obliterate its recipient’s crime before God and the common people. It is only on the ground that the pardoned actually repents and restitutes that his/her previous acts and proceeds of crime stand requitted before God and the people. In other words, it will be unreasonable and normatively challenging for a person who receives pardon to still conscientiously continue to enjoy the proceeds of crime because, in fact, s/he is still depriving the victims of crime from enjoying their stolen property. However, both divine and presidential pardon have something in common: God and state pardons are final, no appeal can be made against them. God and the state may pardon a criminal/sinner, but society has a way of mentally archiving the person’s crime/sin. It has been observed that, even though a person is granted state pardon, such pardon does not immediately erase the memory of the crime committed. The same applies to a repentant person. The difference

is that, if a repentant person makes restitution, it goes with his/her name in society. Abraham (2017:44) helps us understand this better:

As we all very well know, sin forgiven is not sin forgotten. All that its forgiveness removes from us is responsibility for its expiation. As responsibility of expiating sins had by no means been quashed, this responsibility now lay[s] squarely on Jesus, for he had not borne our sins in a merely figurative manner. He truly bore them in his own person, where they cried out for expiation ... Even though Jesus assumed sins globally, it was individually that they are expiated.

This theological understanding of pardon is critical because it clearly limits the reach of presidential or state pardon.

In the next section, I will analyse how presidential pardon in contemporary Africa resonates with the biblical narrative being examined.

## 5. CONTEXTUALISING BARABBAS' PARDON

In April 2022, President Muhammadu Buhari of Nigeria granted presidential pardon to two former state governors: Joshua Dariye and Rev. Jolly Nyame. Nyame was sentenced to a 12-year jail term for stealing N1.64 billion and Dariye was sentenced to 10 years in jail for stealing N1.126 billion, respectively, when they served as governors of their respective states. They were granted presidential pardons because the President was convinced that their health was deteriorating, not because they were repentant or returned the asset stolen from their citizens (Odeniyi 2022). Dariye's case took 3,987 days to be concluded. The Supreme Court finally convicted him for the crime against the state. Nyame's case lasted 3,974 days until the Supreme Court also finally decided the case against him. Many civil societies, legal activities, and even anti-corruption agencies were shocked when it was announced that the president pardoned these two persons (Ige 2022). Ozekhome (2022:n.p.), a human rights activist, mentions the following:

By granting pardon to these treasury looters, Buhari is reviving, nurturing and watering corruption with state powers ... The government budgets huge sums of money for the persecution of such accused persons from the taxpayers' sweat; and if after the rigorous period of trial and subsequent conviction, the guilty are simply left off the hook in such a brazen manner, the little remaining lean hope the citizens have in the system is further diminished.

However, another senior lawyer and former Attorney-General of Abia, Awa Kalu, defends the president for granting the pardon. He not only based his argument on the constitutional empowerment of the president to so act, but also grounded it on theological interpretation. According to Kalu,

[e]ven God himself grants mercy and grace to millions of people every day and even at that, many question God's wisdom and omnipotence in their hearts. Should we then be surprised when the president is questioned in this kind of situation? (Ige 2022:n.p.).

This is an example of the lack of theological depth that has defined contextualisation of the Bible in Africa. The subtle equating of the president to God and the granting of mercy and grace to convicted criminals who have not demonstrated repentance and faith towards God raise theological questions. Does God grant mercy to sinning and unrepenting persons? If God refuses to grant mercy, does it affect his omnipotence as assumed in this instance? These questions are critical because, as it has been revealed, powerful politicians pleaded with the president to grant pardon to the two men; they also persuaded the victims of their crime, that is, "the crowd", to appeal on their behalf (Adinoyi 2021).

The purpose of criminal prosecution is to secure justice, not only for the accused, but also for the victims of the crimes and the state; and to some extent get reparation and restitution for the victims, while deterring others from going the same route. Where lies the justice for the impoverished people of Plateau and Taraba States who will now watch their tormentors stroll out with red carpet treatment? (Ozekhome 2022:n.p.).

In a grand reception organised for Nyame by his state, the masses, who have been deprived of the dividends of democracy, were mobilised to welcome him at the airport. Nyame did not seek God's forgiveness at the reception, but rather he was the one offering forgiveness to those who prosecuted him for defrauding the state. According to him,

I have forgiven everyone that made it possible for me to spend part of my life in jail ... My absence from the state was for a divine purpose. I have seen what you are passing through but I have forgiven everyone that has offended me (Chikpa 2022:n.p.).

Dariye was also given a heroic welcome by the people of his state. Although he thanked God for keeping him alive, he did not ask for forgiveness (Shobayo 2022). Instead, he thanked God for frustrating the efforts of

those who wanted him to complete his term in jail (Nanlong 2022). Frank Chikane argues that presidential pardon that does not result from the offenders' acceptance of mistakes is unethical, and, I add, theologically wrong (Omarjee 2021).

Similarly, Ndamungu (2020) notes that, in Tanzania, the president also exercises the prerogative of mercy in ways that have generated controversies. He argues that pardon is granted to convicted criminals, not because they have confessed to the crimes committed, but because the president wishes to exercise his powers to grant pardon.

Finally, the spectacular presence of the crowds who were defrauded by these pardoned criminals resonates with the Jewish crowd that shouted in excitement: "His blood be on us and our children." In fact, the gullible crowd bears the brunt of state capture, while the captors live in opulence.

## 6. CONCLUSION

I have argued that royal pardon is autochthonous to traditional Africa and was granted to individuals prior to the advent of colonialism. In instances that are now very clear, such royal pardons were granted to save the lives of members of the community because the traditional Africa more often than not promoted the vital force. Juxtaposing the African royal pardon and the biblical narrative of the pardon of Barabbas instead of Jesus, I argued that Africa's post-colonial political authorities' reference to and practice of presidential pardon has been mostly self-serving. Their pardon tilts towards rewarding individuals who have defrauded their countries, and who should ordinarily be made to pay in full for their crimes against humanity. The story of Barabbas is not simply an isolated one. The political leaders' and the oppressed citizens' demand and support for known criminals demonstrate the popular theological application of biblical stories in Africa. However, that biblical and African "Barabbas" continue to enjoy presidential pardon does not mean that God has pardoned them. It is argued that God's pardon can only take place when the pardoned offender repents and restitutes what s/he has stolen from the state and the people.

**BIBLIOGRAPHY**

**ABRAHAM, W. E.**

2017. *Some theological reflections: What did Jesus do?* Bloomington, IN: WestBow Press.

**ADINOYI, S.**

2021. Jang seeks presidential pardon for Dariye, Nyame. [Online.] Retrieved from: <https://www.thisdaylive.com/index.php/2021/03/22/jang-seeks-presidential-pardon-for-dariye-nyame/> [6 January 2023].

**AGAMBEN, G.**

2015. *Pilate and Jesus*. Translated by A. Kotsko. Palo Alto, CA: Stanford University Press.

**AISEIN, E.**

2014. *Erediauwá: Prince of Benin: The AD 1816 coup d'état*. Benin City: Aisein Publishers.

**BRUCE-LOCKHART, K.**

2022. Prisoner releases in postcolonial Uganda: Power, politics and the public. *Incarceration* 3(1):1-20. <https://doi.org/10.1177/26326663211059777>

**CARTER, W.**

2003. *Barabbas or Jesus?* Nashville, TN: Abingdon Press.

**CEZULA, N.**

2015. Reading the Bible in the African context: Assessing Africa's love affair with prosperity Gospel. *Stellenbosch Theological Journal* 1(2):131-153. <https://doi.org/10.17570/stj.2015.v1n2.a06>

**CHIKPA, T.**

2022. Presidential amnesty: I have forgiven my enemies – Nyame. [Online.] Retrieved from: <https://tribuneonlineng.com/presidential-amnesty-i-have-forgiven-my-enemies-%E2%80%95-nyame/> [6 January 2023].

**DUSENBURY, D.L.**

2017. The judgment of Pontius Pilate: A critique of Giorgio Agamben. *Journal of Law and Religion* 32(2):1-30. <https://doi.org/10.1017/jlr.2017.35>

**GERS-UPHAUS, C.**

2020. The Figure of Pontius Pilate in Josephus compared with Philo and the Gospel of John *Religions* 11(65):1-25. <https://doi.org/10.3390/rel11020065>

**GWAMMA, J.D.**

2008. *Perspectives in African theology*. Bukuru: Africa Christian Textbooks.

**HATCHARD, J.**

2020. *Combating money laundering in Africa: Dealing with the problems of PEPs*. Cheltenham: Edward Edgar. <https://doi.org/10.4337/9781789905304>

HENDRIKS, H.J.

2015. Who do you want: Barabbas or Jesus? Power and empowerment in theological education. *Stellenbosch Theological Journal* 1(2):427-446. <https://doi.org/10.17570/stj.2015.v1n2.a20>

IGBOIN, B.O.

2022. The rich man and Lazarus: Class and identity in Nigeria. *Theologia Viatorum* 46(1). <https://doi.org/10.4102/tv.v46i1.134>

2023. *Contextuality, interculturality and decolonisation as schemes of power relations*. *HTS Teologiese Studies/Theological Studies* 78(1):1-11. <https://doi.org/10.4102/hts.v79i4.7645>

IGE, I.

2022. Dariye and Nyame: Between legality and impunity. [Online.] Retrieved from: <https://www.vanguardngr.com/2022/08/dariye-nyame-pardon-between-legality-and-impunity/> [6 January 2023].

KOBIL, D.T.

1991. The quality of mercy stained: Wrestling the pardoning power from the king. *Texas Law Review* 69:569-639.

KUNHIYOP, S.W.

2020. Foreword. In: S.B. Agang, D.A. Forster & H.J. Hendriks (eds), *African public theology* (Carlisle: Langham Publishing), pp. xiii-xiv.

MOSCICKE, H.M.

2020. Jesus, Barabbas, and the crowd as figures in Matthew's day of atonement typology (Matthew 27:15-26). *Journal of Biblical Literature* 139(1):125-153. <https://doi.org/10.15699/jbl.1391.2020.7>

NANLONG, M.

2022. God disappointed those who frustrated my release – Dariye. [Online.] Retrieved from: <https://www.vanguardngr.com/2022/09/god-disappointed-those-who-frustrated-my-release-dariye/> [6 January 2023].

NDAMUNGU, O.I.

2020. The paradox of the presidential power of pardon: Tanzania in perspective. *International Journal of Scientific and Research Publications* 10(9):197-216. <https://doi.org/10.29322/IJSRP.10.09.2020.p10523>

NGWOKE, R.A. & ABAYOMI, S.B.

2022. An appraisal of the power of pardon under Nigerian law: Lessons from other jurisdictions. *Beijing Law Review* 13:217-226. <https://doi.org/10.4236/blr.2022.132014>

OAMEN, P.E.

2020. Grant of presidential pardon in the United States and Nigeria: Posthumousness, corporateness and other matters. *Commonwealth Law Bulletin* 47(3):1-28. <https://doi.org/10.1080/03050718.2020.1795899>

ODENIYI, S.

2022. Presidential pardon: Dariye, Nyame, three others regain freedom. [Online.] Retrieved from: <https://punchng.com/presidential-pardon-dariye-nyame-three-others-regain-freedom/> [6 January 2023].

OLUSEGUN, A.

2022. Barabbas or Christ: Who is your choice in the coming 2023 presidential elections? [Online.] Retrieved from: <https://www.therenata.com/articles/barabbas-or-christ-who-is-your-choice-in-the-coming-2023-presidential-election> [23 December 2022].

OMARJEE, H.

2021. Jacob Zuma must admit mistakes to get pardon, says Frank Chikane. [Online.] Retrieved from: <https://www.businesslive.co.za/bd/national/2021-07-07-jacob-zuma-must-admit-mistakes-to-get-pardon-frank-chikane-says/> [6 January 2023].

OSAYANDE, I.

2022. Oba Eware II pardons seven “coup plotters” against Benin Kingdom. [Online.] Retrieved from: <https://pmnewsnigeria.com/2023/05/15/oba-ewuare-ii-pardons-seven-coup-plotters-against-benin-kingdom/> [9 August 2023].

OZEKHOME, M.

2022. Legal and moral implications of granting pardons to (ex-)convicts. *Premium Times*, 19 April. [Online.] Retrieved from: <https://www.premiumtimesng.com/opinion/524602-legal-and-moral-implications-of-granting-pardons-to-ex-convicts-by-mike-ozekhome.html> [7 January 2023].

PETRUZZELLO, M.

2018. Barabbas: New Testament figure. [Online.] Retrieved from: <https://www.britannica.com/topic/Barabbas-biblical-figure> [19 December 2022].

PIRINA, J.

2018. The Barabbas theory of voting: Bible story shows tough choices for midterms. [Online.] Retrieved from: <https://www.thedailybeast.com/the-barabbas-theory-of-voting-bible-story-shows-tough-choices-for-midterms> [23 December 2022].

PREUS, J.

1997. *Reading the Bible through: An introduction to exegesis and hermeneutics*. Bukuru: TCNN Publications.

REDBEARD, R.

2008. *Might is right*. Australia: Libertine Press.

RIVERA, J.

2018. *Political theology and pluralism: Renewing public dialogue*. London: Palgrave MacMillan. <https://doi.org/10.1007/978-3-319-77146-5>

2020. Introduction: Political theology, or the formations of pluralism. *Religions* 11(13):1-3. <https://doi.org/10.3390/rel11010013>

SHOBAYO, I.

2022. Ex-governor Dariye gets heroic welcome in Plateau. [Online.] Retrieved from: <https://tribuneonlineng.com/ex-governor-dariye-gets-heroic-welcome-in-plateau/> [6 January 2023].

SIMANGO, D.

2018. There is a great need for contextualisation in Southern Africa. *Studia Historiae Ecclesiasticae* 4(2):1-12. <https://doi.org/10.25159/2412-4265/3030>

TAM-GEORGE, A.

2022. Soludo and the predicament of Barabbas. [Online.] Retrieved from: <https://www.thisdaylive.com/index.php/2022/05/28/soludo-and-the-predicament-of-barabbas/> [7 January 2023.]

VAN WYK, T.

2015. Political theology as critical theology. *HTS Teologiese Studies/ Theological Studies* 71(3):1-8. <http://dx.doi.org/10.4102/hts.v71i3.3026>

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