

# Legal Requirements and Mob Justice in Kabale Municipality, Western Uganda

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**ABSTRACT----** *This article investigated the relationship between legal requirements and Mob justice in Kabale Municipality. Using descriptive research design, a structured questionnaire and an interview guidewere used to garner data which was used to answer the research question on how legal requirements influences the practice of mob justice in Kabale Municipality in Western Uganda. Data was analyzed using descriptive statistics such as frequencies, percentages, tables and Bar graphs. Data for the correlation between the research variables was analyzed using Pearson product moment correlation coefficient index. Legal requirements in the due process of the law had a positive linear relationship with the practice of mob justice in Kabale Municipality. The researcher recommends that there is need to re-enforce both intrinsically and extrinsically the investigative body of the police so that prosecution may produce sufficient evidence to bring to book the criminals thus reducing crime incidence in the area. This action may restore confidence in the judiciary and thus reduce cases related to the occurrences of mob justice. Government should revitalize and augment the salaries of the officers of the courts of judicature so that corruption may be on the wane and we have a free and fair judgement of all mankind. There is need to continue respecting the Constitution of the republic of Uganda (1995) which states that all persons have a right to life, to be heard and to be protected from inhuman treatment irrespective of race, tribe, or religious beliefs.*

**Keywords----** Legal requirements, mob justice, fairness, Municipalities, Uganda

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## 1. INTRODUCTION

Mob justice has been prevalent in societies as ancient as the Roman Empire where Bakanyebonera (2013) believed that mob rule was responsible for her rise to power and its maintenance. The Roman guards during that time were in agreement with a mob to murder the Messiah, Jesus Christ. They organized themselves before Pilate, the Roman Empire, and demanded that Barabas the thief be released rather than Jesus the one who proclaimed himself as the Messiah, son of God. He was lynched, mocked and finally hanged like a common thief as much as he was innocent. There is more evidence of mob rule among ancient Jewish communities where the then Jewish leaders unanimously passed judgment on a woman to be put to death by stoning after being caught committing adultery (Bakanyebonera, 2013). They similarly ordered the death of Stephen by stoning for proclaiming he would worship the only true God in heaven.

Mob justice is deep rooted in human nature in collective reaction to perform group punishment when they feel wronged. The power of masses is not to be underestimated especially after the 1789 Bastille Prison broke in Paris that brought to an end the French Revolution, and in February 2011 when the anti-government protestors brought to an end the authoritative regime of President Hosni Mubarak of Egypt. In South Asia, mob rule is practiced to date especially in Pakistan where the police are often suspected of participating in extra judicial killings. A case in point was the brutal murder of two young teenage brothers aged 15 and 17 in Sialkot district in Pakistan on September 9, 2010. They were mistaken to be robbers and tortured to death without giving them an opportunity to be heard (Usman, 2011).

For a long time now, mob justice is seen as a clear means of retribution in Africa; Public lynching, setting people alight, brutal beatings are the many ways mobs manifest their own special form of justice. The inequitable character of a mob's action is that it takes place in the absence of a conventional or otherwise form of fair trial in which the accused is denied the right to defend oneself; and is brutally punished and possibly sentenced to death within seconds of being identified.

Today, the issue of crime and punishment has been called a social, political, spiritual, and economic problem (Sterling, 2002).

Mob justice is a crime that has biblical reference to the tale of Cain who killed his brother Abel out of spite (Abimanyi, 2009).

Mob justice is a crime against humanity. In the Middle Ages, societies in ancient Greece, viewed crime as a private matter between the affected kinships. When the ‘gift option’ failed, blood feuds often emerged with retribution in form of an ‘eye for an eye’ or worse. Other forms of punishment included banishment/disowning of individuals from the clan, the family or community, depending on the severity of the crime or disgraceful conduct. Disownment was the ultimate punishment at that time since all the descendants of that family branch would have a curse bestowed upon them (Kabugo, 2011).

In many pre-colonial African societies, criminal laws focused mainly on the victim rather than the offender. The primary aim was to defend the victim and his rights and the sanction imposed was aimed not so much at punishing the offender as to eliminate the consequences of the offence; they were compensatory, involving an element of apology and atonement for the harm done to calm the ill feelings between the two parties and their respective families or social groups (Ntanda, 2004). Customarily, forms of justice administered included use of the curse and oath taking. The use of the curse was based on the principle that if a person is guilty, evil will befall him or her following the words used in cursing him/her. Formal curses are still feared in some African societies and this fear helps to check bad relationships. The oaths were also taken to establish and maintain good human relationships. The belief behind the oath was that God or some power higher than individual man will punish the person who breaks the oath (Mbiti, 1989).

In our present society, it is believed that where there is a loss of a dominant power, collective groups arise to fill the void in the lapse of power by taking things like criminal punishment into their own hands. This is clear in fractured and corruptible systems such as the police force which is not adequately salaried because funds fail to drip down the employment line and only circulate among top heads. For instance it is alleged that the street policeman or policewoman in Uganda relies on bribes as a means of survival. This consequently undermines law enforcement and the criminal judicial system as a whole (Chemangey, 2010). Nalukenge (2001) observed that perpetrators of mob justice have little faith in the judicial system due to alleged corruption, lack of knowledge of the judicial processes, delay of cases due for trial. Many people allege that the judicial process is easily manipulated by people with influence. Criminals and perpetrators can be easily let off the hook! The public’s dissatisfaction with the judicial system has resulted in them taking the law into their own hands and even public support for mob justice as an alternate form of law enforcement.

Wendo( 2011), wrote a special report on why mob justice thrives and noted that when crimes are not being investigated and handled properly by the law due to incompetence, mobs arise to combat the problem on their own. Widespread poverty in society is said to be one of the leading causes of mob justice. In Uganda, 72% of the population survives on below \$2 a day, and it is no surprise that 63% of recorded mobs have been in reaction to theft. In societies characterized by poverty, theft is more likely to occur especially in situations where people need to feed themselves and the only solution is to steal as a means of living.

Justice is a concept of moral rightness based on ethics, rationality, law, religion, equity and fairness. The association of justice with fairness is thus historically and culturally inalienable. The pinnacle of values of any society is reflected in its justice system; a platform from which a society defines morality, revenge, punishment and forgiveness. Every society has guidelines in place to deal with perpetrators and these guidelines evolve with time (Daston, 2008).

Consequently, for the fact that Mob justice is a crime, the study will relate with the Criminal Justice system. In this legal system, in the due process of the law, it is a legal requirement that he who alleges must prove beyond reasonable doubt, to the satisfaction of the court the guilt of the accused. Criminal justice is a system of law enforcement that is directly involved in apprehending, prosecuting, defending, sentencing and punishing those who are suspected or convicted of criminal offences (Jefferson, 2009).

The origin of criminal justice is in the European tradition of judicial practice where the judiciary contributes to content of the law. During the 12th and 13th centuries, the doctrine of precedent was developed as collective judicial decisions were based on tradition, custom and precedence. The common law of precedent was strengthened by the English innovation of *stare decisis* (to stand by that which is decided). This rule explains why the judgments of a higher court are binding on lower courts and all future cases with similar facts (Arnold, 2008).

As common law jurisprudence developed, the legal [procedure](#) practiced in common law courts became [adversarial in nature](#); in which two sides presented their case to a neutral judge. In the 20th century, Criminal law and English jurisprudence moved further and further away from common law principles stating that a crime consisted of two elements, a guilty deed [Actus Rea] plus a guilty mind [Mens Rea]. The requirement of an act is one that is evidence of a choice being made and choice, of course, brings into question the state of mind (drug induced, emotion induced, and medical/psychological aspects). In an effort to make the criminal justice system more uniform and predictable, judges and legal theorists sought to marginalize the element of "intent". They sought to blur the lines between criminal law and civil law by minimizing, or eliminating altogether, the requirement of mens rea (Sterling, 2002).

The rule of *stare decisis* was adopted and practiced in many African societies that were colonized by Britain; an essential feature of common law jurisprudence. For instance, it is a basic legal requirement in criminal law that the *actus reus* and *mens rea* be simultaneous. That is to say, an accused is guilty only if he or she has acted or has brought about the state of affairs (*actus reus*); similarly, an accused cannot be punished unless he or she is at fault (*mens rea*); a wrongful mental state is required in all serious crimes. People therefore cannot be punished for mere thoughts (Jefferson, 2009).

Common law jurisprudence in Uganda was introduced about 1894. It was alien both in substance and procedure and superimposed on the various legal, semi-legal and non-legal systems that operated in various societies and resolved issues before colonization. From the very start it was attempted to run a dual system of native courts and regular courts; and administer a colonially customary law and English law. This in effect resulted in administration of legal principles that were alien to the people. These legal principles were not only of an alien source; they were rendered in non-popular technical language, even for those acquainted with the English language. This English language, in which the majority of Ugandans have no proficiency, is the language in which legislation is written as well as the language of the court (Jjuuko, 2000).

The purpose of the study was to establish the relationship between legal requirements in due process of the law and the practice of mob justice in Kabale Magisterial area, Kabale municipality.

Mob justice in society creates a sense of satisfaction for individuals who believe they have been denied justice through the criminal justice system. There is a problem of insufficient and ineffective legal service delivery that engenders feelings of ill will among the population leading to the practice of mob justice (Kyalimpa, 2009). The Uganda Human Rights Commission reveals that for the period of January to June 2010, the police crime report indicated 199 people who had been killed in mob justice related incidences.

In Kabale district, the police crime report for the year 2012 alone reveals that 10 people were killed in mob justice related incidences. These figures are believed to increase annually interfering with peace in society (Kabale Police Crime report, 2012).

The Government has established a legal framework in place for justice seekers to follow when they are aggrieved, but some continue to disrespect them. The consequences of this scenario could be that people have lost confidence in the legal system and the same situation may lead to increased homicide and total anarchy in the general administration of justice (Robin et al, 2010).

It is therefore important to carry out a study in this area to investigate the response of the judiciary to the relationship between legal requirements in the due process of law and the practice of mob justice in Kabale Magisterial area.

## 2. METHODS AND MATERIALS

### 2.1 Data Capturing

Data used for the research study was got using both primary and secondary sources .Primary data was arrived at by use of questionnaires distributed to respondents and conducting interviews to vital persons related to the study. Secondary data was got by the use of documentary analysis. The study employed a descriptive research design involving qualitative and quantitative paradigms in order to have a rich verbal description of the situation and the sample.

Amin (2005) opined that descriptive research design is usually used to describe a phenomenon and its data traits. The research study selected a total of 321 respondents (sample size) out of 1658 participants (target population). Sample size was calculated using the sloven's formula.

## **2.2 Sampling methods**

The researcher employed snowball, stratified and purposive sampling techniques. The target population comprised of the target population including categories like judicial officers(09), the court administrators (65), police officers/detectives(96), prison wardens(82), human rights activists(125), local council leaders(234), medical workers(208), peasant farmers(454), small scale businessmen/women(250), survivors of mob justice(110) and legal professionals(25) residing within Kabale municipality.

## **2.3 Structured questionnaire and interviews**

The questionnaire is a research instrument consisting of inter-related questions prepared by the researcher about the research problem under investigation based on the objectives of the study. Questions were set and written for the respondents to answer with options as reflected on the likert scale type questions.

This method was preferred because it covers a wide geographical area in data collection; it collects a lot of information within a short time, and offers greater assurance of anonymity.

However, the questionnaire involved some hardships of attrition. There were few copies that were not returned, but this was solved by distributing more copies than the required number of the sample size.

Interview guide is an instrument of data collection which involves face to face communication with respondents. The researcher asked questions which the respondents answered orally. It was useful in getting the story behind the participants' experience even through facial expressions. This instrument was preferred because the information and data obtained was of focal importance to the study. The purpose of a qualitative interview schedule was to understand the respondents subjective view of their world; unfolding the meaning of their experiences, uncovering their lived world prior to scientific explanations (Kvale&Brinkmann, 2009).

## **2.4 Validity and reliability of instruments**

Validity of the research instrument (structured questionnaire) was assured by using content validity Index. Arising from the testing of the validity of the instruments, the researcher got content validity index (CVI) of 0.77 which was well above 0.75 indicating that the instrument was valid to collect data for the study (Amin ,2005). However, the validity of the unstructured interview was obtained by interviewing only key participants to prove the answered questionnaires (Gibbs, 2007).

Reliability of the research instrument (Structured Questionnaire) was calculated using Cronbach's alpha coefficient formula looking at the variables that had an alpha coefficient of value greater than 0.70. Since the reliability calculation reached at by the researcher yielded 0.78 alpha value, it suggested that the research instrument was reliable to elicit data required for the study. Nonetheless, the reliability of the unstructured interview was got by resorting on peer review strategies (Gibbs, 2007).

## **2.5 Data analysis**

Statistical tools which were used to analyze data for this study included; descriptive statistics such as frequencies, percentages ,Bar graphs and Pearson product Moment correlation coefficient index concerning how legal requirements influence the practice of Mob justice in Kabale magisterial area , in Kabale District ,Western Uganda . Qualitative data were analyzed by systematically organizing data into rational themes, sub themes or sections for easy Interpretation in a storyline format (Gibbs, 2007).

# **3. RESULTS AND DISCUSSION**

## **3.1 Theoretical Framework**

The study was based on the anomie theory advanced by Emile Durkheim (2008), the father of sociology. He asserts that man is a product of his social environment. Socialization of man begins at birth and continues through language and interaction with other people. Durkheim's theory is based on the idea that the lack of rules and clarity results in a psychological status of worthlessness, frustration, lack of purpose, and despair. When there is no idea of what is considered desirable, to strive for anything may be futile (Smith, 2008).

Durkheim further explains the theory in relation to law, crime and punishment and says that the law is a production of collective society, a myriad of all beliefs of society and an embodiment of everything a society holds to be true, right and

just. Crime is a passionate and strong emotion that exhibits anger and vengeance; eventually punishment is less about the offence or the offender but rather restoring cohesion and core values in society (Agnew, 2009).

### 3.2 Demographic Characteristics

According to the data collected, 49 % ( 156) of the respondents were male whereas 51 % ( 165) were female. This meant that the female respondents participated more than their male counterparts and that females are usually likely to be truthful than males, hence helping the researcher get pertinent information for the study.

The data collected also indicated that 53%(170) of the respondents were between the age brackets of 18- 35 years, these were basically the youth; 30%(96) were within the age bracket of 36-55 years, often referred to as the mature people and then 17%(55) of the respondents also known as elders were within the age bracket of 56 and above. This implied that all categories of age brackets were consulted, leading to a more diversified information for a rational study.

### 3.3 Legal requirements in the administration of Justice

The researcher brings to your notice some of the effects of legal requirements that the plaintiffs, respondents and legal practitioners may need to know for the smooth process of the administration of justice. Refer to figure 1 below:

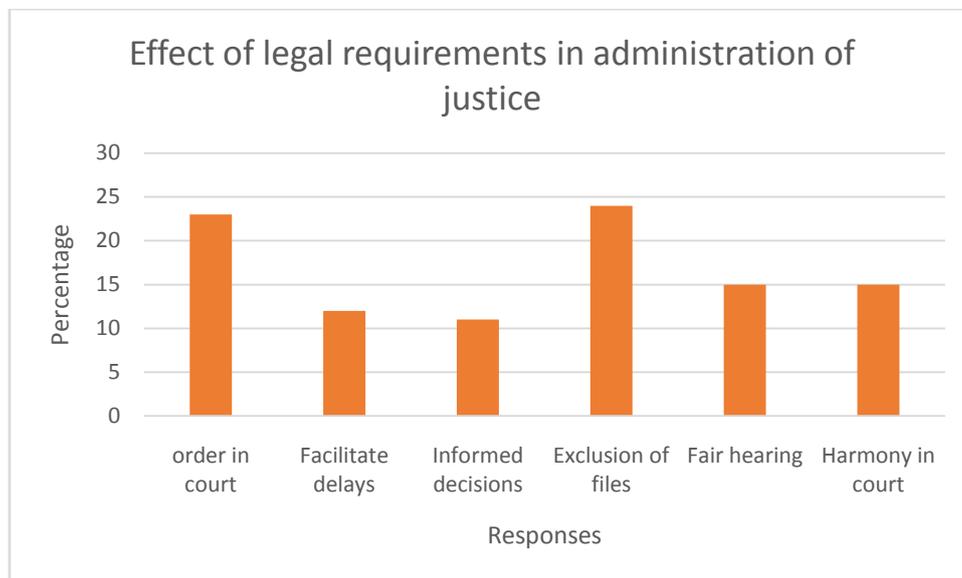


Figure 1: Bar graph showing effect of legal requirements in the administration of justice

Source: primary data

From Figure 1 above 23%(73) of the respondents strongly agreed that legal requirements are important in the creation of order in court proceedings; 15%(49) say they provide an opportunity to be heard and defend oneself ; 24%(78) of the respondents said legal requirements facilitate court to dismiss malicious case files which contain no substantial evidence to proceed with trial thus saving court's valuable time; 11%(35) were of the view that legal requirements facilitate the making of informed decisions based on evidence, and promote harmony in the community. However, 12 % (37) of the respondents said legal requirements in due process of the law are a waste of time and resources and simply facilitate delays in the delivery of justice; another 15 % ( 49) of respondents maintained that the legal processes are a costly venture though they promote harmony in society. The community can be assured that there is a legal system that may bring justice to the offended.

The findings according to Figure 1 above suggested that legal requirements are very pertinent in the administration of justice in the courts of judicature for they lead someone aggrieved to a fair judgement. One of the practicing advocates in Kabale municipality stated:

*Our legal process can be easily altered by external forces or factors such as the knowledge of the law, time, social status and money thus changing the final outcome of the court judgment. In order to get the legal system*

or structure to deliver justice as efficiently as you want, you must be ready to facilitate police investigation, facilitate witnesses to come forward and testify, ensure that the judge or magistrate is interested in your case and the list goes on.

This implied that in order to get a good result from the court system, one has to be financially generous and purchase justice. It is such scenarios that promote acts of mob justice.

### 3.4 Influence of Legal requirements on Mob justice

The researcher used Pearson Product Moment correlation coefficient index to evaluate the relationship between the legal requirements in due process of the law and the practice of mob justice in Kabale Municipality.

**Table 1** Showing the scores relating legal requirements in due process of the law to the practice of Mob justice.

Number of paired observations (n )	Independent variable (X)	Dependent variable (Y)	X <sup>2</sup>	Y <sup>2</sup>	XY
1	1	1	1	1	1
2	2	1	4	1	2
3	0	1	0	1	1
4	1	0	1	0	1
5	1	2	1	4	2
6	1	1	1	1	1
	ΣX = 06	ΣY = 06	ΣX <sup>2</sup> = 08	ΣY <sup>2</sup> = 08	ΣXY = 8

Therefore, by applying the raw score formula, the researcher established the correlation index as follows:-

$$r_{xy} = \frac{n(\sum XY) - (\sum X)(\sum Y)}{\sqrt{[n(\sum X^2) - (\sum X)^2][n(\sum Y^2) - (\sum Y)^2]}}$$

Where n = number of paired observations

ΣXY = sum of cross products of X and Y

ΣX and ΣY = are sums of X and Y scores respectively

ΣX<sup>2</sup> = sum of all the squared value of the X scores

ΣY<sup>2</sup> = sum of all the squared Y scores

(ΣX)<sup>2</sup> sum of all X scores, this sum squared and (ΣY)<sup>2</sup> sum of all Y scores, sum squared.

$$= \frac{6(8) - (6)(6)}{\sqrt{[6(8) - (6)^2][6(8) - (6)^2]}}$$

$$= \frac{48 - 36}{\sqrt{[48 - 36][48 - 36]}}$$

$$= \frac{12}{\sqrt{[12][12]}} ; \quad = \frac{12}{\sqrt{144}} ; \quad r_{xy} = \underline{\underline{1}}$$

The above result suggested that the direction of the relationship between the two variables legal requirements in the due process of the law (X) and the practice of mob justice (Y) is perfect positive linear correlation. The findings implied that most of the respondents related legal requirements in due process of the law to the practice of mob justice in Kabale municipality. This further meant that the bureaucracy involved in with the legal requirements may tantamount to mob justice and confusion in society. A human rights activist stated:

*The deliberate act to take the law into our own hands is solely because the legal system is clogged with excuses from the police. They say there is no transport to go investigate our case or arrest a suspected criminal because of various logistics. Then, the lawyers often apply for an adjournment claiming the prosecution is not ready to proceed, investigations are not yet concluded; and the judge or magistrate, offers an apology that he or she is indisposed, 'can we postpone hearing date?'; and this goes on for months to the end.*

This implied that there is corruption in the whole of the judicial system in the country. The rich people may keep bribing the magistrates and judges to keep on postponing cases to other dates even if such cases have enough evidence. This finally leads to what we call justice delayed is justice denied.

## 4. CONCLUSION AND RECOMMENDATIONS

### 4.1 Conclusion

Legal requirements in the administration of justice are an important part of the legal process and in order to be as effective as they need to be, all the stakeholders in the judiciary and civil society should be willing to support its structure for effective delivery of justice. Legal requirements in due process of the law are there to protect the rights of all persons. However, the failure to abide by the law leads to criminal activities and involvement such as in the practice of mob justice. The study therefore established that there is a positive relationship between the nature of legal requirements in due process of the law and the practice of mob justice in Kabale municipality.

### 4.2 Recommendations

The researcher recommends that government should conduct massive sensitization of the citizenry to enlighten communities on the legal requirements involved in criminal proceedings. Communities need to know that mob justice is a criminal activity that is punishable by law. The police and communities should develop a good working relationship in order to nurture trust and confidence among each other. Government may organize and fund workshops and seminars to that effect.

The researcher recommends that government should revitalize and augment the salaries of the workers of the judicial system so as to make corruption be on the wane and to improve the efficiency and effectiveness in the legal service delivery. There is need to reduce the incidence of mob justice in our society and the Judiciary must play its role by delivering justice expeditiously and in a fair manner. Government should recruit more judicial officers and state attorneys to reduce case backlogs so as to be as effective and efficient as expected.

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