



# **Jungle Justice and Criminal Justice Administration in Nigeria: The Need for Reform of the Justice System**

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## **ABSTRACT**

The summary execution of suspected criminal offenders without recourse to judicial process is a rampant phenomenon in many developing societies particularly Nigeria. Many citizens who have lost confidence in the criminal justice system, especially the police take laws into their hands by passing instant judgment on suspected criminal offenders without due process and in contravention of the fundamental rights of the accused. While this practice of mob execution seems to be barbaric and anachronistic, many Nigerians take great delight in seeing that suspected criminals offenders are punished extra-judicially. This paper, therefore, examines jungle justice and criminal justice administration in Nigeria. We situate our analysis on Thomas Hobbes's theory of the state of nature, and recommend a reform of the criminal justice system especially the police institution as a way of preventing mob attacks, and to restore people's confidence in the justice system.

**Keywords:** mob execution, jungle justice, criminal offenders, fundamental rights, Justice System

## **1.0 INTRODUCTION**

Nigeria is plagued with myriad of socio-economic and political problems which are inherently multifarious in nature. Many of these problems include political instability, poor governance, corruption, poverty, moral decadence and social vices especially street and property crimes. As grave as these problems are the country continues to see it as a normal despite their negative impact on the socio-economic development of the society. More depressing is when these problems infringe on fundamental rights of citizens and overwhelm the essential arm of government that is supposed to be saddled with the responsibility to protect these human rights when violated. Although a reasonable percentage of crime is good for every society because crime forms an integral part of every healthy society (Durkheim, 1951). However, when crimes become a threat to human existence and social order, then urgent steps must be taken to reduce its persistence and prevalence, otherwise society degenerate into what Thomas Hobbes described in the state of nature as being solitary, poor, nasty, brutish and short.

Jungle justice is a concept that is very popular in most Sub-Saharan African countries particularly in Nigeria and Cameroon, (Wikipedia, 2017), where there is total disregard for the rule of law in the treatment of suspected criminal offenders. However, the situation is particularly very severe in Nigeria due to the multiplicity of social problems that beset the country. Some of these problems include mass illiteracy, unemployment, inequality, and high crime rates. These problems are further compounded by the issues of corruption, poor governance and the harsh economic climate that many people have to survive. This situation has increased the desperation and frustration in many people, and the resort to mob justice has become the only way many people feel they can express their displeasure and dissatisfaction over a failing criminal justice system.

Jungle Justice has been going on in Nigeria for several decades because the criminal justice system is defective in the processing of criminal offenders into the system. The criminal justice system that consists of the police, courts, and the penitentiary constitutes the bedrock of justice administration in a country. Whenever there is arbitrariness in the way that criminals are punished and processed into the system, there is the likelihood that lawlessness will prevail over the rule of law, which is the situation in Nigeria. Among the three sub-units that make up the justice system the police are the most vital because they determine who is processed into the system. In exercising their discretion whether or not to make arrest many factors including social class, gender, ethnicity, religion etc come into play. More significantly, since the police institution is plagued with corruption many notorious criminals and repeat offenders have avoided jail terms by maneuvering their way by either paying little tokens at police checkpoints or simply bribe their way out of police detentions through posting of bail sum. As a result, many members of the public who have see violent criminals working free on the street after they have been arrested by the police have lost confidence in the justice system, and resort to dealing summarily with suspected criminals rather than handing them over to the police.

The prevalence of instant justice as a form of punishment for criminal suspects seems to have also increased in Nigeria due to abuse of the justice system by some well placed individuals. There is flagrant disregard for the rule of law by some influential persons in society, thereby making citizens to use self-help to inflict capital punishment on suspected criminals without recourse to the law courts. Many notorious criminals get their freedom when police officers receive calls from some prominent and influential individuals for the suspect to be released, thereby rendering the criminal justice system totally ineffective.

## **2.0 LITERATURE REVIEW**

### **History of Public Execution in Nigeria**

Public execution as a form of capital punishment in public view has been in existence in many parts of the world because it gave opportunity for the criminal to make his last speech and allows the state to exert its powers over an accused. The concept of punishment may have been behind the introduction of capital punishment in Nigeria. However, the pertinent question is: why do many Nigerians derive great joy in public killing or mob justice? The answer to this question may be pronged into two: (1) Our historical past, and (2) lack of public confidence in the administration of justice in Nigeria. The first part of the literature review will be devoted to the former while the subsequent section will try to address the latter.

Public humiliation and execution of criminals in Nigeria did not start with mob killing of suspected criminals as many may think. It first started with public execution of condemned armed robbers by military dictators. The history of Nigeria shows that the public have always taken delight in the public execution of suspected criminals. In the early 1970s, immediately after the Nigerian civil war, the military government's reactions to cases of armed robbery were draconic and brutal, because it viewed criminals' especially armed robbers as enemies of the country. They also believed that public execution was necessary so as to serve as deterrence to others. In fact, the first public execution by firing squad of convicted armed robbers took place in 1971. The execution was greeted with excitement as virtually everyone felt the suspects deserved the punishment meted out on them. Despite the prohibition of public execution of armed robbers in Nigeria, the public still derive great joy in seeing that suspected criminals are killed in the public. More significantly, public execution of armed robbers by the military actually gave birth to mob attacks because it made jungle justice an acceptable form of capital punishment for suspected criminals in Nigeria.

### **The Concept of Jungle Justice**

'Jungle Justice' is the act of disregarding the rule of law and taking matters into one's hands. Also it is the act of handling suspected criminal offenders over the hands and mercy of an angry mob; this is contrary to the provisions of the law. Simply put, jungle justice is when the population (an irate mob) takes upon themselves the responsibility of inflicting penalty on an alleged offender/criminal without recourse to the law. In other words, it is a situation where the masses take upon themselves to render judgment on a

matter without hearing, or without the right to a defence. This is justice without trial. This often leads to death by stoning, burning, or lynching. In this type of justice, the criminal is humiliated, beaten or summarily executed by a crowd or vigilante without given an opportunity for defence (Vanguard, 2017). The mob attacks are generally characterized by the stripping of the suspect of their fundamental rights of fair hearing and the opportunity to defend themselves.

This form of street justice occurs where a dysfunctional and corrupt judicial system exists and where the law enforcement agencies have lost all credibility. Although, the fact that many Nigerians are either illiterates or ignorant of the law, despite the provision of Section 22 of the Criminal Code Act that ignorance of the law is not an excuse to the commission of crime, illiteracy may also explain the rise in cases of mob attacks. According to Abdulah (2016) jungle justice is a metaphor for the failure of justice and the failure of society to apply uniform and equal standards and processes to everyone. Abdulah also noted that under the jungle justice system the entire concept of state, government and rule of law is defeated because people are allowed to act in a state of nature that is unregulated, unbridled. Onyebuchi in Onuh, (2017) contend that jungle justice is a travesty of justice since it does not guarantee fairness to anyone.

### **Constitutional Provisions relating to Rights of Suspects**

The Nigerian Constitution guarantees every person including criminal suspects certain basic fundamental rights. For instance, Section 36(5) presumes every suspect innocent until proven guilty. The same section also provides that in determining any civil and criminal matters the accused should be given fair hearing. Chapter 4 of the Constitution also provides that every person has the right to life, and no person shall be deprived intentionally of his life except the execution of the sentence of a court in respect of a criminal offence of which the person has been found guilty. Section 33(1) and Section 34 provide for the dignity of a person and prohibits torture or any degrading treatment of human beings. Jungle justice violates the two cardinal principles of natural justice namely: *audi alterem partem* and *memoria iudex in causa sua*. The former implies that no one must be judged or condemned without fair hearing or trial, while the latter means that you cannot be judged in your own cause (The Guardian, 2016). Despite all these constitutional provisions, mob attacks still persist in Nigeria because most victims of jungle justice are never given fair hearing

Although in some instances, private citizens can apprehend criminal offenders and hand them over to the police. These are contained in Sections 12, 13 and 14 of the Criminal Procedure Act. For instance Section 12 provides:

*Any private person may arrest any in a State who in his view commits an indictable offence or whom he reasonably suspects of having committed an offence which is a felony or having committed by night an offence which is a misdemeanor.*

Section 13 of the same Act empowers citizens to make arrest without warrant where theft of personal property is involved. This section provides “Persons found committing any offence involving injury to property may be arrested without a warrant by the owner of the property or his servant or persons authorized by him”. Furthermore, Section 14 states, “Any person arresting any other person without a warrant shall, without unnecessary delay, make over the person so arrested to a police officer, or in the absence of a police officer shall take such person to the nearest police station.

It is obvious from the provisions of Sections 12 and 13 that citizens can make arrest where there is suspicion of the commission of an indictable offence, but this law does not permit private citizens to take laws into their hands to maim and kill or lynch suspected criminals. Section 14 says that where such arrests have been made by the general public, the suspects should be handed over to a police officer or to the nearest police station without delay. However, in many cases, this provision is usually ignored by members of the public, which results in instant killing or jungle justice meted on criminal suspects. In some cases, the suspect may just be a victim of circumstance, where a false alarm has been raised and the victim happen to be present within the neighborhood or vicinity where such alarm was raised. Dada, Dosunmu and Oyedeji, (2015) contend that jungle justice occur when the society is fed up with the

criminal justice system, and when the people have come to believe that there is little or no difference in the way criminals are processed into the system.

### **History and Rationale of Punishment**

Punishment is as old as mankind itself because in ancient societies there was punishment for those who violated societal rules. Stearns (1936) defines punishment as “an evil inflicted upon a wrongdoer, as a wrongdoer, on behalf, and at the discretion of society in its corporate capacity, of which he is a permanent, or temporary member.” Mac Dougal in Stearns defines punishment as “the binary compound of anger and positive self feeling”.

A fundamental principle behind punishment is the seriousness of the crime committed. One standard for measurement of the severity of the offence is how society is affected by such crime. In trying to determine the degree of seriousness of an offence the concepts of felony (very serious crime) and misdemeanor (less serious offence) also comes into play. A felonious act carries a more severe punishment than a misdemeanor. There are several justification for the imposition of punishment that include deterrence (prevention) incapacitation and societal protection, retribution, and rehabilitation

### **Early Philosophy of Crime and Punishment**

In ancient times, the response to crimes was retribution, whereby the victim or victim’s family would exact what they felt to be an appropriate punishment for the crime committed against them. In some African societies the accused was required to pay restitution or asked to go on exile from the community as punishment for serious crimes committed.

Modern understanding of the relationship between crime and punishment can be traced to the work of the Greek philosophers, Plato and Aristotle. Plato was the first to theorize that crime was often the result of a poor education and that punishment for crimes should be assessed based on their degree of fault, thereby allowing for the possibility of mitigating circumstances. Later on Aristotle developed the idea that punishment should serve as a deterrent to others who might contemplate committing similar crime.

In 1762, Cesare Beccaria, an Italian Marquis in his notable book “Crime and Punishment” criticized the type of brutal punishment that accused persons were subject to and advocated for lesser punishments for offenders. Subsequently, Voltaire seized on Beccaria’s book to develop the idea of penitentiary as an alternative to execution and capital punishment. Voltaire’s idea of punishment was a prison system where offenders can be reformed and corrected (Stearns, 1936). However, it took till 1797 before the establishment of the first prison in New York.

### **Criminal Justice Administration in Nigeria**

Criminal justice refers to the agencies of government with the responsibility to enforce law, adjudicate crime, and ensure that criminal offenders are punished according to the law. Simply put, it is an instrument of social control. It also deals with the way criminal justice is being carried out by the police, court and penitentiary. In an effective criminal justice system, these three distinct agencies and components work cooperatively to fight crime and ensure that there is maintenance of law and order in society. However, in Nigeria the police, which is the largest and most significant institution among the three agencies in the justice system is corrupt and treats people arbitrarily. It exercises great discretion because it decides whether or not to arrest a suspect criminal. In many cases criminals with history of prior offending simply pay their way out of police detentions.

Criminal justice is also both a system and a process. As a system, it is made up of three components: police, courts and corrections. These sub-systems are responsible for criminal law enforcement and decision making on crime prevention, detection, and investigation including the accusation, apprehension, detention and trial of criminal suspects. The criminal justice is a process when the various components co-ordinate their independent functions by processing the criminal suspect from one stage to the other (Iwarimie-Jaja, 2003). When the system and process are working smoothly there is reduction in the level of crime in such a society.

Criminal Justice administration deals with the way criminal justice is being carried out by the three components of the criminal justice system, police, court and correction. The three sub-systems must work

together under the rule of law and as a principal means for crime fighting and the maintenance of law and order. Unfortunately in Nigeria these three components of the criminal justice system have failed to live up to its expectations. The system has one way or the other compromised its standard in handling and processing of criminal offenders. Many well placed individuals in society or their associates can simply commit crimes without any apprehension or prosecution. Worst still, many notorious criminals who are supposed to be behind bars are sometimes seen working on the street few days after they were apprehended by the police because of the corruption of the police institution and some judicial officers. As a consequence of this development, many Nigerians who have lost confidence in the justice system have decided to take laws into their hands by dealing summarily with suspected criminals. For example, Ogun (2016) notes that the prevalence of mob justice in Nigeria particularly in 2016 was due to the failure of the criminal justice system in Nigeria and lack of public confidence in the capacity of the components of the justice system especially the police and courts to fairly and independently punish crime. Also, Omote (2009) contends that the complicity of the police and the courts hinders the efficacy of the criminal justice system in Nigeria.

### **3.0 THEORETICAL REVIEW**

#### **The Hobbesian Theory of Society**

Thomas Hobbes in his state of nature believes that life is solitary, poor, nasty and brutish because man's life is in continuous danger of violent death. Hobbes depicts the natural condition of mankind also known as the state of nature as inherently violent and soaked with fear. The state of nature is "war of every man against every man" in which people constantly seek to destroy one another. This state of nature is so horrible that human beings naturally seek peace, and the best way to achieve peace is to construct the Leviathan through social construct.

Hobbes contends that in a state of nature where there is absence of a supreme authority or government to regulate the appetite and aggression of man against his fellow man, there would be constant war. Therefore, government must be there to resolve conflict as people will be competing over scarce resources and the powerful will want to dominate and oppress the weak

In Nigeria, mob justice and extrajudicial killing exist not because people are competing for scarce resources as argued by Hobbes, but due to the fact that the institutions of government, that is, the police and courts are weak and lack the ability to protect the fundamental rights of the less privilege. More significantly, the role of the government through the criminal justice system has been truncated due to the high level of corruption and nepotism in the justice system. As a result, many Nigerians have taken their destiny into their own hands by executing extra-judicially any criminal suspect caught in the act, without recourse to the police or courts.

Iwarimie-Jaja (2007) argues that the failure of the criminal justice system in Nigeria is because it was established for the purpose of protecting and promoting the interests of the dominant class especially those that own and control the forces of production. He believes the criminal justice institutions enable the ruling class to maintain its power, coerce and control the subjugated class, in order for them not to rebel against the bourgeoisie class. The oppressed masses who are frustrated with the institutions have decided to take laws into their hands in the punishment of criminal offenders. In many of such cases, the punishment may not fit the crime that the suspect has been accused of committing.

### **4.0 CONCLUSION**

The prevalence of jungle justice or mob action in Nigeria is due to weak and corrupt institutions of government especially the police and the judiciary. Fundamentally, the police lack the basic knowledge and training to deal with complex crime situations, as a result, many repeat offenders still walk the streets unapprehended. There is also lack of transparency in the way the police discharge their duties. Where there is transparency in the way criminals are processed into the criminal justice system people would be less likely to resort to extrajudicial killing. This is because a well policed society, for instance, does not require vigilante groups of any kind as we have in many communities in Nigeria. The presence of

vigilante group in a community can sometime pose a serious threat to people living in that neighborhood because of the way they handle criminal matters. Their crime fighting tactics are not in consonance with what the law requires and dictates of civilization. When police are proactive to crime incidents and prosecute suspected criminals, irrespective of their social status, the police will begin to gain respect and trust in the eyes of the people.

The way forward is to have an efficient police force that enjoys the respect and trust of the people. A situation where suspected criminal offenders who are handed over to the police by citizens are released under questionable circumstances, it is likely to breed distrust of the police by the public. The police should be honest and transparent in the way they discharge their duties. The people must believe that the police and other security agencies will assist them to rid their neighborhoods of criminal elements, if these preventive measures are not taken, regular incidents of extra-judicial killing of criminal suspects are always going to occur.

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