



Jungle Justice and the Nigerian Law Enforcement Order: An Analysis of Fire and Smoke Relationship

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Abstract

The article reviewed how the menace of jungle justice is an obliteration of criminal justice administration in Nigeria. It looked at the prevailing reality of human rights in Nigeria, the causes of jungle justice, its implications for criminal justice administration and what government can do to mitigate them. Using secondary sources, the study found that the principle of fair hearing is dwindling in the administration of criminal justice. The behaviour of law theory was adopted for the study and utilized within the context of Nigerian society. In mitigating this pseudo form of justice in Nigeria, the government needs an overwhelming reform of the judicial process in line with the global concern for human rights protection; ensure justice administration that is visible and aimed at building public confidence in the criminal justice apparatus, the need for a massive awareness campaign by statutory organs on the right to fair hearing as contained in Nigerian Constitution as well as the need to rekindle the spirit of patriotic consciousness and professionalism in public authorities so that each citizen will have the obligation to obey the law as expected.

Keywords: Criminal Justice Administration, Fair hearing, Human rights, Jungle justice, Nigeria

Introduction

Over the years, man's ability to carve for himself a legal framework useful for social order and the administration of criminal justice has been epochal in man's social existence. This legal characteristic seems to have been embraced by various constitutional jurisdictions across the globe. In recent times, however, there seems to be an emerging trend, the phenomenon of jungle justice which tends to exist side by side with the formal system of justice, especially when viewed from the angle of its prevailing reality around the globe. When jungle justice is perpetrated in a society operated upon the modern apparatus of justice, it may suggest that the administration of criminal justice is becoming failed and societal members are at the risk of predisposition to self-help. Thus, where the underlying order of society is exposed to stiff opposition or fragrant rupture by human



anti-social interferences such that the law protecting human security is becoming less impactful or not properly adhered to, the propensity for outright inhibition and disregard for human life may become a practice. In recent times, jungle justice appears to be one of such obvious social disregards plaguing human security and the administration of criminal justice around the globe.

As revealed by Vladimir (2012), the practice of jungle justice connotes a debasement of the human species in society. Vladimir justified this when he cited an episode where a 14-year-old Emmett Till was beaten, his eyes gouged and shot in the head with his neck barbed wired for allegedly whistling at a white woman in the United States in 1955. In Africa, the United Nations Office on Drugs Control (UNODC, 2011) revealed that South Africa and Nigeria are accounting for between 35% and 45% of mob attacks and vigilantism as volatile criminal acts on global statistics. The above instances painted a graphic picture of how jungle justice could portend danger to Nigeria and by extension the world at large. Although crime has been considered inevitable and forms an integral part of every society (Durkheim, 1951 in Gbenemene, & Eric, 2017), but when social life becomes threatened with criminal acts perpetrated blatantly against the law, the quest to question such a trend becomes necessary. As tendered by Ukwai (2004), most developing economies are faced with reports of jungle justice in the face of global efforts to promote human rights.

Based on the Universal Declaration of Human Rights by the United Nations, Nigeria is a signatory, “everyone has the right to life, and no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment” (Odewale, 2016). In section 8(1b) of the Administration of Criminal Justice Act 2015, the law is protective of a criminal suspect from any form of torture, cruel, inhuman or degrading treatment. In the same vein, section 36(1) 1999 Constitution of the Federal Republic of Nigeria, as amended, provides for the right to fair hearing as part of the fundamental rights of citizens. Section 36(5) of the Constitution, particularly presumed a suspect to be innocent until proven guilty in a court of law. Based on the provisions of the laws cited above, jungle justice is clearly a criminal offence against natural justice and in an event where these constitutional provisions are no longer adhered to, the dispensation of justice via formal institutions of justice, particularly when it concerns the need to protect the fundamental rights of citizens may become dicey. Continuous practice of jungle justice constitutes a fundamental disjuncture to the essence of human corporate existence which the criminal justice system protects.

The reality today is that the practice of jungle justice indicates that Nigeria and perhaps the world is retrogressing back to a state of nature where the English philosopher, Thomas Hobbes, had characterized social life as being nasty, brutish and short. Hence, looking at the epidemic of jungle justice in the administration of criminal justice in Nigeria and finding ways of curbing this anomaly constituted the key objectives of this study.

The Concept of Jungle Justice

In Nigeria, Jungle Justice tends to have a standing history of constituting a public trouble. The study of Tamuno (1989) in Joseph (2014) referred to the Nigerian Civil War of 1967-1970 as the progenitor of many violent crimes in post-colonial Nigeria. It then follows that the public execution of suspected criminals had public approval since inception and gave birth to mob attacks as a form of punishment for suspected criminals in Nigeria.



However, understanding the concept of jungle justice is key and central to this study. In this wise, it must be highlighted that in Nigeria, every discourse on justice is solely a constitutional matter and usually a duty of the court to interpret when interpretation is sought. As contained in Shivji (1989) cited in Ernest (2014), justice connotes equality and fairness before the law. Justice is thus, the right of citizens to a fair and speedy trial that is accessible by all. Therefore, any justice outside the view of Shivji (1989) in Ernest (2014) is considered jungle justice. In the words of Brunt (2017), jungle justice refers to when a group of people, sometimes in their hundreds, take the law into their own hands, act as accusers, juries and judges and punish an alleged wrongdoer on the spot. When this happened, the person accused of committing a crime has no chance to defend himself/herself or claim innocence and often times, this procedure ends up with the victim being beaten to death or seriously injured.

According to Ernest (2014), Jungle justice is a form of public mal-judicial killing in Sub-Saharan Africa, most notably Nigeria and Cameroon, where an alleged criminal is humiliated, beaten or summarily executed by a crowd or group of vigilantes. The author held that punishment varies from a “muddy treatment”, where the perceived suspect is made to roll in mud for hours to severe beatings followed by necklacing. Onu (2017) opined that jungle justice is a travesty of justice since it does not guarantee fairness to anyone. In this wise, when jungle justice is perpetrated, there is a defect on the rule of law which protects human rights and this has been a justice epidemic in Nigeria.

Problematizing Jungle Justice in Nigeria

Over the years, jungle justice appears to be among many human security threats confronting sub-Saharan Africa and Nigeria due to its recurrent trend. A study carried out by the United States Department of Diplomacy in Action (USDDA, 2010) revealed that some human rights factors are associated with the causes of jungle justice in Nigeria. The study outlined some of these factors to include - high cost of justice, leadership failure, illiteracy/ignorance, delayed justice/prolonged and pre-trial of suspects. In another view, Joseph (2014) singled out the loss of trust and confidence in the judiciary as leading to weekly incidences of jungle justice in Nigeria. For Rita (2012), the loss of confidence in the police is accountable for the reality of jungle justice in Nigeria. On the other hand, studies by Neequaye (2007) and Asare (2007) particularly blamed inconsistency and inefficiency of the judiciary as the leading cause of jungle justice. The multiplying effects of these factors are not in doubt and a further review of the situation in Nigeria constituted a necessary urge for the study.

According to Achebe (1983), the protection of life and property from criminal tendencies, including the crime of jungle justice is primary of the government in Nigeria. Indeed, this singular responsibility is characteristic of every country where leaders pay attention to the fundamental rudiments of leadership. In Nigeria, section 14(2) of the 1999 Constitution of the Federal Republic of Nigeria as amended, affirms that the state exists for the security of citizens. Section 33(1) also states that, “every person has the right to life, and no one shall be deprived intentionally of his life, save the execution of the sentence of a court of competent jurisdiction in respect of a criminal offence of which he has been found guilty in Nigeria”. Based on these constitutional provisions, it is jungle justice for citizens to punish their fellow citizen(s). However, the reality on the ground leaves much to be desired hence a further review of the situation.



One fundamental function of the criminal justice system is to protect life and ensure the enforcement of law and order in society. However, the practice of jungle justice dampens and weakens the strength of the criminal justice administration in Nigeria (Illah & Idom, 2017). The spate of jungle justice is so disturbing and societies divulged by acts of jungle justice portray the entire concept of “State”, “Government” and “Rule of Law” as lost (Philomena, 2012). In the views of Ernest (2014), the practice of jungle justice disintegrates the investigation process and the impracticality of arresting other accomplices of a suspected crime. It appears very little seems to have been done to salvage the situation in Nigeria.

The Behaviour of Law Theory

Donald Black, a professor of sociology at Yale University, developed the behaviour of law theory in 1976 and has been used by a number of scholars and specialists in various subjects in the subfield of social sciences. Black’s theory of law addressed a range of phenomena in nearly every subfield of social sciences, basically the handling and/or management of human conflict in a more broadly manner, the question of moral disputes wherever they exist, the question of why one person has a grievance against another and the explanation of why one person defines another’s behaviour as deviant. It thus focuses on instances where conflict may occur where there is a clash of interest and people are known to handle conflicts through means other than the law, and such means lead to actions such as boycotts, protests, revolutions, avoidance, suicide, or feuding. To Black, the nature of these disputes sometimes do not explain how they are handled. According to the author, one assault or theft may result in lots of arrests, prosecution, and prison time, while another does not even get reported to the police; one homicide case may result in the death penalty, while in another case, the killer walks free. According to Black, this kind of variation in social control creates an alternative to law.

Black defines law as “governmental social control i.e. a task that is inevitable and unavoidable. Black also evolved the concept of social geometry .To him, every case of conflict has a social geometry (social structure) consisting of the social characteristics of everyone involved such as whether they are wealthy or poor and whether they are intimates or strangers. Thus, the geometry of a case predicts how it is handled.

In applying this theory, Black's investigation into the behaviour of law can be used to describe jungle justice as a medium the Nigerian citizens have used to handle social life other than the law. Although Nigeria is a country governed by law, the practice of jungle justice means that the presence of law is not the sole alternative to settling conflict or disputes, especially when people no longer feel safe in the protective arms of government. In another vein, the social geometry of a criminal suspect in the current formation of Nigeria tells a lot about his/her handling by the criminal justice system. The reality is that some broad day light killers are today walking freely on the streets of Nigeria amidst the administration of criminal justice. Such a situation could breed a medium of handling social life other than the law which jungle justice is a classical instance.



Causes of Jungle Justice in Nigeria

Many experts, including social thinkers and lawyers seem to be taking giant steps toward unravelling the causes of jungle justice in Nigeria. Given the foregoing, some causes of jungle justice in Nigeria are specifically highlighted and discussed below.

Injustice and Oppression in the System: In Nigeria, Dambazau (1999) argued that not all crimes or offenders are justly processed due to the adulterated nature of the Nigerian justice system which accommodates injustice and partiality. Reasoning in the same line, Robert and Greene (1978) blamed injustice on the inequality when they argued that all men are not born equal and cannot be treated equally because some men are taller than others, some are lighter in the skin than others, some are more physically built than others, some more intelligent than others, some are more talented and gifted than others, some richer than others, some are more ignorant than others, some are introverts while some are extroverts. As President Obama said during his 2015 address at the African Union, “there is a lot a leader must do to keep his country moving and that is to know that law is law, and no person is above the law, not even the president” (Vera, 2015, p. 7). In this wise, government needs to respect the rule of law, for where it persists in flouting court orders, it is setting a pernicious example to the rest of society, and telling others that it is no crime to behave unjustly.

The Anti-thesis of Corruption: That corruption constitutes a big threat to meaningful development where ever it is found and in whatever form it exists is no longer a doubt in the criminological reality of contemporary Nigeria. As captured by Illah and Douglas (2015), we have less energy to dissipate on when it comes to discourses on corruption since we are familiar with its manifestations in our daily life – governmental bureaucracy, the military, the criminal justice system, the educational sector, the private business sector, the media, Non-Governmental Organizations, professional bodies, traditional rulership and even religious organizations. This may have made nations around the world through the activities of the International Association of Anti-Corruption Authorities, Amnesty International, and Transparency International to continue to fashion out ways of curbing corruption among private and public office holders, especially because issues of corruption are becoming linked to several social vices thwarting developmental activities in the world. Generally, when you fall victim to crime and you go to the police, you are asked to fund the investigation. If you do not have the money to fund it and meet the incessant bribe demanded by the police, the case is often dropped. On the other hand, the criminal suspect, if he or she has the financial means, he simply pays off the police and this could form part of the reasons why extra-legal executions and other forms of jungle justice are beginning to get common in Nigeria.

Pseudo Democracy: Pseudo democracy which also means wrong or pirated democracy appeared to be a strong poser of violent crime in contemporary Nigeria. For instance, section 14(2) of the 1999 constitution considered Nigeria a State founded on the principles of democracy and social justice, where sovereignty belongs to the people of Nigeria from which government derives all its powers and authority. There seems no strong will from government in terms of good governance and the protection of lives as contained in section above. It does appear that security in Nigeria is for the rich or for people who can afford it, the ordinary man is left to cater for himself, and that is what has given birth to people arising to take laws into their hands.



Delayed justice: Reviewing this, Asare (2007) bemoaned regular adjournments and delays in adjudication of justice as resulting in jungle justice and calls for a concerted effort by the judiciary to stem the trend. For Neequaye (2007), the legal system is too slow in dealing with criminal cases, particularly in sub-Saharan Africa. Perhaps, Neequaye (2007) is being guided by these paradoxical legal maxims: “the wheels of justice grind slowly but will certainly reach its destination but justice delayed is justice denied”. Reasoning in the same line, the author observed that judicial inefficiency is just one of the many causes of mob violence. Thus, the seeming delays in the judicial process, through unjustifiable acquittal of popular criminals, to the lack of publicity of courts convictions of criminals make people assume nothing is done to people who are arrested for a crime.

Depreciated Trust and Confidence in the Law Enforcement Agencies: Trust and confidence are often the fulcrum of any strong and respected justice system. However, where there is an absence or a near absence of this element, people easily resort to self and begin to do what their leaders or the institutions they lead are supposed to do. Research has shown that the perpetrators of crimes such as jungle justice have less confidence in the police (Cao, 1996; Maxson., 2003; Allen, 2006). To Brunt (2017), a dominant perception among the deprived class is that the judicial system is fragile and untrustworthy, leading them to take the laws into their own hands. Dada, Dosunmu and Oyedeki, (2015) contended that jungle justice occurs when the society is fed up with the administration of criminal justice, and have come to believe that there is little or no difference in the way criminals are processed in the system. The author also noted that under this system of justice, the entire concept of state, government and rule of law is defeated because people are allowed to act in a form that is unregulated and unbridled.

According to Ugwummadu (2013) cited in Tunasangwitches (2013), at the height of jungle justice is the loss of confidence in the judicial system. This view of Tunasangwitches (2013) is elated because when people hear of so many well-to-do persons who have been charged with criminal cases and hear very little in terms of punishment and sentences about them, whereas they hear that people who stole tubers of yams, goats and wristwatches are instantly convicted and sentenced to years of imprisonment, they do not need to be politically enlightened or properly schooled in the legal processes before they lose confidence in the system. Thus, jungle justice is a clear manifestation of the loss of confidence of Nigerians in the agencies of criminal justice administration by which justice is served. Therefore, rather than exposing the persons whom they have caught committing a criminal act to a criminal justice process that could exonerate them, mobs often take the law into their hands, believing that that is how justice would be better served.

The Implications of Jungle Justice

Ordinarily, a criminal act is rarely without implications and even more, jungle justice, considering its many human rights issues is rarely without implications. The law enforced in Nigeria is clear on the practice of jungle justice as constituting a threat to human life protection. As provided by Illah and Idom (2017), section 36(1) 1999 Constitution of the Federal Republic of Nigeria as amended, captures the right to fair hearing as a fundamental right of citizens; section 33(1) further states that “every person has the right to life, and no one shall be deprived intentionally of his life, save the execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria”. Corroborating this position, Hauwa (2016) cited in Nneka (2016) opined that most victims of jungle justice are clearly innocent of the crime they are attacked for since they are



yet to be convicted by any court of law that jungle justice defers. The views above revealed how jungle justice denies the criminal justice system the platform to protect the right to fair hearing of criminal suspects. Also, there could be instances where innocent people are brutalized and killed as mistaken identity owing to the culture of jungle justice when a crime is committed.

The practice of jungle justice creates sudden disintegration in the investigation process and the impracticality of arresting other accomplices of the crime suspected when closely viewed (Falana & Ogunye, 1998). Corroborating the above position, it can be said that jungle justice does not only disintegrate the investigation process but offers penalties which can be extremely ruthless and brutal to human life compared to what can be accorded when processed through the criminal justice system. These implications can be considered a fundamental disjuncture to the very essence of law and criminal justice administration which Falana and Ogunye (1998) have less buttressed in their work. The Nigerian constitution provides that a person arrested on suspicion of a crime is presumed innocent until proven otherwise by a competent court of law. This implies that a suspected offender still has the right to counsel, privilege against self-incrimination, and should appear before a magistrate or other judicial official within a reasonable time of the arrest to defend oneself. With the culture of jungle justice, this legal leverage is a mirage in contemporary Nigeria. Both the Court of Appeal and the Supreme Court have taken the advantage of their rare judicial altitude to hand down warnings to the perpetrators of jungle justice that the Nigerian system of justice abhors such practice. Citing the case of *Olabode v. State* (2007), Brunt (2017, p. 8) revealed that their Lordships of the Court of Appeal have viewed jungle justice in this light:

...let me state once again that no matter how one feels about the acts of another, it is wrong to try to redress an unlawful or seemingly unlawful act with another unlawful act, this will amount to jungle justice, the 1999 Constitution of the Federal Republic of Nigeria, recognizes the sanctity of human life and no one will be allowed to take the life of another without due process no matter how brave he thinks he is, the law frowns at and will certainly punish such criminal and irresponsible act when proven as in this case.

Agreeing with Brunt (2017), Nigeria seems to be facing this unfortunate situation that has made the criminal justice system lost its capacity to conclude criminal trials as fast as expected. With the level of explosion and the way the country has developed in recent times, a crime deforming the criminal justice system is not something to take for granted.

Criminal Justice Administration

Often times and over the years, it has been the duty of the government to combat crime and the process of doing that is always statutory of the criminal justice system. That is to say, it is not out of place to discuss the administration of criminal justice as being dedicated to carrying out the operations of the criminal justice system within a federation. According to Sani (2007), the administration of criminal justice concerns all operations of the agencies of government that have the responsibility to enforce the law, adjudicate crime, and ensure that criminal offenders are punished according to the law. In the view of Iwarimie-Jaja (2003), the administration of criminal justice is both a system and a process. As a system, it is made up of three components: police, courts



and corrections. As a process, the administration of criminal justice explained how the various components co-ordinate their independent functions by processing the criminal suspect from one stage to the other. Concisely, a descriptive operation of the criminal justice system connotes the administration of criminal justice. In Nigeria, the various institutions saddled with the task of criminal justice administration include the police, the courts, and the correctional service. These sub-systems are said to be responsible for criminal law enforcement and decision making on crime prevention and control including the trail of criminal suspects.

As tendered by Ayorinde (2014), the administration of criminal justice is of different stages which commences from when the police has a reasonable suspicion that a person has either committed a crime or is committing a crime, then an arrest will occur, then filling of criminal charges and the bail hearing, through to trial; continues in the case of conviction, through sentencing, imprisonment and release upon completion of sentence. Apart from these statutory procedures, the Nigerian legal system is divided into sub-systems which comprise various laws enforced at the federal, state and local government levels. As it were, there appeared to be no uniformity of laws governing criminal law and procedure in Nigeria although the criminal justice system in all the states of Nigeria is similar with some differences in the law applicable in the Northern and Southern states. In procedural matters, Ayorinde (2014) opined that the law applicable in the Southern states is the Criminal Procedure Act, while the Criminal Procedure Code applies in the Northern states. Despite these differences, it appears there is almost nothing to distinguish from the states in terms of development and challenges that concerned the administration of criminal justice. Although the Administration of Criminal Justice Act of 2015 has brought a stand down on both laws for greater unification of criminal procedures in all parts of Nigeria with greater efficiency in the dispensation of criminal justice.

Conclusion

Having examined the epidemic of jungle justice in Nigeria, it is obvious that, other than solving the problem of human security, it has compounded and complicated the situation. Its use, which is in defiance of natural justice and the task of criminal justice administration, has constituted more social problems for the Nigerian State. In fact, jungle justice was established to be a contradiction any civilized society should employ in resolving conflict or addressing criminality in society. It must therefore, be understood that the culture of jungle justice is a threat to everyday life of citizens and the task of justice delivery in Nigeria.

Recommendations

To curb the ugly trend in the task of justice administration, the role of government as well as the public is paramount. These will include:-

- i. Government should ensure that justice administration is visible and aimed at building public confidence in the criminal justice apparatus. That means justice should be seen and felt, not minding whose ox is gut.
- ii. Government should carry out sustained reforms of the law enforcement agencies so as to enhance judicialization and criminalization processes in the country.



- iii. Concerned statutory government agencies should carry out a massive awareness campaign and enlightenment programmes on the right to fair hearing as contained in the Constitution of Nigeria. This will further elevate public knowledge of law and law enforcement in the country.
- iv. Government and spirited individuals should rekindle the spirit of patriotic consciousness and professionalism in the handling of public affairs so that citizens will have confidence in the law.
- v. Government should provide good governance by putting in place the basic infrastructural facilities for the people. Effective control of jungle justice as it were would require a fundamental activation of this approach.

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