

Cartoon. Pope Leo has said he has no fear of the Trump administration and will continue to speak out against war.



Law vs humanity: Justice, mercy, and the insanity defence

Justice must wear two robes: one of law and one of humanity. This paradox lies at the heart of the insanity defence in criminal law. It forces us to ask whether justice should be blind to mercy or whether it must embrace both the strictness of the law and the compassion of human understanding.

The Uganda's Penal Code Act, Cap. 128 provides the legal foundation for this doctrine. Section 11 states that a person is not criminally responsible if, at the time of the act, they were suffering from a "disease of the mind" that rendered them incapable of understanding what they were doing or of knowing that it was wrong. This principle, rooted in the historic M'Naghten Rules of 1843, reflects the foundation of criminal law: liability requires both the act itself (*actus reus*) and the guilty mind (*mens rea*). Without intent, punishment loses its moral justification. The law presumes sanity, but allows this presumption to be rebutted by credible psychiatric evidence. Courts rely on expert testimony, cross-examination, and judicial oversight to ensure the defence is not abused. Defendants found not guilty by reason of insanity are not "set free" but are confined to psychiatric institutions, often for indeterminate periods, with release contingent on medical clearance and judicial approval.

Yet the law's clarity often collides with public outrage. When heinous crimes occur, such as the Ggaba murder of four toddlers, society instinctively demands retribution. Communities expect justice to be visible, proportionate, and firm.

To many, the insanity defence appears as a loophole. Public outrage reflects a retributive instinct, echoing the ancient cry of *lex talionis*: "An eye for an eye, and a tooth for a tooth" (Exodus 21:24). Families of victims of

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ten feel justice has not been served when insanity is invoked. The tension between legal principle and public emotion is, therefore, profound.

From the mental health perspective, psychiatry views insanity not as moral failure but as illness. In such cases, treatment rather than punishment becomes the appropriate response.

Human rights principles provide a bridge between law and public sentiment. Uganda's Constitution enshrines fundamental rights: Article 28 guarantees the right to a fair hearing, while Article 24 prohibits torture, cruel, inhuman, or degrading treatment. International conventions such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights reinforce these protections. Even those accused of heinous crimes retain their humanity. Justice must, therefore, balance accountability with protection of rights. The insanity defence embodies this balance. It ensures punishment is reserved for those who act with rational intent, while those whose minds are impaired are treated in ways that respect their dignity and protect society.

Christian ethics provide a moral compass in this debate. Scripture teaches: "What does the Lord require of you? To act justly and to love mercy and to walk humbly with your God" (Micah 6:8). Justice without mercy becomes cruelty; mercy without justice becomes weakness. The insanity defence embodies this balance, it does not excuse wrongdoing but recognises that punishment must be morally justified. Societal norms, however, often lean toward retribution.

The Ggaba case is more than a trial; it is a mirror reflecting Uganda's struggle to reconcile law, morality, and public sentiment. Courts will rely on psychiatric evaluations, judicial oversight, and the safeguards of law to ensure the insanity defence is not abused. But the public will continue to demand answers, and perhaps even reforms. Justice must prevail not as vengeance alone, nor as unchecked compassion, but as a balance of accountability and humanity. The Penal Code Act, Cap. 128, insists that true justice cannot ignore the mind. The public insists that true justice cannot ignore the victims. Between these two truths lies the hardest path of all: a justice that embraces both law and humanity.

The insanity defence in Uganda is not about excusing crime but about ensuring justice remains morally justified. The Ggaba tragedy has reignited debate, but the law must remain firm: punishment requires intent, and where intent is absent due to mental illness, treatment and confinement are the just response. Uganda must decide whether justice will be blind to mercy or whether it will embrace both law and humanity. The answer will define not only the outcome of one case but the moral compass of a nation.

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