

Extrajudicial Killing of Suspects in Nigeria and the Criminality of the Rising Practice

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ABSTRACT

This paper titled: Extrajudicial Killing of Suspects in Nigeria and the Criminality of the Rising Practice examined the practice of extrajudicial killing of suspects as punishment in Nigeria otherwise known as ‘jungle justice’ under three categories, thus, execution by government agencies, execution by organized vigilante groups and execution by mob. The practice of killing suspects in some Nigerian states upon suspicion of theft or other minor offences appears to have eroded the force of its illegality, leaving a dent on Nigeria as a nation. At a time that there is an international trend calling for abolition of death penalty on grounds that it is archaic and barbaric, Nigeria is often left to contend with international embarrassment anytime extrajudicial execution of suspects is carried out publicly. This paper therefore segmented the prevalent practice of extrajudicial execution of suspects into three categories and examined some notorious cases under each of the categories with a view to identifying the immediate causes of the practice and proffering solutions towards preventing it. The doctrinal research methodology was relied upon and recourse was made to both primary and secondary sources. The paper revealed that there are so many factors that enable extrajudicial killing of suspects in Nigeria and notorious among them is corruption among public officials which has given birth to several other factors. Corruption has made it very difficult for people to have and maintain confidence in the criminal justice system and this lack of confidence has been a major catalyst for extrajudicial execution of suspects. The paper also revealed that illiteracy, ignorance and absence of punishment to serve as deterrent for prospective extrajudicial killers have also contributed to the reoccurring cases of extrajudicial execution of suspects. The paper recommended aggressive campaign against extrajudicial execution of suspects, preventing corrupt practices among public officials and ensuring people who venture

into this practice are faced with adequate consequences as the solution to the rising problem of extrajudicial execution of suspects in Nigeria.

I. INTRODUCTION

Summary execution of suspects otherwise known as ‘jungle justice’ in Nigeria is the unlawful deprivation of a human being of his life, typically as punishment upon suspicion of a crime; with some sense of apparent justification. It entails punishing a person with death in a manner not permitted by law.¹ In essence, it is the act of killing a suspect as punishment without making recourse to competent court of law. Apart from the coinage ‘jungle justice’, the practice is often described as extrajudicial killing. Though any form of killing not permitted by law is extrajudicial, the tag ‘extrajudicial’ is more popular with killings done as punishment or by legitimate authorities in excess of their legal powers.

Considering the present day Nigeria, it is not out of place to suggest that many killings in Nigeria today amount to unlawful killing with majority of victims being mere suspects. A good example is the killing of four students of the University of Port Harcourt in Aluu by members of Aluu Vigilante Group.² There are also instances where those armed to protect human lives are found culpable of unlawfully killing those they are meant to protect.³ Despite the gravity of the offence of unlawful homicide, it is recorded in Nigeria with majority of perpetrators going unpunished; in fact some perpetrators still hold the view that the act of

¹B C Okoro, *The Police, Law and Your Rights* (Ikeja: Princeton Publishing Co., 2013) 125.

² BBC News: Nigeria’s Port Harcourt University Shut Down After Lynching <<http://www.bbc.com/news/world-africa-19895281>> Accessed 11th March, 2023.

³*FRN v. Danjuma Ibrahim & 4 Ors.* 9th March, 2017, FCT High Court, Maitama: Ishaq Bello J : FCT/HC/CR/96/2005.

unlawful killing is legitimate, provided the victim is suspected to have committed an offence, this accounts for many unlawful killings in Nigeria every year just as the case of the four students of the University of Port Harcourt who are now known as Aluu Four. Sadly, this form of killing is not limited to members of the public alone, there are instances where law enforcement officers allegedly participate in such murderous act. The case of Ahmed Falaki,⁴ a professor with Ahmadu Bello University who was mistaken for a boko haram fighter and was allegedly executed summarily by a joint team of villagers and police operatives is one too many of such cases. The usual argument of those who venture into this form of killing is that if their victims are handed over to the police for prosecution as prescribed by the criminal justice system, they go unpunished on grounds of legal technicalities because proving the offence is usually seen as practically impossible, especially by the largely illiterate population who rightly or wrongly do not believe in Nigeria's criminal justice system.

While it may not be wrong to agree that all forms of killings done outside the ones permitted by law is extrajudicial, our concentration for the purpose of this paper shall be focused on those done as punishment or by legitimate authorities in excess of their legal powers. Extra-judicial killing shall therefore be discussed under three categories, thus: Killing by the Police or Other Government Agencies, Killing by Mob and Killing by Organized Vigilante Groups.

II. 2.0 CLARIFICATION OF TERMS

In order to put the paper in proper perspective and to ensure proper assimilation, it is necessary to define some terms that are relevant to this discourse.

i. Aluu Four

The Aluu Four were four undergraduates of the University of Port Harcourt – Nigeria, namely, Ugonna Obuzor, Lloyd Toku, Chiadika Biringa and Tekena Elkanah who were publicly lynched by members of Aluu Vigilante Group on suspicion of being thieves on 5th October, 2012.

⁴ Premium Times Newspaper: ABU Professor Murdered After Mob Mistook Him for Boko Haram – Police Insists

<http://www.premiumtimesng.com/news/top-news/184808-abu-professor-was-murderd-after-mob-mistook-him-for-boko-haram-police-insist.html>
Accessed 11th March, 2023.

ii. Apo Six

Apo Six were Nigerian traders who traded in the popular Apo Market in Nigeria's capital Abuja namely Elvis Ozor, Ifeanyi Ozor, Chinedu Meniru, Anthony Nwokike, Paulinus Ogbonna, Ekene Isaac Mgbe and Arebu Augustina who were murdered by a team of police officers on patrol on 7th June, 2005. Some of the police officers who confessed to the crime were late found guilty and sentenced to death but are yet to be executed.

iii. Bakassi Boys

The Bakassi Boys are a group of Nigerian youths who formed a local vigilante group with the code name Bakassi boys who operated in southeastern region of Nigeria who became popular for using charm to identify alleged criminals and executing most of them publicly with machete and fire.

iv. Boko Haram

Boko haram, officially known as Jamaat Ahl as-Sunnah lid-Da'wah wa'l-Jihad, loosely translated as 'western education is forbidden' is an Islamist militant organisation based in northeast Nigeria which seeks to overthrow the government of Nigeria and replace it with a regime based on Islamic law. The organisation is also active in Chad, Niger, northern Cameroon and Mali.

v. Special Anti-Robbery Squad (SARS)

The Special Anti-Robbery Squad (SARS) was a unit of the Nigeria's police created in 1992 to deal with crimes associated with robbery, motor vehicle theft, kidnapping, cattle rustling and firearms.

vi. Organised Vigilante Groups

These are group of youths who volunteered to be put together by local authorities for the purpose of securing their immediate neighbourhood. They are not part of the police, in fact, they have in many cases been at loggerhead with the police for compromising crimes detected by them.

2.1 Execution by the Police or other Government Agencies

There is no form of extra-judicial killing that is tolerable, but amongst these vices, the most intolerable is when an institution funded with taxpayers' money for the sole purpose of protecting lives and properties of citizens; turns around to destroy the life it is created and funded to protect. There are many institutions in Nigeria empowered to carry fire-arms, but it must be mentioned that of

all these institutions, the Nigeria Police Force which ordinarily should be the most civil of them seems to have recorded more cases of human rights abuses and this has made the Nigerian populace to view the police as executors of orders, just or unjust.⁵

The nature and sensitivity of police duties as provided in the Police Act⁶ renders a police officer; an indispensable friend of the public.⁷ Police should not be an ordinary friend of the public, the public expects him to also serve as a counsellor, law enforcer, prosecutor, arbiter and peace-maker.⁸ Therefore, it is safe to regard the police as an institution that is not created to inflict punishment. It therefore becomes worrisome to have the same police imposing punishments to the extent of employing the lethal punishment on suspects.

It is not in doubt that in the course of maintaining peace, the police; in certain circumstances is empowered to kill assailants, this should not and cannot be mistaken for punishment as in the case of extra-judicial killing. For instance, while the constitution empowers the police to kill in a bid to suppress riot⁹ or to effect a lawful arrest or to prevent someone from escaping from lawful custody,¹⁰ this does not mean that anybody escaping from lawful custody must be shot and killed summarily, especially where it is possible to shoot such an escapee on his leg or other parts of his body that will keep him alive and prevent him from escaping. If such an opportunity exists and the police still elects to kill such an escaping person, it should be treated as extra-judicial killing. The question that readily comes to mind is whether the force employed by the police is reasonable in the circumstance. In any case in which a person is authorised by law to employ force, he becomes criminally liable for any force used in excess of his powers.¹¹ In line with this principle, the Criminal Code provides, 'Any person authorised by law to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess.'¹² In the same vein, the Code

of Conduct for Law Enforcement Officers provides to the effect that law enforcement officers may use force only when it is strictly necessary and to the extent required for the performance of their duty.¹³ Also, the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials has a similar provision. It provides: Law enforcement Officials shall not use firearms against persons except in self defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particular serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authorities or prevent his or her escape and only when less extreme means are insufficient to achieve these objectives...¹⁴

Flowing from the above position, it is safe to acknowledge that the police or any firearm bearing institution of Nigeria is bound to employ only reasonable force at all times. To this extent, it become criminal for any police officer to apply excessive force in discharge of his duties, worse is when death results from the excessive force. If this position should be taken seriously, then one can conveniently say firearm-bearing institutions in Nigeria, particularly the Nigeria Police Force have left so much to be desired in their handling of firearm and application of force in discharge of their duties.

It has become the standard to have forces of Nigerian government kill and display bodies of suspects. It is important to note that most of those who are involved in these killings appear not to appreciate the legal implication of their actions. This is demonstrated in their habit of displaying dead bodies of suspects in press briefings in a bid to show how effective they are in discharge of their duties.¹⁵ For instance, on 2nd March, 2017, a joint team of government agencies in Imo State, in a showoff; exhibited the dead body of one Henry Chibueze who was arguably killed extra-judicially for allegedly being a kidnap kingpin. It is worrisome to note that his dead body was not just merely exhibited at the police station, but was taken round the streets of Owerri as reported by most newspapers across Nigeria. His dead body was exhibited from the Police Headquarters in a

⁵*Ibid.* 121.

⁶Police Act. s. 4.

⁷Okoro, (n1) 121.

⁸*Ibid.*

⁹Constitution of the Federal Republic of Nigeria 1999 (CFRN1999) s 33 (2) (c).

¹⁰*Ibid.* s 33(2)(b).

¹¹C O Okonkwo and Naish, *Criminal Law in Nigeria* (London: Sweet and Maxwell 1980) 227.

¹²Criminal Code Cap C38 FLN, 2004. s 298.

¹³Nigeria Police Code of Conduct, 2003. Article 3.

¹⁴United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UNBPUFFLEO) s 9.

¹⁵YouTube:

<<https://m.youtube.com/watch?v=XIIQo6wzP7Y>> Accessed 11th March, 2023.

slow convoy through Bank Road, Douglass Road, Wetheral Road and back to the Police Headquarters.¹⁶ Assuming the said Henry was killed within the circumstances permitted by law, the show made with his dead body which included brandishing it in a road-exhibition has no place in law and it can easily be perceived as a furtherance of the extrajudicial act of killing.

It may not be wrong to suggest that extrajudicial killing by the police in Nigeria has become a common crime. This suggestion is firmly backed by findings of international organisations such as Amnesty International's Killing at Will: Extrajudicial Executions and other Unlawful Killings by the Police in Nigeria.¹⁷ Also, the Prisoners' Rehabilitation and Welfare and Action's report titled: A Report on Torture and Extrajudicial Killings in Nigeria¹⁸ gives an insight to the high spate of extrajudicial killing in Nigeria. Findings of these international organisations are corroborated by reports of local newspapers of alleged extrajudicial killings by officers and men of the Nigeria police. A random check on Nigerian newspapers will reveal that there is a high likelihood of at least; a case of extra-judicial killing by the police being reported in almost every copy. For instance, one Sargent Stephen James who was on routing posting to one Paula Plaza Hotel, Ketu, Lagos State as security on 26th December, 2015 allegedly got drunk and in an argument, he fired shots at a set of twin brothers; Kehinde and Taiyewo Oyesunle. Also allegedly killed by the drunk police was one Adesanya Adegoke. Public Relations Officer of the Lagos State Command of the Nigeria Police, Superintendent Deola Badmus was also reported to have confirmed this extrajudicial killing.¹⁹ In a similar case, one Ezike Okechukwu was allegedly shot dead on 13th November, 2016 at a bus-stop at Umule, Osisioma Ngwa Local Government Area of Abia State by a policeman over a dispute on N20 bribe. The Public

Relations Officer of the Abia State Command of the Nigeria Police, Superintendent Nta Ogbonnaya was also reported to have confirmed the killing but insisted that the shot was not as a result of a dispute over bribe but was actually targeted at a notorious criminal in the area but strayed to hit Ezike on the forehead.²⁰

On 18th October, 2016, angry youths in Magazu, Tsafe Local Government Area of Zamfara State were reported to have burnt down the divisional police station; allegedly in reprisal for the killing of one Ibrahim Muhammed who was killed in police custody. The Public Relations Officer of the Zamfara State Command of the Nigeria Police, Deputy Superintendent Shehu Muhammed was also reported to have confirmed the incident.²¹

On 18th October, 2016, five police officers; Samuel Chigbu, Shadrach Ibibo, Marcus Anwuri, Olisa Emeka and Monday Olisa were arraigned before a High Court of Rivers State for the alleged murder of one Michael Akor with their official rifle.²² In the same vein, on 27th April, 2017, men of Imo State Security Network allegedly shot and killed a crippled barber, Mr. Udodiri Nganwuchi Akidi in Orlu Local Government Area of Imo State. It was further alleged that the security men came 2demanding for bribe in the guise of 'protection fee' from a shop owner who was not willing to pay the bribe; and in a bid to scare his customers, they shot at the deceased Akidi. The Public Relations Officer of the Imo State Command of the Nigeria Police, Superintendent Andrew Enwerem was also reported to have confirmed the killing.²³

On 7th May, 2017, 25-year-old Jamiu Ayodele was reported to have been allegedly shot dead at Dauda Street, Ijeshatedo, Lagos State. He was allegedly killed by the Divisional Police Officer of the Ijeshatedo police station, Yakubu Muhammed. The Commissioner of the Lagos State Command of the Nigeria Police, Fatai Owoseni was also reported to have confirmed the killing and

¹⁶Vanguard Newspaper (Nigeria): Police Move Vampire's Lifeless Body Round Owerri <<http://www.vanguardngr.com/2017/03/police-move-vampires-lifeless-body-round-owerri/>> Accessed 11th March, 2023.

¹⁷Available at <https://www.amnesty.org/fr/wp-content/uploads/2021/06/afr440372009en.pdf> Accessed 5th July, 2023.

¹⁸Available at <https://www.prawa.org/a-report-on-torture-and-extrajudicial-killings-in-nigeria/> Accessed 5th July, 2023.

¹⁹The Sun Newspaper (Nigeria) of Sunday, 17th January, 2016. 6-7.

²⁰The Sun Newspaper (Nigeria) of 17th November, 2016. 6.

²¹The Sun Newspaper (Nigeria) of 19th October, 2016. 5.

²²The Sun Newspaper (Nigeria) of 19th October, 2016. 5.

²³The Sun Newspaper (Nigeria) of 28th April 2017. 5.

added that the Yakubu Muhammed was in detention and investigation was still going on.²⁴

The Executive Director of the Nnewi-based Human Justice International – a rights advocate organization as a guest columnist in The Sun Newspaper narrated his ordeal in the hands of men of the Special Anti-robbery Squad (SARS) of the Nigeria Police in November, 2004. He declared the SARS a murderous institution which has a favourite past-time of wasting innocent peoples' lives. In his words:

On that night when SARS operated from the Central Police Station, Awka, I was in the cell around 7:15pm when 18 detainees were brought out and summarily execute. Through my investigations, I got their names as Samuel Odoh, Oforbiki Odoh, Chubueze Ugwueke, Ugochukwu Okonkwo, Chizoba Mbaebe, Ifeanyi Nwafunanya, Ugochukwu Anakwe, Ifeanyi Izueke, Ekene Ejike, Chinedu Okoro, Uche Ubaka, Onyeabo Anakwe, Leonard Obasi, Emeka Ofoke, Chibuzo Asouzu, Ugochukwu Unwude, Charles Mbah and Obiafulu Osakwe. They were buried in shallow graves at Agu Awka, very close to Ezu River.²⁵

Apart from these reports in newspapers, the demeanour of government agencies at times tend to corroborate these allegations. At some point, the joint security team of Bayelsa State established under Mr. Timipreye Silver was christened Operation Famou Tangbei which translates as 'operation kill and throwaway'. This name is self-evident in what such an institution was created to achieve and in fact, the institution was alleged to have killed many people extra-judicially.²⁶ It is pertinent to note that extra-judicial killing perpetrated by Nigerian government agencies is not only targeted at the civilian populace. We have had to contend with international embracement following a dispute that arose between the Nigeria Police and the Nigerian Army in 2011. A military man was allegedly killed by a team of policemen at a checkpoint in Badagry area of Lagos State. In

²⁴The Sun Newspaper (Nigeria) of 11th May, 2017. 5.

²⁵Vanguard Newspaper (Nigeria) of 17th December, 2004.12.

²⁶Vanguard Newspaper (Nigeria): Controversial Operation Famou Tangbei: We Found Our Son Cold Dead After They Labelled Him a Cultist <<http://www.vanguard.com/2011/10/conroversial-operation-fanmou-tangbe-‘we-found-our-son-cold-dead-after-they-labelled-him-a-cultist/>> Accessed 11th March, 2023.

what appeared to be a reprisal, the high command of the military convened a meeting between the police and the army, the police team were ambushed by men in military uniform and in the attack, 9 police officers and men were shot dead.²⁷ It is difficult to disbelieve this allegation, after all, it seems to be the standard in Nigeria that in any community where a military personnel is killed, hundreds of people must be killed extra-judicially as punishment. This was the case in Odi, Bayelsa State on 20th November, 1999 where hundreds of people including women and children were killed following the discovery of dead bodies of soldiers in the community.²⁸ In a similar event, on 25th October, 2001, hundreds of harmless civilians were killed in Zaki Biam, Ukum local Government Area of Benue State allegedly by military men following the discovery of dead bodies of soldiers in the community.²⁹ Another similar case was the overnight invasion and killing of over seven hundred Shiia Muslims in Zaria, Kaduna State on Saturday, 12th December, 2015 allegedly for obstructing the convoy of the Chief of Army Staff, Tukur Buratai.³⁰

On the whole, it is safe to conclude that government agencies in Nigeria, particularly the Nigeria Police punish people with death without recourse to the court – extra-judicial killing. This position is buttressed by the recent judgement of a High Court of the Federal Capital Territory convicting two police men – Ezekiel Acheneje and Emmanuel Baba for the 2006 extrajudicial killing of six traders in Apo, FCT now known as Apo Six who were returning from a night club for the sole reason of punishing them because the only lady among them refused his advances at the club. The

²⁷Vanguard Newspaper (Nigeria): Military, Police Clash

<<http://www.vanguardngr.com/2017/06/enough-military-police-clashes/>> Accessed 11th March, 2023.

²⁸Wikipedia:

<https://en.m.wikipedia.org/wiki/Odi_massacre> Accessed 20th May, 2023.

²⁹Human Rights Watch: Nigeria: Soldiers Massacre Civilians in Revenge Attack in Benue State <<https://www.hrw.org/news/2001/10/25/nigeriq-soldiers-massacre-civilians-revenge-attack-benue-state>> Accessed 11th March, 2018.

³⁰Wikipedia:

<https://en.m.wikipedia.org/wiki/2005_Zaria_massacre> Accessed 11th March, 2023.

continuous highhandedness of the Nigeria Police Force, particularly, the Special Anti Robbery Squad (SARS) got to an intolerable state in early 2021, when Nigerians youths across virtually all states in Nigeria trooped out to demonstrate against the activities of the Nigeria Police Force under the tag 'End SARS'. But unfortunately, the protests which later snowballed into riot in some states also witness the killing of persons by government agencies.

2.2 Execution by Mob

It is no longer strange to have Nigerians descending on another Nigerian in the open, with harmful weapons and killing him summarily on suspicion of theft or other minor offences. This practice of extrajudicial killing has become common, so much so that some Nigerians have developed a style of execution that has apparently become the standard and they have christened it 'jungle justice'. A person to be executed under the jungle justice system of Nigeria is first dragged to a public road where cannot be said to be anybody's house, he is then beaten to a stupor by the mob and once they are satisfied that their victim can no longer move, a car tyre is placed round his neck, petrol will be poured on him. The mob will then shift to a distance and throw a burning matchstick on the victim who is already soaked in petrol. Hundreds of Nigerians have been killed with this style of execution and it is worse that there seems to be a hibernated approval for this kind of execution which remains an unlawful act. The sequence with which this form of execution is recorded and the fact that executioners do not conceal their identities when killing show how justified they feel by venturing into such killing.

While it is true that most people who join mobs to commit extrajudicial killing in Nigeria do so with some false sense of justification which makes it appear to be a lawful act, it must be stated clearly that there is no place for such a barbaric act under Nigerian law. It is settled that there are circumstances that the law permits killing by private citizens, one does not need extra effort to know that such circumstances as permitted by law cannot and should not cover the usual killing of suspects by mob in Nigeria. For instance, private citizens have rights of defence over life and property against any aggressor.³¹ The constitution clearly exonerates anybody who kills in defence of life or property. Its provision is to the effect that a person shall not be regarded as having been deprived of his life in contravention of the constitution if he dies as a result of the use, to such

extent and in such circumstances as are permitted by law of such force as is reasonably necessary, for the defence of any person from unlawful violence or for the defence of property.³² It is therefore settled that a person can be killed for the purposes of defending another life or property. However, such killing must strictly be within the contemplation of section 33(2)(a) of the constitution, thus; the force used in defence must be reasonably necessary. The Criminal Code also makes it lawful for any person in peaceable possession of a dwelling-house, and for any person lawfully assisting him or acting by his authority, to use such force as he believes, on reasonable grounds, to be necessary in order to prevent the forcible breaking and entering of the dwelling-house, either by night or day, by any person whom he believes on reasonable grounds, to be attempting to break and enter into the dwelling-house with intent to commit a felony or a misdemeanour therein.³³ The force allowed by this provision is reasonable force and as such, if death results in the application of such force, the person using such force must show that it was reasonably necessary for him to use such force or he be guilty of the result of such unreasonable force.³⁴ The Criminal Code also allows the use of reasonable force to overpower and arrest any person who it is lawful to have arrested.³⁵ Any person engaged in making a lawful arrest can employ reasonable force to overpower the force used in resisting the arrest.³⁶ In the same vein, when a person has lawfully arrested another person, it is lawful for him to use reasonable force to prevent the escape or rescue of the person arrested. In preventing such escape or rescue, it is lawful to use such force if reasonable; that is intended to cause death or grievous harm, except the offence leading to the arrest is not one in which the offender maybe arrested without warrant.³⁷

The Penal Code also has provisions that tend to exonerate a person who kills in defence of life or property. It out-rightly states that nothing is an offence which is done in the lawful exercise of the right of private defence.³⁸ It must be mentioned that the right to self defence is not just limited to

³²*Ibid.*

³³Criminal Code (n12) s 282.

³⁴Okonkwo, (n11) 225.

³⁵Criminal Code (n12) s 261.

³⁶Okonkwo, (n11) 227.

³⁷Criminal Code (n12) s 273.

³⁸Penal Code Cap P3 (Federal Provisions Act) FLN 2004 s 59.

³¹CFRN 1999 (n9) s 33(2)(a).

the defence of one's self, it also extends to the defence of other persons against any offence affecting the human body.³⁹ For instance, if Z is under threat of imminent bodily harm by Y, A can come to the defence of Z by preventing Y with reasonable force. The Penal Code also provides, 'Every person has a right... to defend the property whether movable or immovable of himself or any other person against any act, which is an offence falling under the definition of theft, robbery, mischief, criminal trespass...'⁴⁰

The right to defence of self and property is not an absolute one, it comes with limitations.⁴¹ For instance, the Penal Code provides to the effect that the right of private defence in no case extends to the inflicting of more harm than it is necessary for the purpose of defence.⁴² There is also no right to private defence in cases in which there is time to have recourse to the protection of public authorities.⁴³ It therefore means that it must be strictly established that it was not possible to seek the protection of public authorities before the issue of private defence can even come to play.⁴⁴

At all times, the rights of private individual to use force which can result in inflicting harm on a suspects either in defence of self and property or in arresting or preventing the escape of a person lawfully arrested must be exercised with caution. There must be no element of revenge in the conduct of a person employing self defence,⁴⁵ in effect, there cannot be a place for self defence once there exist some elements of punishment in the act of a person who is merely defending himself. Beyond the element of revenge, the constant phrase in plea of self defence is 'reasonable force'. As stated earlier, what amounts to reasonable force depends on the facts and circumstances of every particular case.⁴⁶ In any

event, if a suspected thief is disarmed and arrested, it becomes practically impossible to justify his killing as it is done in Nigeria under the guise of 'jungle justice'. The court in convicting an accused person who had disarmed a thief, dispossessed him of the stolen property and subsequently killed him reaffirmed the criminality of arbitral killing of thieves in the case of *Udo Udo Obot v Queen* by stating, '...it would be an unhappy state of affairs if when he has caught up with the escaping felon who is unarmed he should be at liberty to hack him to death with a lethal weapon such as a machete.'⁴⁷ In resolving the issues arising from the liability of a person who kills an escaping thief, Okonkwo had submitted as follows:

- i. There is no law which authorises the killing of a person merely because he is a notorious thief, or because he is caught stealing.
- ii. A private person is authorised to arrest a thief. If he does so and after arrest the thief seeks to escape then he may kill the thief provided he believes on reasonable grounds that his conduct is necessary in order to prevent the escape and the offence is such that the offender may be arrested without a warrant.
- iii. If a private person seeks to arrest a thief who takes to flight without using force in resistance, it is unlawful to kill the thief.
- iv. If the thief uses force to resist the arrest, it may be lawful to kill him provided the conduct is reasonable under the circumstances.⁴⁸

Narrowing this down to the act of lynching suspects in Nigeria which is better known as jungle justice, it is impossible to ignite the argument that those who venture into mob lynching are doing so in the exercise of their rights to private defence of self and property or to prevent the escape of a person lawfully arrested. Even though this is the closest legal argument that can be proffered for such acts, this argument is obviously self-defeating as lynching a disarmed suspect cannot by any stretch of the imagination stand the test of 'reasonable force'. Again, the defence of provocation is hardly available for such mob action, after all, the defence of provocation is anchored on the primordial instincts in man to react to situation that has angered him⁴⁹ and such

³⁹*Ibid.* s 60 (a).

⁴⁰*Ibid.* s 60 (b).

⁴¹K S Chukkol, *The Law of Crimes in Nigeria* (Zaria: Ahmadu Bello University Press Ltd 2010) 175.

⁴²Penal Code (n33) s 62.

⁴³*Ibid.* s 63.

⁴⁴Chukkol, (n41) 175.

⁴⁵P Ocheme, *The Nigerian Criminal Law* (Kaduna: Liberty Publication Ltd 2008) 147.

⁴⁶Chukkol, (n41) 171. See also: *Ogidi v The State*. [2005] 5. NWLR. 286 at 323. *Queen v Eguabor* [1962] 1. ANLR. 282. *Lockmam v The State* [1972] ANLR. 498. *The State v Gwonto* [1983]1. SCNLR. 142. *Anyawu v The State* [2002] 13 NWLR. Pt. 783 107.

⁴⁷ [1932-35]14 W.A.C.A. 352.

⁴⁸Okonkwo, (n11) 228.

⁴⁹E H Ofori-Amankwa, 'Uniform Criminal Law and Procedure Codes: Unification and Reform of Defence Negating the Exercise of the Will', Y Osinbajo, (ed) *The Unification and of The Criminal*

reaction must not be premeditated and must be within heat of passion, with no time for the provoked to calm. This defence is hardly available for a person who joins a mob to lynch a suspect.

On the whole, it is safe to state that the popular Nigerian style of lynching suspects with the codename jungle-justice has no place in Nigeria law. It is not just criminal, it can pass for one of the most grievous offences against the body of a person in Nigeria – homicide. In fact, it is of the first degree of homicide and as such; attracts the death penalty.

2.3 Execution by Organized Vigilante Groups

The Nigeria Police Force has the duty to prevent, investigate and prosecute a wide range of crimes in Nigeria. However, due to the apparent lapses on the side of the police, other institutions have been springing up to overlap many duties hitherto borne by the police. For instance, traffic offences that are now under the jurisdiction of the Federal Road Safety Corps of Nigeria was and is still within the jurisdiction of the Nigeria Police. The same thing applies to drug offences now under the jurisdiction of the Drug Law Enforcement Agency. Economic crimes are now under the watch of both the Economic and Financial Crimes Commission, and Independent Corrupt Practices Commission. The now independent State Security Service was a spy department of the Nigeria Police. The Nigerian Security and Civil Defence Corps is an institution that also shares jurisdiction of crime control with the police.

It is therefore not strange to have members of communities across Nigeria coming together to organise vigilante groups with the sole purpose of preventing crimes. At times, these organised vigilante groups even go to the extent of having some form of registration and sponsorship from governments at lower levels. In the course of assisting the police in fighting crime, vigilante groups across Nigeria have wielded powers that even the police that they tend to assist does not possess – combined powers to arrest, investigate, try, convict and punish the convict by one and the same institution. It is not strange to have vigilante groups operate detention cells in their offices where suspects are locked up for days in clear violation of their fundamental rights as contained in the CFRN 1999.⁵⁰ Apart from detaining suspects, these groups which are usually composed of uncivil, cruel and lawless people are most times involved in torturing

people without knowing or appreciating the legal implication of their actions. They even venture into the public execution of suspects they have by their own judgement condemned with no respect or knowledge of the law on homicide. The openness and seeming legality or approval of public execution of suspects by vigilante groups in Nigeria⁵¹ is incomprehensible.

One of the most notorious of such cases of vigilante groups taking laws into their hands in the history of Nigeria's civilization is that of the Bakassi Boys who held sway in some states in the southeast of Nigeria between 1999 and 2003. For the purpose of this research, the operation of Bakassi Boys in Anambra State shall be the focus. Following the uncontrollable spate of armed robbery in Onitsha and other cities of Anambra State in 1998 and early 1999, various groups had canvassed for the deployment of Bakassi Boys who were known for their 'magical' powers in destroying armed robbers. On the 8th of July, 2000, the Bakassi Boys arrived Onitsha to a great public celebration⁵² Later in August, the Anambra State House of Assembly passed the Anambra State Vigilante Service bill into law, thus, legally establishing the Anambra State Vigilante Service which was the umbrella the Bakassi Boys operated under. Though this law simply empowered them to render a kind of assistance to the police, this was far from the reality of their activities as they recorded several human rights abuses including extra-judicial killing. It was a well-established fact that the Bakassi Boys carried out public execution of whoever they tagged armed robber.⁵³

Though the government of Anambra State that established and funded the Anambra State Vigilante Service otherwise known as Bakassi Boys insisted the group never indulged in extra-judicial killing, it was described as a white lie by residents of Anambra as there were hundreds of such executions done publicly. It was said to be a regular reoccurrence for the Bakassi Boys to match suspects to a major roads, chant songs of victory round the suspects before striking them several times with machete. The dismembered body will be

Laws and Procedure Codes of Nigeria (Ikeja: Malthouse Press Limited 1990). 118.

⁵⁰CFRN 1999 (n9) s 35.

⁵¹BBC News: Nigeria's Port Harcourt University Shut Down After Lynching <<http://www.bbc.com/news/world-africa-19895281>> Accessed 11th March, 2023.

⁵²Centre for Law Enforcement Education, Human Rights Watch Report on Bakassi Boys. *Bakassi Boys, the Legitimization of Murder and Torture*. Vol. 14, No. 5a. 10.

⁵³*Ibid.* 10.

heaped together and set ablaze with car tyres fuelling the fire.⁵⁴ The Bakassi Boys were unto themselves the police, the court and the prison as they singly exercised the powers of all three bodies, even when they are not supposed to exercise one.⁵⁵ It is instructive to mention that the Bakassi Boys do not necessarily go after robbers while in operation. They simply go to pick people up from their houses, drag them to their office in the Onitsha main market and conduct a summary trial to determine the innocence or otherwise of the person so arrested. In trying a suspect, a special charm is placed round the neck of the suspect, the charm is said to have supernatural powers to establish if a suspect is guilty of armed robbery or not.⁵⁶ The declaration of the charm can only be seen or interpreted by the Bakassi Boys alone, an act that must be quickly described as ridiculous. It is sad to note that from the message of the charm that is only seen by the owners of the charm – the Bakassi Boys, someone might just be led to the execution ground for the cruelest form of execution that can only be likened to stone-age.

One of such executions that generated national condemnation was the execution of one Prophet Eddie Okeke, the founder and general overseer of Anioma Healing Centre. He was at the time perceived to be opposed to the state government's policies and was also in a rivalry relationship with some major churches that were in the good books of the state government.⁵⁷ Okeke's known alleged offence was that he used spiritual powers to assist armed robbers, this allegation must also be quickly described as ridiculous; and that notwithstanding, he was eventually executed at Ochanja Round About – a place that became notorious for gruesome execution by the Bakassi Boys.⁵⁸

III. CONCLUSION

Flowing from the foregoing, it is safe to state that the prevalent practice of summary execution of suspect is criminal, in fact, it constitutes one of the most grievous offences that can be committed against the body of a person – unlawful homicide. Having segmented the practice into three categories for ease of assimilation and having identified lack of confidence in the criminal justice system and illiteracy/ignorance as some of

the factors that have fueled the practice of summary execution of suspects in Nigeria, the following recommendations are proffered as a means towards taming the ugly practice.

There is an urgent need for government agencies charged with the responsibility of social orientation to venture into aggressive campaigns against extra judicial killing of suspects. This is important because it was found in the course of this research that most Nigerians who venture into extra judicial killing, particularly by mob action; appear to believe in the justification of their actions. This inference is drawn from the fact that they usually do not put in any effort at concealing their identity while carrying out the act of lynching, even before cameras.⁵⁹ Therefore, it is safe to suggest that these people do not appreciate the magnitude of their actions and since it seems to be a perception held by many people, resorting to media campaigns on television, radio, internet and other means will help to sensitise the public of the illegality and cruelty of lynching suspects.

It is common for people not to venture into crime if they know that there exist the possibility of them being faced with the consequences of their crime; and it seems that many Nigerians do not believe in the possibility of the established criminal justice system to bring criminals to book, hence people resort to self-help – extra judicial killing of suspects.

It is also recommended that every state's Ministry of Justice should have a Public Relations Officer who will bear the responsibility of informing the public through media houses of convictions on homicide cases. That way, the public will be aware that people are actually tried and convicted for homicide offences by courts. That way, the confidence of the people in getting justice from the criminal justice system will be restored. A good case of none publicising of homicide conviction played out in September, 2016 when the Kogi State High Court of Justice sitting in Idah convicted and sentenced five persons to death in two different cases. This huge success on crime fighting was not reported by any newspaper in Nigeria.

It is also recommended that public officials such as police, judges and state counsel who venture into corrupt practices be made to face the full consequences of their actions, that way, people will come to have confidence in the court

⁵⁴ *Ibid.* 15.

⁵⁵ *Ibid.* 25.

⁵⁶ *Ibid.* 16.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.* 18.

⁵⁹ YouTube:

<https://m.youtube.com/watch?list=PLb3ZP4VXZNj7DzBQqzWlz7WD5Xj5BTpN&v=ocRCD_2rNtNY> Accessed 11th March, 2023.

system and by implication, would not resort to self-help by descending on suspects, rather they would wait for the law to take its course.

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