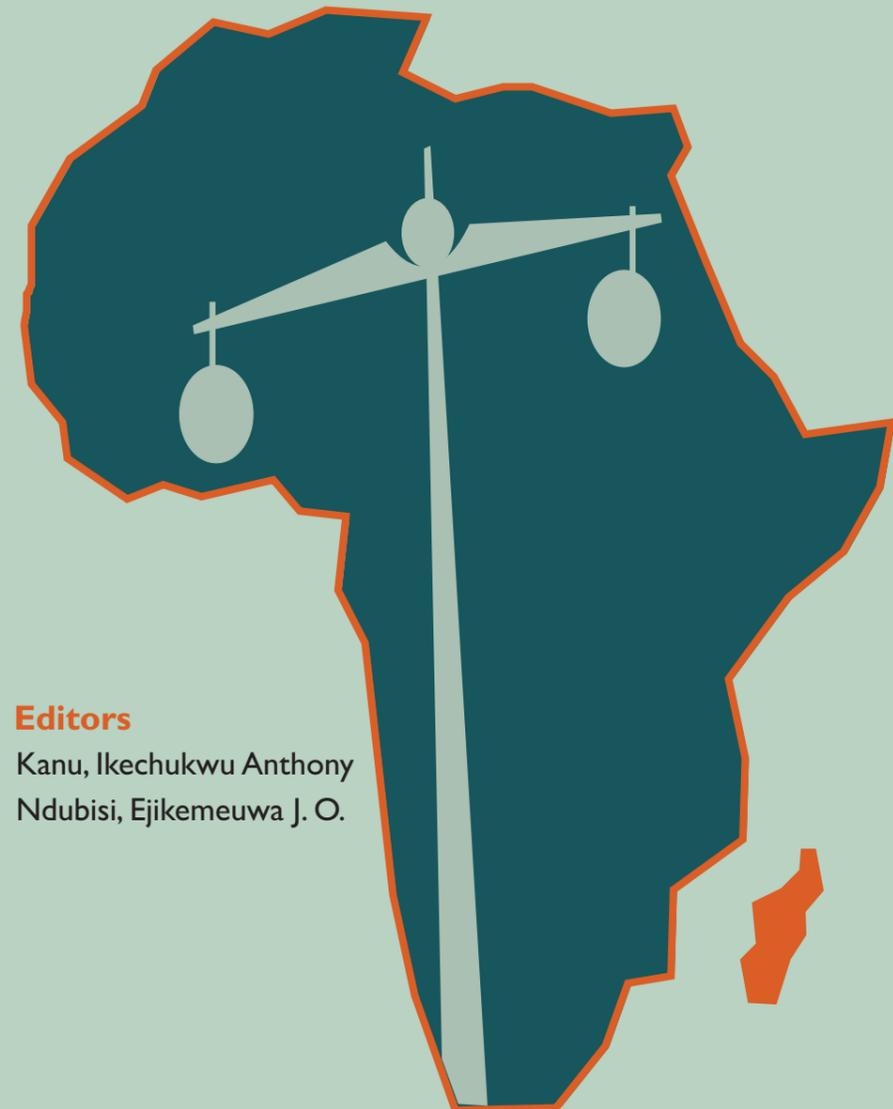


JUSTICE AND THE RULE OF LAW IN AFRICA



Editors

Kanu, Ikechukwu Anthony
Ndubisi, Ejikemeuwa J. O.

Justice and the Rule of Law in Africa

Kanu & Ndubisi (Eds)



A Publication of
Association for the
Promotion of African Studies

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Introduction

In the primitive era, the popular maxim was: 'Might is right'. There was practically no law except the decree and dictates of the mighty or simply whatever tinkles the fancy of the mighty. During this period, the sense of justice and the rule of law was never mentioned nor emphasized. The ruler and the mighty were seen and regarded as gods and whatever they say becomes law and binding on the people. But following the dynamic nature of human society, there evolved the era of promotion of the fundamental human rights in the early years of the 20th century. And thereafter, the notion of justice and its corollary, rule of law, became a global discourse.

Experience has shown that any civil society without manifest and proper application and deep reverence for justice and the rule of law is at the verge of self-destruction. In fact, one can say that there is no society without some elements of justice. To say that justice and the rule of law are fundamental to the being and sustenance of every society is simply stating the obvious. A just society is such that adheres strictly to the rule of law. The rule of law becomes the framework for a practical application of justice in a particular society.

However, studies have shown that the notion of justice has been conceived and understood differently by scholars and individual societies. As a people, Africa has a peculiar understanding of justice and the rule of law. There are some peculiarities in the way and manner justice is administered in the African world. The pertinent questions now are: How is justice and the rule of law understood in Africa? How rationally permissible is the notion of justice and the rule of law in Africa? What are the parameters for the administration of justice in Africa? What is the place of the contemporary African society in the global community with reference to justice and the rule of law? Preoccupied with these and the related questions, this book stems from the desks of members of the Association for the Promotion of African Studies (APAS) to address the issues and challenges pertaining to justice and the rule of law in Africa. It is believed that proper understanding and application of justice and the rule of law in Africa will certainly bring about socio-political and economic development on the entire continent of Africa.

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Human Rights and the Rule of Law in Africa

Cyril Emeka Ejike

Introduction

Human rights first came to prominence and gain momentum in socio-political discourses on the global stage after the Second World War (1935-1945). Thus, the issue of human rights, as a global concern, is a twentieth and twenty-first century phenomenon (Udogu, 2004). The concept of human rights is developed from the theory of natural law that enunciates inherent equality and dignity of all human beings. Ancient Greeks and the Romans borrowed this idea of human rights from the natural law and used it to mould the law that governed their empires (Donnelly, 2006) and strove to live by it.

The idea of human rights has evolved over time with the creation of English Magna Carta ('The Great Charter') in 1215 that grants certain individual rights and subjects every citizen to the law, thus bringing to an end a monarchical absolutism. The idea receives wide currency with the United Nations Universal Declaration of Human Rights (UDHR) in 1948 complemented by international human rights conventions and instruments that endorse the principle of universality of human rights.

The phrase 'rule of law' was first used in the sixteenth century by Samuel Rutherford, a Scottish theologian, in his argument against the divine rights of kings. The concept was later popularized in the nineteenth century by a British jurist, Professor A. V. Dicey, precisely

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in the year 1945. Rule of law serves as a legal principle by which a nation or country is governed. It subjects every citizen (the rulers and the ruled) to the law, as opposed to autocracy or dictatorship which places the ruler above the law.

Since September 11, 2001 terrorist attacks on the United States, many countries have exploited the post-September 2001 atmosphere of insecurity to adopt new counter-terrorism measures that breach international human rights law in the name of national security. The attacks have heralded an era of what has been described as 'defensive democracy' with all its attendant violation of civil liberties and human rights as casualties of defensive measures (Hickman, 2005). For instance, the September 11 attacks on the United State coupled with the spate of terrorist attacks across the Nigerian nation which first took place on October 11, 2010, have engendered a fraught atmosphere of insecurity in Africa, especially in Sub-Saharan Africa.

Regrettably, some African governments have capitalized on post-September 11 defensive postures to suspend the rule of law at will, keep human rights in abeyance at the slightest provocation, and ruthlessly suppress critical and dissenting voices under the guise of defending the sovereignty of a state and safeguarding citizens. These find expression in flagrant disregard for the rule of law, arbitrary arrest and detention, inhuman or degrading treatment, extra-judicial killings, denial of the right to peaceful demonstration and self-determination, and suppression of the freedom of the press, all in a bid to maintain the status quo and keep the masses in perpetual servitude.

The aim of this paper is to contend that human rights are protected by the rule of law and thus arbitrary breach or suspension of the rule of law amounts to a violation of human rights. Besides, this paper attempts to discuss some conditions necessary for the maintenance of the rule of

law and human rights. The rest of this paper will conceptualize the terms, human rights and the rule of law. It will thereafter discuss their connections and cases of their contraventions in Africa. Finally, the paper will draw a conclusion.

Concept of Human Rights

Human rights are natural and inalienable rights to which human beings are entitled by virtue of being humans. They are moral norms or principles which help to protect human persons from severe legal, social and political abuses in all countries or societies and cultures (Nickel, 2014). They are broadly conceived as:

The basic socio-economic, political and moral principles of just and fair treatment of the individual person or groups, generally arrived at by experience, common sense and some consensus, and confirmable either by municipal law and/or international treaties and conventions, all of which are influenced by the stage of human development, diverse interests and ideologies (Igwe, 2004, p. 165).

Although human rights (legal rights) are recognized and protected by municipal and international laws, they predate positive laws and thus could not be repealed by them. The role of international treaties or conventions and municipal laws is to legitimize human rights and ensure their realization for authentic human development. In this regard, Obaseki (1992, pp. 246-247) states:

Human rights are legally recognised and protected to secure for each individual the fullest and freest development of personality and spiritual, moral and other independence. They are conceived as rights inherent in individuals as rational free willing creatures, not conferred by some positive law nor capable of being abridged or abrogated by positive law.

Locke asserts that natural rights originate from the natural law which “teaches all mankind who will but consult it that being all equal and independent, no one ought to harm another in his life, health, liberty or

possession....” (2003, p. 102). Thus, Article 1 of the UDHR affirms that “all human beings are born free and equal in dignity and rights”. Human rights are said to be fundamental since they are “external and universal, common to mankind, ante-dating the state and founded upon natural law” (Bazza & Udeagbala, 2018, p. 221).

Oruche (1989) states that for a right to be qualified as a human rights, the following criterion must be met: 1. It must be possessed by all human beings as well as only by human beings. 2. It must be possessed equally by all human beings. 3. It must be claimed equally against any and every other human being. Given that human rights are of universal application, the rights ought to be respected and protected at all times without discrimination on the grounds of race, region, religion, gender, and so forth.

Some fundamental human rights embodied in the UN Universal Declaration of Human Rights (as cited in Oyeneye, Onyenwenu & Olusunde, 2006) in 1948 include: 1. Right to life. 2. Right to personal liberty. 3. Right to dignity of the person. 4. Right to private and family life. 5. Right to fair hearing/trial. 6. Right to own property. 7. Right to freedom of opinion, expression and the press. 8. Right to peaceful assembly and association. 9. Right to freedom of investment. 10. Right to freedom from domination. 11. Right not to be subjected to arbitrary arrest, detention or exile. 12. Right to freedom from discrimination. 13. Right not to be subjected to torture or to cruel, inhuman or degrading treatment. 14. Right to freedom of thought, conscience and religion. 15. Right to gainful employment.

Basically, human rights can be categorized into two, namely, legal and moral rights. Legal rights are those rights found in legal codes and are therefore recognized and protected by the law (Odimegwu, 2009). They include, inter alia, the right to life, the right to property, the right

to fair hearing/trial, the right to peaceful assembly and association, the right to freedom of opinion, expression, and the press, the right not to be subjected to inhuman or degrading treatment. Moral rights refer to those rights that exist prior to and independent of any legal codes or guarantees of any institution (Ekwutosi, 2006). Moral rights include economic and social rights such as the right to gainful employment, the right to adequate food, shelter and clothing, the right to basic health services and the right to quality education.

While legal rights are legally enforceable, moral rights are not legally enforceable in most countries like Nigeria, albeit they are enshrined in their constitutions. On the whole, human rights are rooted in the inherent dignity and equality of all human persons. They are fundamental to human existence and are necessary for the maintenance of human dignity, self-actualization, and happiness (Omeregbe, 1994). This is because they embody requisite standards for leading minimally good life without which it would be difficult for humans to develop their potential and attain happiness (Ejike, 2018).

Rule of Law

The rule of law is “the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness of prerogative, or even of wide directionary authority on the part of the government” (Dicey 1885, as cited in Elegido, 1994, p. 185). This means that the rule of law, as administered by the ordinary courts of law, has supremacy over the authority of a state, rulers and all other citizens. By this definition, Dicey (1885, as cited in Mujuzi, 2012, p. 92) means that “no man is punished or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land.”

The rule of law refers to “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.” (United Nations Security Council, 2004, para. 6). This definition suggests that the rule of law loses its essence when it is not consonant with human rights standards. Meeting the standards requires taking measures to ensure strict adherence to the ideals of supremacy of law, equality before the law, and fairness in the protection and vindication of human rights.

As a legal principle, the rule of law therefore requires that a government should be instituted and its power be limited according to the laws of the land and it should be committed to the preservation of rights of individuals, all of whom are equally subject to the law (Enemuo, 2000). Governmental authority must be exercised in a manner that infringes upon the right of individuals.

Principles of the Rule of Law

The basic tenets of the rule of law are supremacy of the law, equality before the law, and the right to personal liberty.

Supremacy of Law

The rule of law is a standing rule that is supreme to both the rulers and the ruled. It implies that both the rulers and the ruled are guided by law and their actions are regulated by law without any 'sacred cow' or anybody above the law” (Omeregbe, 2007, p. 115). It requires the rejection of 'rule of man' and that the authority of government must not be exercised arbitrarily or according to the arbitrary whims of rulers (Chesterman, 2013).

Supremacy of law implies that all accused persons should be given fair hearing or trial and, if found guilty, should be punished according to the law, no matter how highly placed the culprits are. The rule of law cannot be supreme in actuality unless the judiciary is independent to apply the law to specific cases and all governmental institutions abide by court rulings.

Equality before the Law

This means that all citizens (the government and the governed) are equal before the law as administered by the ordinary court. The principle of equality before the law implies that “every man, whatever his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals” (Dicey 1885, as cited in Mujuzi, 2012, p. 92).

The principle insists that everybody should be given equal protection by law, irrespective of their social status and affluence. It entails equality with respect to human rights, security of lives and property, administration of justice, and so forth (Nwabueze, as cited in Omeregbe, 2007). The principle of equality therefore requires that the law must be equally applied to all persons, offering equal protection without prejudicial discrimination (Chesterman, 2013) and that everybody has an equal access to legal facilities.

Right to Personal Liberty

This principle requires that fundamental human rights as enshrined in the Constitution must not be violated. Some of these rights are the right to life, property, security, and personal freedom, the right to freedom of opinion, expression, and the press, the right to freedom of assembly and association, the right not to be subjected to arbitrary arrest or detention, and so forth. A society or nation under the rule of law must be the one “in which liberty, equality and fraternity of the citizens are

cherished, preserved and protected” (Omeregbe, 2007, p. 117). To ensure the sustainability of the rule of law, the actions of both the government and individuals must not rob other citizens of their legal rights.

Connections between the Rule of Law and Human Rights

From our explanations of the concept of the rule of law, it is evident that human rights are intrinsic to the rule of law. Human rights and the rule of law are inextricably linked and mutually reinforcing. The rule of law is said to be strong in a civil society where human rights are respected, safeguarded, and promoted. Without a strong rule of law, human rights cannot be protected and its violation cannot be redressed. Courts of law exist to safeguard human rights and redress their abuse and violation. Hence, Donnelly (2006, p. 39) views rights “as remedies offered by law, as conclusions drawn within a legal system, or, in more advanced theory, as reasons in the decision-making process that will trump competing reasons.”

Zimmerli (1971, p. 24) asserts that “certain requirements raised by the rule of law principle are congruent with some demands which are put forward under the idea of human rights.” Therefore, human rights are violated when the ideal of the rule of law is contravened. Human rights are not only statements of entitlements, but also means of advancing the rule of law. The rule of law governs institutions of government as well as members of the public. It protects citizens against the tyranny and arbitrariness of their government, and private violence. It is “the first defense against arbitrary power” (International Commission of Jurists, 2005, p. 350).

The courts play a central role in maintaining the rule of law and advancing human rights. According to Donnelly (2006, p. 42): “Historically, the courts have two important roles in maintaining the

rule of law: (i) protecting civil liberties by subjecting government officials to the rule of law and (ii) contributing to the control of private violence by encouraging disputants to bring their disputes to court and abide by the result.” When law courts apply the rule of law in the administration of justice, it does not only keep in check arbitrary whims of corrupt office holders, but also boost citizens' confidence in the judiciary and increase their willingness to bring their disputes to courts of law, thus minimizing incidents of private violence, which means reducing human rights abuse and violations.

Violation of human rights undermines public confidence in the rule of law but a respect for human rights builds up public confidence in the rule of law. When there is respect for the rule of law, citizens would be disposed to take their grievances to court rather than resorting to violence. It therefore stands to reason that to maintain the rule of law is to advance human rights. The maintenance of the rule of law entails protection and promotion of human rights by the courts. Erosion of the rule of law or its flagrant disregard jeopardizes human rights and, in the long run, engenders erosion of the rights. The inextricable connection between human rights and the rule of law is affirmed in the UDHR in this way: “It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.”

Rather than resorting to terrorism and revolutions which further violate human rights, citizens are encouraged to take their grievances and disputes to court and sue any tyrannical government that flagrantly violates their rights when their rights are recognized and protected by courts of law. The courts exist to administer justice in the interest of public welfare. In other words, the need to serve justice informs the establishment of law courts. But justice cannot be administered

without respect for and protection of human rights. The rule of law is that implementation mechanism, a vehicle for protection and promotion of human rights (United Nations and the Rule of Law, n.d.). Human rights are subject to abuse without a strong rule of law, thus hampering the realization of justice in a state.

It is in recognition of the indispensability of respect for human rights in achieving justice and peace in societies that UN Universal Declaration of Human Rights begins its preamble by stipulating that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” It is worthy of note that the application of the rule of law and administration of justice by the judiciary without full implementation of law by the executive undermine the principles of the rule of law and endanger human rights. The extent to which a government is subject to the rule of law determines how fundamental human rights are protected and promoted.

If the executive whose primary duty is to execute the law flagrantly breaches the rule of law and disregards court rulings, then the judicial system is weakened and the protection of human rights can no longer be guaranteed (Ejike, 2018). Again, human rights which are tied to the rule of law can only be guaranteed when the judiciary is independent and impartial. Government must not interfere with the judicial process or undermine the integrity of the judiciary to ensure proper administration of justice in line with the international standards of independence, due process and fair trial. In the light of this, the African Commission holds that:

It is impossible to ensure the rule of law, upon which human rights depend, without guaranteeing that courts and tribunals resolve disputes both of a criminal and civil character free of any form of pressure or interference. The alternative to the rule of law is the rule of power, which is typically arbitrary,

self-interested and subject to influences which may have nothing to do with the applicable law or the factual merits of the dispute. Without the rule of law and the assurance that comes from an independent judiciary, it is obvious that equality before the law will not exist (as cited in Mujuzi, 2012, p. 96).

Cases of Contravention of Human Rights and the Rule of Law in Africa

Some African countries have exploited the global call for defensive measures in the wake of September 11, 2001 terrorist attacks on the US to infringe on basic rights of their citizens under the guise of threat to national security. The current disturbing trend is that any plan for peaceful demonstrations or protests against a government's maladministration, obnoxious policies or tyrannies is more often than not misconstrued deliberately as an insurrection which must be resisted at all costs. Consequently, the right to personal liberty, peaceful demonstration, fair trial or hearing, freedom of opinion, expression and the press, freedom of assembly and association, the right not to be subjected to arbitrary arrest or detention, and so forth have been trampled upon at will.

For instance, in Nigeria, Col. Sambo Dasuki (rtd.), former National Security Adviser, who was charged with diversion of funds and illegal possession of fire arms, was granted bail on different occasions by various courts but court rulings were flagrantly disobeyed. On November 3, 2015, Abuja Division of the Federal High Court granted Dasuki permission to travel abroad for weeks for medical reasons and ordered that his passport be released. But the State Security service (SSS) refused to comply with the court ruling (Okakwu, 2017). On December 18, 2015, the same Dasuki was granted bail with a condition to provide a bond of N250 million. Though Dasuki met the bail condition, the Nigerian government flouted the court order (Okakwu, 2017).

Again, on December 21, 2015, Dasuki, Bashir Yuguda (former Minister of State for Finance), Attahiru Bafarawa (former Sokoto Governor) and others were charged with misappropriation of funds by Economic and Financial Crimes Commission (EFCC). He was granted bail with conditions which he fulfilled, but the SSS refused to release him. He took the case to the Economic Community of West Africa (ECOWAS) court which ruled on the matter on October 4, 2016. The court again granted Dasuki bail and ordered the Nigerian government to pay “N15 million to the defendant as damages for his illegal and arbitrary detention” (Okakwu, 2017, para. 22). On 7th January and 6th April, 2017, the Federal High Court in Abuja reaffirmed the indisputability of the previous court rulings granting Mr. Dasuki bail. Despite all these court rulings, he was still detained in Kuje Maximum Prisons (Ejike, 2018).

Moreover, Mr Nnamdi Kanu, the leader of the indigenous People of Biafra (IPOB), a secessionist group who is lawfully and peacefully pursuing its right to self-determination, was granted bail by the Magistrate Court for treason charges with strident conditions on October 19, 2015 (Nnochiri, 2017). Although he fully met the bail conditions, the Nigerian government utterly disobeyed the rule of law, and continued to detain him. Reacting to the government's contempt of court, Obetta (as cited in Amaize et al, 2015) avows:

I have not seen or heard any place where a court grants bail and the person is not released. Under UN and African charter, it is enshrined that once bail is granted, you release the person upon meeting the bail conditions. We are sliding to days of Decree 2 and 4 of 1984. This is pure dictatorship. (Nnamdi Kanu has met bail conditions – Obetta, his lawyer section, para. 3).

Furthermore, Mr Kanu was granted bail unconditionally by a Federal High court on December 17, 2015, stressing that Kanu was entitled to his right to liberty as enshrined in the Constitution and that it violates

his right to fair trial to detain him for two months without trial (Nnochiri, 2015). Rather than comply with the court order, the government detained him and filed more charges to ensure his continued detention.

Again, Mr Sheikh Ibrahim El-Zakzaky, the leader of a Shiite group, Islamic Movement of Nigeria (IMN), was arrested with his wife after a clash between IMN and officers of the Nigerian army which led to the alleged massacre of at least 347 members of IMN by the military (Okakwu, 2017). They were detained for many months without trial. On account of violation of their right to fair trial or hearing, a Federal High Court ordered their release and mandated the government to pay a fine of N50 million to the detainees and provide accommodation for them and their family within 45 days (Okakwu, 2017).

The government failed to comply with the ruling but rather appealed against it 10 days after the ultimatum had elapsed. In April 2018, Shiites, who were protesting peacefully against the unlawful detention of their leader, were fired teargas by the Nigerian police which led to the death of many people, while others sustained injuries and at least 115 of the protesters were detained by the police (Amaechi, 2019).

What is more, a presidential candidate of the African Action Congress (AAC) in 2019, Mr Omoyele Sowore was arrested on August 2019 after he called for a nationwide protest against perceived maladministration by the President Buhari-led government, and charged with treason. After the order issued by a Federal High Court for the security agency to detain him for 45 days had elapsed, the court ruled that there was no cogent reason to warrant his continued detention and thus should be released within 24 hours. However, Department of State Service (DSS) continued to detain Sowore in utter contempt for the court order (Nnochiri, 2019). Despite the section 36 of the 1999

Nigerian Constitution that stipulates that an accused person is presumed innocent until he is found guilty of an offence, DSS failed to comply with the court order without adducing any evidence to substantiate the charge that Sowore planned to overthrow the government of Nigeria.

It could be recalled that the right of Nigerians to protest against the government without first obtaining security permit by the police was upheld by the Court of Appeal in its judgement in 2008 after the incumbent President, Muhammadu Buhari challenged the authority of the State for disbanding him from staging a protest, on account of losing election under the defunct All Nigeria Peoples Party (ANPP) in 2013 (Falana, 2019, as cited in Nnochiri, 2019).

In Zimbabwe, during the Mugabe-led government that lasted for thirty years (1987-2017), a climate of pervasive impunity, human rights abuse and violations, erosion of the rule of law, and unlawful government's interference in criminal justice system reigned supreme. The ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) transformed Zimbabwe's police force into its stooge partisan element and agent of repression and employed the police to suppress dissenting voices and subject them to unwarranted harassment, arbitrary arrest, and illegal detention, while encouraging and condoning human rights abuse and violations by ZANU-PF supporters.

The police arbitrarily arrested and detained leaders of the Movement for Democratic Change (MDC) without charges. For instance, Human Rights Watch (2019) reports that on October 16, 2008, police assaulted, arrested and detained several members of Women of Zimbabwe Arise (WOZA) without charge, while their two leaders, Jenni Williams and Magondonga Mahlangu, who were arrested and

charged with concocted offence, were denied bail and detained beyond the 48-hour statutory limit in contempt of court rulings. On September 18, 2008, Takavafira Zhou, the president of the Progressive Teachers' Union of Zimbabwe (PTUZ) was arrested by the police and detained without a charge for four days without access to water, blankets and a toilet (Human Rights Watch, 2009)

Several political dissenters who were formerly remanded in custody told Human Rights watch that they were subjected to inhuman treatment or punishment by the police while in custody. ZANU-PF supporters enjoyed a de facto immunity from persecution, as the police across the country were instructed between April and July 2008 not to arrest to investigate ZANU-PF supporters implicated in political violence (Human Rights Watch, 2009). Human Rights Watch (2009) found that since March 29, 2008 general elections, the supporters were perpetrators of at least 163 politically motivated extrajudicial killings and, regrettably, only two perpetrators were arrested and none was persecuted.

For instance, no arrest or investigation was made when Joshua Bakacheza, an MDC driver, was murdered on June 24, 2008, MDC councillor, Gibbs Chironga, and three others were massacred in Chiweshe on June 20, 2008 by the supporters, six people were killed by members of the ZANU-PF militia on May 5, 2008 in Chaona, Kadombo Chitokwa and thousands of others were abducted and beaten by ZANU-PF youth (Human Rights Watch, 2019). Human Rights Watch also noted that Mugabe-led government bribed judiciary and public persecutors and instructed them to incarcerate opposition members in jail as long as possible.

In Gambia, during a twenty-two year (1996-2017) reign of Gambia's President, Yahya Jammeh, there was a reckless abuse and violation of human rights. The tyrannical President employed state apparatus to

ruthlessly suppressed political dissenters and subject them to arbitrary arrest and detention, extra-judicial killings, torture and other inhuman or degrading treatment. For example, it was reported that score of Gambians were arbitrarily imprisoned, including the prisoners of conscience, Amadou Sanneh and Ousainou Darboe for participating in a peaceful protest (“Gambia 2017/2018 Amnesty International” n.d.). Again, a political activist, Solo Sandong died in detention shortly after his arrest, having been beaten to death by notorious and dreaded officials of National Intelligence Agency (Aljazeera, 2017).. In addition, score of West African Migrants were allegedly murdered during Jammeh's authoritarian rule (“Gambia Probes Human Rights Abuse of Jammeh's Regime,” 2018).

In the Republic of Botswana, a professor of political science at the University of Botswana, Kenneth Alfred Good from Australia, was declared a prohibited immigrant and deported by the government in 2005 for publishing an article (a book chapter) critical of the government, without being given a chance to fair hearing (Mujuzi, 2012), thus denying him the right to freedom of expression and fair hearing. This prompted the African Commission (as cited in Mujuzi, 2012, p. 97) to assert that “it makes a mockery of justice and the rule of law for a person legally admitted to a country to all of a sudden be told to leave against his will and he/she is not given reasons for the expulsion.”

Concluding Reflections

We have argued in this paper that human rights and the rule of law are inextricably bound up with each other. Though human rights are distinct from the rule of law, they are inseparable. Our discussions of the concept of the rule of law clearly indicate that human rights are integral element of the rule of law. Human rights are tied to the rule of

law. Without a strong rule of law, human rights cannot be protected and realized. The respect for, protection and realization of human rights depend to a large extent on the application and the implementation of the rule of law.

Human rights are infringed upon when the rule of law is ineffective. The rule of law is ineffective when it is not consistent with its ideals and international human rights norms and standards. To ensure strict adherence to the principles of the rule of law, and respect for human rights, the judiciary must be completely independent. Independence of the judiciary ensures that justice is dispensed without fear or favour. If the judiciary is weak and is being interfered by the other institutions of government, it erodes people's confidence in the judiciary to tackle human rights abuse and violations. Erosion of public trust in the judiciary engenders the use of agitation and violence to right a wrong, thus furthering human rights abuse and violations in societies.

Human rights are also ineffective when the executive fails to enforce the rule of law that is independently applied by the judiciary as we have shown in some cases of contravention of the rule of law and human rights in some African countries. The implementation of the rule of law must respect principles of due process, reasonableness, and equality since the legal subject is a bearer of human rights (Dyzenhaus, 2006, as cited in Criddle & Fox-Decent, 2012). African government should not use national security as a justification for violating human rights and flagrantly disregarding the rule of law in their jurisdictions.

Adoption of defensive measures against threats to national security should be placed within the rule of law and framework of human rights. African governments can strike a balance between national security and human rights by ensuring that law enforcement agency observes its rules of engagement and maintains international best standards, codes

and practices. Protection and promotion of human rights therefore require a joint commitment of all governmental institutions to the rule of law and international human rights standards. The rule of law “should be employed to safeguard and advance the will of the people and political rights of the individual and to establish social, economic, educational and cultural conditions under which the individual may achieve his dignity and realize his legislative aspirations.... (Lagos Conference, 1961, p. 11). The challenge of human rights in Africa is making economic, social, and cultural rights justiciable so that they can be legally protected and redressed when they are violated. Justiciability of these rights guarantees freedom needed to live in dignity and achieve human potential.

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2

Issues of Human Rights and Rule of Law in Africa

Anene, Pensive Chidi Ph.D

Introduction

The rule of law and human rights are two sides of the same principle, the freedom to live in dignity. The rule of law and human rights therefore have an indivisible and intrinsic relationship. That intrinsic relationship has been fully recognized by member-states of the United Nations Organization since the adoption of the Universal Declaration of Human Rights in which it is stated that it is essential

If man is not to be compelled to have recourse, as last resort, to rebellion against tyranny and oppression, that human rights should be protected by rule of law.¹

The backbone of the freedom to live in dignity is the international human rights framework, together with International Humanitarian Law, International Criminal Law and International Refugee Law. Those foundational parts of the normative framework are complementary bodies of law that share a common goal; the protection of the lives, health and dignity of persons. The rule of law is the vehicle for the promotion of the common normative framework. It provides a structure through which the exercise of power is subjected to agreed rules, guaranteeing the protection of all human rights.

Rule of law entails that legal process, institutions and substantive norms are consistent with human rights, including the core principles

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of equality under the law, accountability before the law and fairness in the protection and vindication of rights. There is no rule of law within societies if human rights are not protected and vice versa; human rights cannot be protected in societies without a strong rule of law. The rule of law is the implementation mechanism for human rights, turning them from a principle into a reality.²

More importantly, rule of law has played an integral part in anchoring economic, social and cultural rights in national constitutions, laws and regulations. Where such rights are justiciable or there legal protection is otherwise ensured, the rule of law provides the means of redress when those rights are not upheld or public resources are misused. While universally agreed human rights, norms and standards provide its normative foundation, the rule of law must be anchored in a national and continental context including its culture, history and politics.

The Concept and Issues of Human Rights

The concept of legal rights and duties is to say the least, a literature of controversy.³ Various definitions of human rights abound, some rather too narrow and inadequate, others open-ended and imprecise for easy comprehension.

According to Osita Eze

Human rights represent demands or claim which individual or group make on society, some of which are protected by law, while others remain aspirations to be attained in future.⁴

Simply put, human rights are inherent in man, they arise from the very nature of man as a social animal. They are also those rights which all human beings by virtue of their humanity, whether black, white and yellow or red, the deprivation of which would constitute a grave affront to one's natural sense of justice. Human rights are not a new phenomenon or a new morality. They have a history dating back to antiquity.

Although belief in the sanctity of human life has ancient precedent in many religions of the world, the role of human rights that is notion that a human right has a set of inalienable rights simply on grounds of being human began during the era of renaissance humanism in the early modern period.

Actually, in discussing the historical evolution of, and concern for human rights, reference must be made to the political struggle leading in England from Runny Mede in 1215, Magna Carta, to the Bill of rights of 1689. The Magna Carta declared that justice was not to be sold, denied or delayed and that all authority should be subjected to the general laws. The Bill of Rights provided for freedom against imprisonment or detention by command of the sovereign without cause shown, and prohibited excessive bail or fines or unusual punishment.⁵

The European wars of religion and the civil wars of 17th century England gave rise to the philosophy of Liberalism and belief in rights became a central concern of European intellectual culture during the 18th century Age of Enlightenment. More importantly, the idea of human rights lay at the core of the American and French Revolutions which inaugurated an era of democratic revolution throughout the 19th century paving the way for the advent of universal suffrage. The world wars of the 20th century led to the Universal Declaration of Human Rights in 1948. The post-world war era saw human rights movement for special interest groups such as Feminism and Civil Rights of African-Americans.

Historically, by the 21st century, human rights movement expanded beyond its original-anti-totalitarian feature to include numerous courses involving humanitarian, social and economic development in the world and political independence in many developing countries especially in Africa where a special ideology was developed in the African Charter on Human and People's Rights in 1981.⁶

Because of the importance of human rights, most states enshrined it in their constitutions having legal rights and duties. In essence, human rights are rights inherent to all human beings, irrespective of one's nationality, place of residence, sex, ethnic group, colour, religion, language, and any other status. The rights are all inter-related, interdependent and indivisible.

Universal human rights are often expressed and guaranteed by law, in the form of treaties, customary international law, general principles and other sources of international law. International law lays down obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedom of individuals or groups.⁷

➤ **Universality and Inalienability of Human Rights**

As the cornerstone of international law and human rights, the principle of universality of human rights as first emphasized in the Universal Declaration of Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations and resolutions. The 1993 Vienna World Conference on human rights, for example, noted that it is the duty of states to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems. Human rights are inalienable. They should not be taken except in specific situation and according to due process. For example, the right to liberty may be restricted of a person if found guilty of a crime by a court of law.⁸

➤ **Interdependency and Indivisibility of Human Right**

Human rights are said to be indivisible, inter-related and interdependent whether they are civil and political rights as the right to life, equity before the law and freedom of expression, or collective rights such as rights to development and self-

determination. The improvement of one right facilitates advancement of the other, likewise the deprivation of one right.

➤ **Equality and Non-Discriminatory Principle of Human Rights**

Non-discrimination is a cross-cutting principle in International human rights. The principle is present in all the major human rights treaties and provides the central theme of some international rights convention on the elimination of all forms of racial discrimination and the convention on the elimination of all forms of discrimination against women. The principle of non-discrimination is complemented by the principle of equality as stated in the Article I of the Universal Declaration of Human Rights.

➤ **Rights and Obligations**

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, protect and fulfill human rights. The obligation to respect means that the state must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires states to protect individuals against human rights abuses. The obligation to fulfill means that the state must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled to our human rights, we should also respect the human rights of others.⁹

➤ **The Concept of Fundamental Rights**

In Africa, particularly Nigeria, the descriptive epithet “fundamental rights” is constitutionally employed to differentiate the species of civil and political rights that are

justiciable from the genre of other non-justiciable human rights. It has been judicially decided that owing to our constitutional development, a distinction has emerged between the fundamental rights and human rights. Fundamental rights are integral part of human rights, but have remained in the area of domestic law. They are fundamental because they have been guaranteed by the fundamental law of the land, which is the constitution.

Human rights are of much wider concept and apply at the international level. Indeed, human rights are as old as society itself, whereas fundamental rights are of much later development. Also, while human rights span the entire range of human history, fundamental rights are much more recent development and are most usually associated with constitution. This means that not every civil or legal right is a fundamental right. The idea of fundamental rights derives from the premise of the inalienable rights of man to life, liberty and the pursuit of happiness.

In Nigeria, for example, as an offshoot of the Willinks Minorities Commission, 1957 report, fundamental rights provision were entrenched in the 1960 independence constitution. Since then, they have never been omitted in the subsequent constitutions of 1963, 1979, and 1999. The 1999 constitution of the Federal Republic of Nigeria as amended provides for Fundamental Rights in Chapter Four of the constitution. Some of the major components of Chapter Four of the 1999 Nigerian constitution as amended include right to life, right to dignity of persons, right to personal liberty, right to fair hearing, right to freedom of thought, conscience and religion, right to acquire and own immovable property anywhere in Nigeria etc.

In essence, while every fundamental right is a human right, not all human rights are fundamental rights because constitution accommodates only fundamental rights and gives it right of justiciability and enforceability.

The Concept of Rule of Law

The concept of “rule of law” is the building block on which the modern democratic society is founded. For a successful functioning of the polity, it is imperative that there is enforcement of law and of all contracts based on law. One of the prime objects of making laws is to maintain law and order in society and develop a peaceful environment for the progress of the people. Rule of law means that law is supreme and is above every individual. No individual whether if he is rich, poor, rulers or ruled etc are above and they should obey it.

In a narrower sense, the rule of law implies that government authority may only be exercised in accordance with the written laws, which were adhered through an established procedure. The principle of rule of law is intended to be a safeguard against arbitrary actions of the government authorities. Historically, rule of law is as old as mankind. In the thirteenth century, a judge in the reign of Henry III in a way introduced the concept of rule of law when he wrote “The king himself ought to be subject to God and the law, because law makes him king”¹⁰

Edward Coke is said to be the originator of the concept of rule of law when he said that “The king must be under God and law and thus vindicated the supremacy of law over the pretentious of the executives. But the credit for developing the concept of rule of law goes to Professor A.V. Dicey who in his classic book *“Introduction to the Study of the Law by the Constitution”* published in the year 1885 tried developing the concept of rule of law.

As per Dicey no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land. This establishes the fact that law is absolutely supreme and it excludes the existence of arbitrariness in any form.

According to Dicey, where there is scope for discretion, there is room for arbitrariness and that every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals.¹¹

Dicey's Theory of Rule of Law Consists of three main Principles;

1. Supremacy of Law or Absence of Arbitrary Power:

This means that there is absolute supremacy of law and no man is punishable or can be lawfully be made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the courts of the land.

Dicey was of the view that all individuals whether if he is a common man or government authority are bound to obey the law, and also no man can be punished for anything else than a breach of law which is already established. And also that the alleged offence is required to be proved before the ordinary courts in accordance with ordinary procedure.

2. Equality Before the Law:

This means the equality of law or equal subjection of all classes of people to the ordinary law of the land which is administered by the ordinary law courts. In this sense, rule of law conveys that no man is above the law. Even the government officials are under a duty to obey the same law and there can be no other special courts for dealing specifically with their matters.

3. Constitution is Supreme or Supremacy of Constitution:

This entails that constitution is the result of the ordinary law of the land. In many countries, rights such as right to personal liberty, freedom, arrest etc are provided by the written constitution of the country.

Actually, rule of law connotes that every exercise of governmental power which affects the legal rights of the citizen must be justified in terms of having a strictly legal pedigree and that the court could invalidate any act not found to be in order. Rule of law therefore provides a standard against which the laws and actions of a state may be judged in terms of its justness or otherwise as the main purpose of the law is to do justice.

Synergy between Human Rights and Rule of Law

At the United Nations General Assembly's first ever high level meeting on the Rule of Law in September, 2012, all 193 member states united to reaffirm their commitment to the rule of law. The High Level Declaration was a significant affirmation of a concept at the very heart of the work of the organization. The declaration provides member-states with a wide range of elements and tools of the rule of law, highlighting its depth and its breadths. It stressed the importance of the rule of law for the three main pillars of the United Nations: peace and security, development and human rights. The Declaration covers several aspects of the rule of law such as constitution, trade law, organized crime, international humanitarian law and the rights of women and children.¹²

In essence, rule of law, based on human rights, underpins peace and security. At the international level, the Charter provides the basis for friendly relations between states as sovereign equals. At the national level, justice and the rule of law can prevent and mitigate violence and conflict by providing peaceful channel for the resolution of grievances. Justice and the rule of law promote inclusive economic growths and builds accountable institutions that underpin sustainable development. The rule of law helps to make basic service such as education, health and sanitation available for all. More importantly rule of law empowers citizens to address underlying causes of inequality and exclusion.

Indeed, the rule of law and human rights are interlinked and mutually reinforcing. The Universal Declaration of Human Rights states; “If man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression,... Human rights should be protected by the rule of law.”¹³ Rights are empty words in the absence of a legal and political order in which they can be realized. The rule of law is the vehicle for the promotion and protection of all human rights. At the centre of the international system is the importance of compliance with the Charter of the United Nations and its purposes and principles. At the national level, governments are to translate their international obligations into national legal frameworks, from constitutions to the regulation of business activity. Just and fair legal frameworks should govern all areas of society in order to foster peace, development and human rights. These frameworks must be fully and impartially applied and enforced.

In a rule of law driven society, institutions help ensure that guarantees included in the law are realized. Without access to effective justice institutions, people can be deprived of their rights and be intimidated by threats or violence. Justice and police institutions that serve the citizens and society are essential to both peace and security, and development.

Furthermore, transparency and accountability are powerful tools for oversight of the use of public resources, including preventing corruption because corruption distorts markets and hinders sustainable development.

The Ugly Situation in Africa

It is rather so unfortunate that Africa is not yet a theatre for the dramatization of the ideals and spirits of human rights and rule of law. It has been a worrisome story of abuses of human rights and reckless disdain for the rule of law.

Makau Mutuo maintains that independence from colonial rule which started in the 1950's brought little relief as the hopes of resurgence were consumed in the cauldron of the cold war and a scandalous international order. Also, opaque and oppressive one-party states and military dictatorships proliferated the continent of Africa. More worrisome is that African ruling elite failed to implant the promise of the liberal constitution and to cohere the state.

Indeed, the transition from colonialism to an independent viable post-colonial state proved exceedingly challenging. They elites chose first to consolidate their own power. They shifted dissent, dismantled liberal constitutions, retreated to ethnic loyalties and buttressed the patrimonial state. Corruption and crony capitalism became a culture. Infrastructure collapsed, societies fragmented, religious, civil and ethnic conflicts became all too common. In essence, building and sustaining state institutions including in the justice sector was undermined by the lack of internal cohesion, ethnic rivalries, cultural dissonance and external interventions.¹⁴

It is so unfortunate that in most African countries today, every arm of the state, executive, legislature and judiciary is experiencing contraction, dysfunction or collapse. An overbearing executive is often the culprit because he who controls the executive superstructure, controls the other institutions of the state. This is against the letters and spirits of human rights and rule of law. That was why when former President Barack Obama visited Africa during his presidency, he stated unequivocally; "That Africa needs strong institutions and not strong men".

In Africa, most men in power usually corralled the legislature and turned it into a rubber stamp. The Africanization and indigenization of the judiciary failed to transform the justice sector from a colonially-

racist, anti-people, and oppressive instrumentality. Judges now become extensions of the executive and served at its whim. Instead of becoming fountains of justice, courts were used to instill fear in the populace at the behest of the executive.

The court is being used to crush political dissent and curtail civil society. Under this present regime, it is impossible to even think of reconciling conflicting legal regimes within the state. Formal and informal justice systems – civil and common law, Muslim and Sharia law, African dispute resolution and justice – regimes co-existed without coordination. The result is now a confused hodge-podge, a stew of legal regimes in which justice is often the casualty. Legal pluralism which is otherwise a source of strength and vibrant diversity, instead subjects citizens to often unequal, and discriminatory treatment. Women and children are often they most affected in this melodrama. As a result, our courts now and the wider legal sector is rarely viewed as legitimate institutions where citizens could seek justice. Now judges are viewed with disdain, contempt, or fear in most African states. This is why today the law, courts and the legal sectors are viewed with suspicion by most Africans. To be candid, illegitimacy of the justice sector extended to all the other arms of the state which is so unfortunate.

The situation in Nigeria is most disturbing. Supremacy of the law is only in theory. As for equality before the law, it is an open secret that there can be no equality between a Dangote and his driver regardless of whether the constitution or the laws might say. Not only is there no equal access to legal services despite the existence of legal aid and efforts of pro bono lawyers. There is glaring inequality in the imposition of criminal sanctions among the highly-heeled vis-à-vis members of the underclass.¹⁵ While a poor, hungry citizen could bag a

long term of imprisonment for stealing a goat. Representatives of the ruling class are not unknown to have been slapped on the wrists for “misapplication or misappropriation of large amounts from the public purse. The consequence of all this is that doubt and cynism are bred among large segments of the populace whenever the topic of human rights and rule of law is raised. When to all this is added flagrant disregard of judicial pronouncements especially by the executive arm of government, the perilous state of the rule of law in Nigeria becomes self-evident.

Ways and Means of Improving Human Rights and Rule of Law Issues in Africa

It is an apparently clear that no sustainable development which gives citizenship meaning, a sense of belonging and allows a culture of justice is possible without the twin pillars of human rights anchored on rule of law. Human rights appreciate the dignity in human person and understands our common humanity while rule of law governs the operations of the state to ensure justice, fair play and equity and not at the whims and caprices of one man who can even lay claim to be the state. The following measures can be of immense benefit in improving human rights and rule of law issues in Africa.

(a) Transparency:

This is an unarguable condition which is required for inclusive and participatory political and economic development of Africa. Without it, any meaningful notion of rule of law or in culture of justice will be a mirage. It is on record that state brutality, impunity and corruption grow immensely when the state is opaque. Information about government resources and how they are spent is essential. This requires institutions to oversight at the local and national levels and an

unfettered press. Citizens' participation in planning allows communities to claim their own development and gives meaning to their agency. Indeed, openness will help in fighting corruption that has been the bane of rule of law in Africa.

(b) Equity and Social Justice:

One of the most underdeveloped sectors in African states is the justice sector. Traditionally, judiciaries have been beholden to the executive and corrupt private business interests. Courts of law are now often not fountains of justice, and no longer the last hope of the common man. Judges are now for sale and some lawyers facilitate the corrupt deals. Large segments of the population that cannot buy justice have no access to the courts. Women and the poor, often the largest segments of the population, are shut out. It is not unusual for litigants to wait for a decade before a case is heard. Lack of access to justice is compounded by the paucity of courts in rural areas where the majority of Africa lives. Yet this is where courts are most needed to settle land disputes and protect the vulnerable such as women who are often disinherited, or subjected to severe exclusion. Indeed, there is an urgent need to reform the justice sector in Africa to cater for the needs of Africans in this 21st century humanity. There must be integrity, credibility and transparency in our judicial system in line with global best practices.¹⁷

(C) Devolution:

There is a big problem in the concentration of power in the executive, and the concentration of power in the hands of the head of state. This ugly arrangement begot the patrimonial state and bred impunity and corruption. Indeed, power must be decongested and devolved to smaller units within the state. Power here should be both political and economic. Thus devolved units must have the ability to plan and expend resources in a locally participatory process. This makes locally elected officials accountable at the grassroots.

Devolution can be a safety valve for ethnic grievances in fractured societies because it permits a degree of regional, or ethnic autonomy, without weakening the central state, or turning into full-blown federalism. In essence, it enhances national cohesion and give colonial loyalties a reason to embrace the post-colonial state to create a national consciousness that will impact positively on the citizenry and the larger society.

(d) Women and Citizenship:

Gender remains among the thorniest challenges to the rule of law and development in Africa. A poisonous mix of culture, colonial era laws, and religious practices have conspired to consign women and girls to the margins of society. The privation of African women from domestic violence to exclusions on property ownership is well known.

There is consensus that actual and sustainable development will not occur in Africa, unless women are not only included, but play a manifestly public role. When human rights of women are taken into serious consideration, both the women and the society will be better for it which will also in no small measure enhance the tenets of rule of law that will engender sustainable development.

(e) Culture of Governance:

The culture and style of politics in Africa weighs heavily on the state. Those who carry the instrument of the state expect to be feared, not just respected giving credence to the erroneous belief that public officers are masters and not servants of the people. This construction of public power goes against every norm of democratic governance, it stifles citizens, kills dissent, dulls the public, and puts the state at perpetual loggerheads with the people.

Indeed, it creates deep distrust in the population towards public authority which is not good to rule of law and justice delivery in the state. Without mincing words, the arrogance of power facilitates the theft of public resources and condones the violations of basic human rights. In essence, this unfortunate culture must be directly interrogated and publicly confronted to give way to a culture of civility, simplicity, integrity, accountability and adherence to the tenets of rule of law.

Conclusion

For a just, equal and egalitarian society, observance of rule of law is a necessity and not an option. Rule of law embodies other related constitutional concepts including: separation of powers, human rights and the independence of the judiciary. If one was to make a prognosis on human rights and rule of law, the inescapable conclusion one comes is to effect that Africa's march to societal progress and human development depend on the strong pillars of human rights anchored on rule of law.

It is my contention that the western concepts of human rights and rule of law would have to be tempered by African realities for them to take firm root in these climes. This is because however much we want to imitate the Europeans and Americans. We are African with a peculiar history, tradition and idiosyncrasies which would need to be factored into our approach to the critical choices we have to make regarding human rights and the rule of law putting into serious consideration the issues of women, children and the vulnerable in the African society.

In conclusion, observance of human rights and rule of law in Africa will make for an egalitarian society and engender development only that it must accommodate Africa's peculiarities and cultural realities.

Endnotes

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3

Gender Rights, Climate Change and Food Security in Africa

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Introduction

The question of climate change and its extreme effects is now a reality that is glaring to Africans. Focusing on Kenya, most of her citizens are vulnerable to food insecurity due to the effects of climate change that has hit hard on their dependent livelihood- agriculture that is rain fed. The impacts of climate change have hence led to erratic rainfall patterns and long drought that have changed the farming seasons. This has left the communities struggling to cope with the shocks that have taken toll on their livelihoods. This paper would study the impacts of climate change to the livelihoods of the Kenyan people in relation to their gender. This is because evidence shows that men and women adapt differently to the realities of climate change according to their traditional roles; the focus is more on women because of their extra roles and burdens in addition to farming roles and other daily household chores (Tatlonghari and Paris, 2013).

This paper in spite of delving into the impacts of climate change to differentiated gender, as already indicated, will be biased on women. This is because the women are the most vulnerable to the extremes of

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climate change because of dependence on natural resources for their livelihoods. That is, they depend on water, food, wood fuel for cooking and land. However, this study would also relate in brief how men are affected by the impacts of climate change. This paper, therefore, will inquire into in brief at the impacts of climate change on different gender with particular interest in the following areas: food production, land, access to water, social fabric, health, economic impacts. This would be succeeded by a brief critique and recommendations of the ways forward.

A Thematic Approach to the Impact of Climate Change on Women

This section would relate the impact of climate change on women by focusing on particular areas of concern.

1. Food Production

Agriculture is the backbone of the livelihoods of most Kenyans as they depend mostly on it for food production. Research has shown that 80% of Kenya's GDP is from agriculture and 67% of employment to the population (Trocaire, 2014). In the same vein Kenya's 85% of the land is ASAL and is dependent on short rain season for agricultural production (GOK, 2013). With cc and variability food production is a challenge and most of the households are vulnerable to food insecurity.

This, therefore, means that the extreme effects of climate change have far reaching negative impacts on the already precarious food security situation for both the crop cultivators and pastoralists (Brian and Wakhungu, 2013). The most affected are women, for they play according to UNDP (2009) a pivotal role especially on NRM and the agricultural production and other reproductive activities. They go to the farm, cook and have to take care of their children as the men most of the time migrate to town in search of menial labour.

On the other hand the climate change is expected to increase agricultural pests and diseases particularly ticks and tick borne diseases (IPCC 2014, b). This, therefore, means that most of the households might lose their livestock that they depend very much on as assets. The tick and tick-borne diseases will specifically exacerbate the growing food insecurity especially in ASALs (Ifejika , 2010). In this way, the households in the ASAL and especially those that are headed by female will face difficulties as they always depend on the sale of livestock for survival during drought. When this happens, men and boys would most likely migrate to urban areas. This would obviously have far reaching consequences on both the urban areas where they are migrating to and the rural areas where they would be migrating from.

2. Access to Land

Across Africa, women grow most of the food eaten but rarely have access or rights to lands in their own names. This is because access to land in most households remains a preserve of men. Statistics has it that women contribute 70% of food production in Africa; they contribute nearly half of all farm labour and 80-90% of all food processing, storage, transport as well as hoeing and weeding in Africa (Kimani 2018). Most of the food production requires land. Due to lack of access to land, women, therefore, suffer most from the impacts of climate change. With lack of access to land they will not produce food. And if the women do not produce food, it would be very difficult for them to feed their homes. This becomes even a greater challenge to female headed households and women who have HIV AIDs, having the challenge of caring for themselves and their families.

3. Access to Water

Research has found out that rising temperatures, associated increases in evaporation losses and changes in rainfall, together with increases in the frequency and magnitude of extreme events are expected to impact

negatively on the water sources in eastern Africa (IPCC, 2014b). In ASALs (Arid and semi arid lands) water is a precious commodity. However, in the recent past, many and especially women have been forced to make long journeys in search of this commodity. This is because the rivers dry and they always depend on rainfall (Cinner, et al, 2012). Extreme climate change events have already changed the water cycle that has affected water availability and runoff and thus affect the recharge of rivers (Trocaire, 2014).

Women, therefore, are most affected, they take long hours to fetch water and this affects their production. This, therefore, means that they have to trek long distances and take a lot of time in search of water and wood and less time will be used in the income generating activities, food production and preparation (ADB, 2011).

4. Social fabric

This refers to the unity in African families. During times of drought there is always rural- urban exodus. Men leave for the cities to search for ways to sustain their families. As they do this, women are left vulnerable and sometimes they do not send money (remittance) to their women back at home. Hence making them dependent on food Aid (UK met office, 2014). The women are also left behind and this escalates the spread of HIV/AIDS which they get from their husbands or from elsewhere. The work for the women increases as they have to look after the children and the elderly.

In agro-pastoral areas, there is always conflict over resources. The pastoralists move with their animals to far places in search of pasture and water and return to their villages afterwards (Huho, et al, 2011). This migration has led to death as communities fight for resources and increased school drop out with school going children migrating with their families in search of food, water and pasture for their livestock.

5. Health

Climate change also impacts on the health of different gender. The most affected are the women. They are always vulnerable to diseases (water borne). They also bear the brunt of taking care of their sick children suffering from the water borne diseases. Research shows that in East Africa, malaria epidemic are likely to increase due to rising temperatures (Trocaire, 2014). Children will suffer from malnutrition and hence stunted growth. The diseases suffered by children have very strong consequences on women who have the responsibility to care for them. This is even worse in cases where the mother or woman is sick as well. Combining care for the sick and provision for the sick's welfare is a burden that hits hard at women.

6. Economic Impacts

Climate change will reduce agricultural production and out puts linked to agriculture. This therefore means the extreme events of climate change will render many people poor as a result of impacts on agriculture is likely to increase. The women suffer most as they are the producers in the line of agriculture. As this happens, the market prices normally skyrocket and purchasing food becomes difficult for the women. In the areas where there are floods, macroeconomic costs and reductions in economic growth are always incurred as the houses and other household assets are lost during the flood times. Diseases like cholera and dysentery also affect women and children. In addition to this, other economic costs of climate change impacts include: health burdens, energy demand, infrastructure, water resource, agriculture and lose of ecosystem.

Conclusion

A cursory glance reveals that climate change and gender are both cross-cutting themes, they overlap within various sectors, including forests,

water, energy, and urban development, and across mitigation, adaptation, and resilience efforts. This work has studied the relationship between climate change and gender, with special consideration for the women fold in relation to the concrete issues of access to land, disease, social fabric, economy, access to water, etc. However, it is obvious that gender issues on climate change are rarely addressed as debates focus on adaptation, mitigation and reduction of the Green House Gases emissions. Climate change affects gender differently. There is, therefore, a need for involvement of women in both the mitigation and adaptation strategies. This is so because, they are the ones affected and as such they have the knowledge and expertise on coping strategies. Unless this is given attention, the achievement of the Sustainable Development Goals might be reversed as there is a very strong link between these goals in relation to women and climate change. Thus, an effort towards the protection of women in relation to the issues emerging from climate change is itself an effort towards the realization of the Sustainable Development Goals.

Recommendations

In view of the above problems as regards the consequences of climate change on women, the following recommendations have been put forward:

1. The impact of climate change on gender can be addressed by involving all (men and women) in all matters concerning climate change. This can be achieved by looking on roles and coping strategies.
2. There is need for the mainstreaming of climate change issues in all programs that aim to develop the capacity of the vulnerable as far as adaptation and mitigation to climate change impacts are concerned.

3. There is the need for state and non-state members and stakeholders to improve policy across sectors and strengthen implementation frameworks that realize gender equality and climate change commitments, in tandem.
4. Gender-responsive action on climate change is, among other things, crucial to meeting the SDGs. There is, therefore, the need for nations to work towards the realization of the Sustainable Development Goals.
5. There is the need to identify and fill knowledge gaps on gender and climate change for many years.
6. There is need for the government to strengthen her partnership with Women Organizations and International partners who have interest in women related issues. Such partnerships would increase effectiveness of government's effort in this direction.
7. There is need for the training and building the capacity of women and women's organizations on the linkages between gender and climate change. This is done through a series of workshop trainings with local women identified as leaders in their communities, and also with women's advocacy organizations that support their rights and development, not only in the environmental sector but across sectors to increase their knowledge on these issues.

Women should be well represented in all the discussions and policy development and their capacity built on new agricultural technology.

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4

Boko Haram/Fulani Insurgency: The Bane of African Development

Ugwu M. Osita

Introduction

Most of African nations, especially Nigeria have had a long and unfortunate history of communal conflicts and ethno religious violence. For example, in plateau state, in Nigeria's "middle belt", there have been many outbreaks of bloody violence between different communities since the return of democracy in 1999. There have also been riots in the urban centers of Kaduna and Kano, and for several decades there has been a simmering conflict in the Tafawa Balewa district of Bauchi Walker¹.

The northern Nigeria in particular had witnessed a religious conflict in 1980s known as Maitatsine crisis, which caused havoc in major cities of northern Nigeria. Muhammed Marwa was an Islamic scholar who migrated from the town of Marwa in northern Cameroun to the city of Kano in 1945. While in Kano he became an Islamic zealot concerned with the purification of Islam. He believed that Islam had been corrupted by modernization (westernization) and the formation of the modern state. His constant preaching became very abusive and provocative, especially against established institutions like the emirate and the political class to the extent that the then Emir of Kano, Alhaji Sanusi Lamido, expelled him from Kano. Marwa found his way back to Kano in 1966, presumably after the death of Alhaji Sanusi. Between 1972 and 1979 Marwa was detained in prison several times for his

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provocative preaching and acts of lawlessness against the state Danjibo².

There is a growing suspicion among Nigerians about the real identity and motive of Boko Haram sect. Most Muslims see it as an extension of Maitatsine sect which was established in 1945 to transport turmoil to Islam as it was confirmed that Maitatsine was not a Muslim until his death, while a reasonable number of Christians see it as an attempt to Islamize Nigerians while some are indifferent Shehu³

Boko Haram is an Islamic sect like Maitatsine sect of 1980 believes that northern politics has been seized by a group of corrupt, false Muslims. The sect wants to wage a war against them, and the federal republic of Nigeria generally, to create a “pure” Islamic state ruled by Sharia laws Walker⁴

According to Shuaibu, Salleh, and Shehu 2015⁵, jama'ah al-Ahlu al-Sunnah li al-Da'wah wa al-hihad known as, Boko Haram in Hausa which means western education is forbidden emerged around 2002 as a peaceful local salafist Islamic movement whose original aim was preaching and assisting the needy. The activities of Boko Haram took violent dimension in 2009 and Nigerian security forces, clashed with the group in five day violent that resulted in death of its leader Muhammad Yusuf and many of his followers Umar⁶. Since 2009 Boko Haram has been driven by a desire for vengeance against politicians, police, and Islamic authorities for their role in a brutal suppression of the group that year Walker⁷.

Historical Origin Of Boko Haram And The Spate Of Terrorism In Africa

Boko Haram is a dreaded Islamic sect known as “jama'atul Ahlul sunnah Lidda'wat, wal jihad” meaning a group committed to the propagation of prophet Muhammad's teachings and jihad Meehan and Spaier⁸.

Literarily, Boko Haram means “western education is forbidden” which is the belief the sect emphasized. The origin and founder of Boko Haram is shrouded in uncertainty. Some scholars traced the origin of the sect to 1995 with Lawan Abubakar as its founder. It was when Abubakar left for further studies in Saudi Arabia that the sect then known as Sahaba that Muhammed Yusuf who is also regarded as the leader, took over the affairs of the sect. Others traced the sect founder to Shehu Sanni, a civil right activist in the Northern Nigeria. Apart from the above, numerous expositions on the origin and founder of Boko Haram abound Danjjibo⁹.

The Boko Haram movement founded by Ustadh Muhammed Yusuf in the North-eastern part of Nigeria is officially recognized by its members as jama' at Ahlisunnah lid da'wat wal jihad, meaning people committed to the propagation of the prophet's teachings and jihad. The Hausa appellation Boko Haram signifies its ideology which forbids western education and any culture that is western. It is for this reason that they advocate abolition of democratic governance and any man-made laws. The movement did not become militant until 2009 when its leader was captured by the men of security forces and was later found dead. From 2009 till date, the Boko Haram, in pursuit of their ideology, have engaged in arson, bombing, shooting, stabbing with disdain and impunity, targeting important national events, public institutions, markets and sometimes Christian places of worship and Christian festivals etc. It is remarkable to note that apart from the Boko Haram's targets, they sometimes engage in sporadic bombings of the major Northern towns and cities as it did happen in Kaduna, Zaria, Jos, Kano, Maiduguri and Damaturu among others. When this happens, they kill indiscriminately; they killed both Muslims and Christians alike, they have killed the rich and the poor, young and old males and females, weak and strong, elite and commoners, northerners and southerners

alike. With this, it can be reasonably concluded that the Boko Haram insurgency is a war against the nation. It was under the leadership of the slain Mallam Muhammed Yusuf that Boko Haram became radicalized and enjoyed foreign collaboration especially with the Al Qaeda in Islamic Maghreb Abimbola and Adosote¹⁰.

Since 2009, Boko Haram has constituted a serious security threat in the Northern part of Nigeria. Its terror campaign assumed an alarming dimension from 2010 till date. However, until June 16, 2011, the onslaught was restricted to the North-East geo-political zone. The first attack outside the zone was the bombing of the Nigeria police Headquarters in Abuja. That attack was triggered off by the utterances of Hafiz Ringim, the then Inspector General of Police who threatened to smoke Boko Haram out in a press statement on his duty tour to Maiduguri, where the sect launched an attack. The attack on the police Headquarters was followed up with the bombing of the United Nations House also in Abuja on August 26, 2011, Aloyewa¹¹.

The northern power elites had through history created a thin layer of leaders from whom everyone else draws their protective existence. It was observed that unless one belonged to such elite group, there would be no appointment into a position in the upper echelons of government. This was done for fear of breeding critics who might rise to overthrow them. A recognized member of the power elite group had to approve appointments at any level Odu¹². In other words, only those who are nominated by the powers that can be in high places could get top positions. Notably, a great number of young men who had no privilege of having the overlord influence existed side-side with the power elites. Sequel to this kind of discrimination against their kinsmen, the youths became aggrieved with restraint for over sixty years Odu¹³, why should they not be aggrieved when for instance, a general manager of federal

housing authority (FHA), a nominee of Sokoto caliphate, who was expected to serve the housing needs of Nigerian populace, was in practical term, catering for their elite group residing in Lagos. This was when FHA had not moved to Abuja. His main concern was to ensure that positions were created for their members in Lagos and other places using his privileged position. It is unfortunate to note that these young men were ignorantly brain-washed against any attempt to change the feudal system and inhuman treatment being inflicted on them by their feudal lords, even today, majority of these young men do not have any meaningful sources of livelihood. Though, they do not have bright and promising future, yet these lords are praised for their magnanimity for the daily meals served them (young men) through their cronies. It is observed that a few numbers of northerners are self-employed with little basic western education. According to Odu¹⁴, some of the northern youths are versed in Arabic language and the Qu'ran. He observed that these northern leaders and power elites, who desire to fees young students of Qu'ranic schools, provide them (youths) with classes: another group of students known as Almajiris move from place to place begging for alms which they share all the time with their Qu'ranic masters. There is no doubt that they have been subjected to ineptitudeness and impoverishment contrary to the settlers such as Ndi-Igbo and Yoruba, who most of the time, make progress in their own land. In other words, their leaders who preached to them that Qu'ranic education was all they needed could not provide them with any tangible and meaningful sources of livelihood, which Ndigbo and Yoruba settlers are enjoying while the indigenes are watchers in their own land.

From the foregoing, envy against the settlers and acrimony against the elite group from the north are undisputable the outcome of long age accumulation of grievances from the downtrodden in the north. Comparatively, Islamic education cannot compete favorably with the

western education and contemporary technological movement in Nigeria. How can the Moslem preachers or fanatics convince Nigerians that western education and its accompanied life styles were responsible for their plight of greater majority of the northerners, when their Moslem brothers in Saudi Arabia, United Arab Emirates (UAE) and their neighbors with their huge oil resources are great beneficial of western technology today? These countries serve as models in Islamic culture, which other Moslem countries try to emulate. Therefore, the claim by the Boko Haram fundamentalists sect in Nigeria that “western education is sin” is a fallacy and cannot be substantiated. Rather the sect arose as a result of long years of accumulated grievances against their northern elite groups, who have been exploiting their ignorance to their own advantages. The Boko Haram official name is Jama'atu Ahlis Sunna Lidda'awati Wal jihad, meaning “people committed to the propagation of the prophet's teachings and jihad Okpaga, Ugwu and Eme¹⁵. According to these writers, the group earned its nickname from the teachings of its founder, Mohammed Yusuf in the early 2000s, in the restive northern eastern city of Maiduguri, the capital of Borno State. In his own argument, Yussuf believed that western education (Boko) was forbidden (Haram) in the region because of the fact that education had brought nothing good to the people but poverty and misery. He succeeded in brain-washing his already disenchanted and disgruntled adherents that western education was the cause of their plight.

Theoretical Framework

The functional superiority of theories as guideposts in all fields of human endeavor lies in the fact that rather than base action on judgment derived from mere experience, guesswork or speculations, theories enable a chosen line of action to be anchored in and guided by evidence

derived from scientific research, which makes the consequences of such an action fall as close in line with the intended direction as possible Onah¹⁶. It is in view of the above that conflict theory is selected as the viewpoint for the study.

Conflict is a common phenomenon in all organizations where two or more persons come together to achieve certain objectives set by organizations. That is why conflict was defined by Ugwu¹⁷, as an act of striking together, mutual interference of opposing or incompatible forces, ideas, interest contest, discord among different persons. He said, when there is a conflict, it implies that there is a dispute and struggle against something undesirable by the persons expressing opposing views or claims.

Furthermore, conflict is believed to represent a condition of disharmony within an interaction process usually as a result of a clash of interests between or among the parties involved in some form of relationship Imobighe¹⁸. But Nnoli¹⁹, refers conflict as contradictions arising from perceptions, behaviors, phenomena and tendencies, while Mialli²⁰, believed that conflict emerges where a clear contradiction exists or is perceived to exist among the participants who view the outcome as extremely important. It can be deduced from the above contributions that conflict is a behavioral pattern involving two or more individual ties, which can be inter-personal, inter-groups, inter-organizations and inter-states Afegbua²¹.

The conflict as a concept has been well highlighted by Dhrendorf²², who saw it as a basic factor underlying societal dynamics. Dhrendorf cited and industry as a case where all participants are interested in self-gain. As a result, there is bound to be conflict as participants in the industrialization process try to out-do each other in the quest for self-gain Anugwom²³.

According to conflict theory, Anugwom²⁴ argued that the conflict between management and labor results from the fact that they have conflicting and contradicting interests. Precisely, the theory sees management as possessing the profit consciousness while labor possesses the wages consciousness. Under this circumstance, each party tries to make its own consciousness or interest dominant as well as increase its sphere of domination but this can only happen at the detriment of the other party. This conflict of interests between the two parties will create a situation where they are constantly fighting over whose interest or consciousness will have dominion over each other. Considering the above analysis, the quest for material rewards, power and the predisposition to rule by the few elites in Northern Nigeria against the interest of the people of the downtrodden, has made the conflict theory relevant to this study. It is within the contending viewpoints above that this study attempts to ascertain the extent to which the conflict theory will provide reasonable explanations to prevailing insurgency in Africa.

The Socio-Economic Implications of Book Haram/Fulani Insurgency in Africa

Aside the human cost in the Boko Haram insurgency, the atrocities of the sect have socioeconomic implications, especially in the northeastern part of Nigeria where Boko Haram has dominance, the economic, social and psychological costs of the insurgency cannot be quantified. Commercial activities in the northeastern part of Nigeria have been reduced because of the unprecedented attacks by the sect. Banks, markets and shops do not open regularly due to the fear of the coordinated attacks from Boko Haram/Fulani herdsmen. According to Okereocha²⁵ human capital and investors drain is hampering economic development in the northeast. This is due to the attacks on banks,

markets, parks and government departments. The attacks on these commercial areas have led to the migration of people to other parts of the country. Shiklam²⁶ posits that:

The Maiduguri Monday market said to be the biggest market in the city is reported to have been seriously affected as hundreds of shop owners, especially southerners are said to have closed their businesses and left the troubled city. About half of the 10,000 shops and stalls in the market were said to have been abandoned by traders who have fled the city.

Aside the migration of people who have business in the northeast to other parts of Nigeria, foreign national of Chad, Cameroun and Niger are being repatriated to their home countries for what the government of Nigeria said they constitute the members of Boko Haram. Evidence has shown that not all the repatriated nationals of the above countries are members of boko Haram. Definitely, those who have business in cities like Maiduguri, Damarutu and Yola will form part of those that are sent homes which will actually affect the economic activities in these cities. Under this situation, the economy of the northeast will seriously be affected if foreign citizens who contribute large quota to the development of the northeast as well as their economic activities are sent back to their countries of origin. The never-ending attacks by book Haram/Fulani Herdsmen in borno, Yobe and Adamawa states have a severe impact on the economic lives of people living in these areas. A case in point is that the working duration of most commercial banks in the affected areas hit by boko Haram bombing has been reduced from eight to three hours Mohammed²⁷. “In Maiduguri, Borno state, where the sect originated, the frequent bombings and clashes between boko Haram and the security agents have weighed down seriously on the commercial and businesses activities in the city as many businesses have reportedly crumbled while many people have fled the state” Shilam²⁸. There is already a dichotomy in the north and south

development in Nigeria. The poverty profile released by the national bureau of statistics illustrates that there is the prevalence of poverty in the north as compared to the south. It is in this data that the business day newspaper predicted if the insecurity situation continues development in the northern part will remain static and the gap between the north and south will broaden further BDN, 2012²⁹. “The region needs peace and stability more than any region in the country, particularly because the region clearly lagging behind in term of infrastructure, education and other development indices” Minister of information, Labara Maku cited in Ogochukwu³⁰: Prominent Nigerians who have bemoaned the economic impact of Boko Haram insurgency in northeastern Nigeria including the president Goodluck Jonathan and Northern Governors forum. According to obaremi³¹ “economic affairs in the north is already depleting due to a massive departure of people and financial institutions from the northern region. But if the government delays in the implementing comprehensive plans to tackle insecurity from its roots, then not only will the northern region be economically desolating, the country as whole risk losing billions of dollars in foreign direct investment”. The business activities of telecom operators have not been left out from the attacks of book Haram. For instance, some telecom masts belong to some major mobile telephone operators were destroyed by Boko Haram and the banning of telephone services by the military affected the income generation of some of the mobile phone operators. Just as the economic implications of Boko Haram atrocities cannot be quantified, the social costs are enormous. The church, school, market, clinic and mosque are potential targets of Boko Haram. For example, in April 2014, a federal government girl's college was attacked which subsequently led to the abduction of over 250 female students. Attacks on these social places have prevented people from going to these places. Some students have stopped going

to school, others have been transferred to the southern part of the country to continue their education. Christians are afraid to go for worship in the church on Sundays due to the fear of being attacked by the sect. The same is applicable for the Muslim faithful who abandon their worshipping centers because of Boko Haram attacks. The markets have become deserted. The national youth service corps (NYSC) that was created by the government after the end of Nigerian civil war to foster unity among Nigerians is under threat due to Boko Haram attacks. The NYSC directorate posted 4171 corps members to Adamawa state, 1041 of the corps members have to abandon their national duty due to the precarious security situation. Some parents from the south of the country have protested vehemently against the posting of their children to the northeast. Aside the socioeconomic implications, the human cost is more worrisome, more than 10,000 have been killed, a lot of people have been kidnapped in agony. In a nutshell, most of the family members of Boko Haram victims are going through a traumatized period. Many have left their homes and over 650 thousand Nigerians have been displaced according the United Nations high commissioner for Refugees (UNHCR).

It has been discovered that foreigners aid and abet violence in the north. According to the Kaduna State police commissioner, Mohammed Jinjiri Abubakar in Omipidan³⁰, foreign countries sharing the same borders with the Northern states of Nigeria sneak into this country to cause disharmony. He did not hesitate to mention the citizens of Niger Republic, Chad and Cameroon among those involved in the terror activities in the north. This is evident on the arrest of many nationals of these countries, who were caught in mass killings and bombings. The police commissioner could not condone the activities of these foreigners any longer and therefore warned that the police would no longer care about the Africa Charter on the free movement of citizens

and would treat foreigners arrested with iron hand, adding that the nation's kind gesture should not be taken for granted. The fear is that the invasion made by the foreign elements may endanger the existing good relationships between Nigeria and her neighboring countries. When this happens, there is no doubt that the balance of payments of all countries involved will be badly affected. Under this circumstance, the economy of the north would have the greatest impact as the foreign nationals that contribute to a large extent on its development through their various economic activities, would relocate to their mother countries.

It has been observed that the incessant bombings and gun attacks in the northern parts of this county by the Boko Haram fundamentalists, have seriously affected the economic lives of individuals in the areas. For instance, commercial banks have been forced to review their operational hours to begin from 9.00am to 12noon as against the normal operational period of 8.00am to 400pm Mohammed³¹. According to Mohammed, this is a part of efforts by these financial institutions to safeguard their business premises. Under this new operational arrangement, bank customers especially traders, find it very difficult to deposit their daily proceeds in the banks due to the limited banking operational hours that are no longer in their favor. Alternatively, these helpless traders have to hide their money in their shops. That is why in addition to the frequent suicide bombings, there are rising cases of shop-breakings and burglaries in the affected areas. The growing insecurity in the north has seriously affected the socio-economic condition such that many people including businessmen are fleeing to more peaceful environment in the southern part of the country. More so, the prices of foodstuffs have started increasing astronomically following the drastic fall in the transportation of the foodstuffs from north to the south where they (foodstuffs) are greatly

consumed. This is because the traders from south find it unsafe to travel to north where they are sold. Subsequently, these farm products are stockpiled wasting in the hands of farmers who rely on them as the only source of livelihood.

The insecurity situation created by the book Haram sect is threatening the existence of NYSC scheme, which is regarded as a unifying factor in this country. For instance, out of the 4171 members of the corps that were posted to serve in Adamawa state and later trained for the Adhoc electioneering in 2011 by the independent National Electoral Commission (INEC), about 1041 of them fled the state before the conduct of the general elections, due to lack of inadequate security in the country Egburonu³². Following the massacre of many corps members in some of the northern states in the same year (2011), many of them besieged the NYSC secretariat in Abuja demanding the reposting to states outside the Northern states. Today, the members of the scheme are still protesting vehemently against posting corps member to any of the crisis, ridden states in the north until peace is restored. Some of them have even vowed to quit the scheme should they be forcefully posted to such areas only to die in the waiting hands of Boko Haram sect.

In a swift reaction to the federal government's decision not to post NYSC members to some Northern states, governor Kashim Shetima of Borno state lamented the impact the decision will have on their affairs, and therefore, pleaded with the federal government to reconsider the decision as the state's health and education sectors could be negatively affected. Musa³³. This is because corps members that have been serving in the state provided per 65 percent of the required healthcare delivery and education services at the grassroots level where about 75 percent of the citizens live. The current activities of the Boko Haram/Fulani

Herdsmen are threat among the corporate existence of Nigeria's sovereignty. The north and south of the county are in disharmony as a result of allegations and counter allegations against each other. There is established impression in the minds of the majority of the southerners that some northern leaders, disgruntled with loss of leadership in the past nine years, have decided to precipitate crises using religious and sectarian platforms. According to the southerners, these frustrated leaders from the north have the belief that rulership of this county is their birthright. For instance, political power rested in the north for 38 years out of 50 years of this country's existence Obumneme³⁴: but having understood that the current political arrangement in the country has changed in contrast to their expectations, and having also realized that restoring the power (rulership) to status quo may not be easy, they decided to hide under the religious sect, Boko Haram/Fulani Herdsmen to express their ill-fated anger and ill-feelings. That is why they decided to incite the members of the sect and other people at the downtrodden from the same north, who were already aggrieved and frustrated following the highhandedness of the same leaders, who have been tormenting, alienating and denying them of their fundamental human rights. It is believed that the poor and wretched young men from north are products of long years of neglect and economic slavery Obumneme³⁵. That the poorest people will be found in the north has been authenticated by these boys who are willing to die by killing others. There is no person with well-established future prospect who would want to die wretchedly. There is the belief from different quarters that the north is presently reaping what it sowed in the lives of these frustrated youths so many years ago. It is observed that Boko Haram activities are now threatening the hope and future of the children from the northern states of this country. It is disheartening to note that the security situation in the areas has denied these children the

opportunity of participating in the recent Cowbell National Secondary Schools Mathematics Competition (NASSMAC), organized by Promasordor Nigeria Ltd. It was revealed that out of those who emerged champions in this year's competition, and were honored, only two northern schools participated, and only one male student could make the list from the entire northern region Tyessi³⁶. This situation is opposed to 6,7 and 11 champions that emerged from the region in 2009, 2010 and 2011 respectively. The above pathetic situation calls for immediate solution to the security problem in the north as its escalation may lead to total breakdown of education system in the area, and the consequence will be very disastrous not only to the region but to the entire country as well as Africa as a nation.

It is alleged that Boko Haram sect was the creation of politicians, especially some governors from the north, who needed them (Boko Haram) to win elections, intimidate opponents, score political points and extract relevance at the national level Okpaga, Ugwu and Ene³⁷. According to these writers, the sect reached an agreement with the former Kano state governor, Ibrahim Shekarau in 2004 to be receiving monthly payment of five million, which was later increased to ten million in 2009. Similar agreement was equally reached between the sect and the Bauchi state government. Unfortunately, these agreements broke down following the takeover of the mantle of leaderships in the two states by the new governors in 2011, and the payments were stopped. This, according to the sect's spokesman, warranted the bombings in the two states. That is why Lister³⁸, claimed that it is no longer a sect of Islamic fanatics but has the support of disgruntled politicians and their paid thugs. In his own reaction, a legal practitioner and human rights activists, barrister Pedro Azogu was not comfortable with the roles played by some politicians from north. He stated without mincing words that all the children from the same cultural background,

who were denied western education but trained to be killers, are the same people that will kill those that had deprived them of social and economic wellbeing Onuoha³⁹. Hence concentration of suicide bombings and gun attacks in the northern states. Boko Haram has succeeded in instilling fear and hatreds among the people who have been living in peace and harmony for decade. For instance, Adamawa state is a heterogeneous society with high social diffusion made up of over 70 different tribes, ethnic compositions and languages. But in spite of their differences, Adamawa state known to be one of the most peaceful states in the north east until the rise of the current bombings and attacks, which have brought misery among the people. Prior to the present insurgency, Muslims, Christians and other religious believers were living peacefully. But today, Boko Haram/Fulani Herdsmen have brought disintegration, discrimination and lack of trust among people of the same blood. Muslims are no longer comfortably discussing family issues with their Christian brothers and sisters. This ugly situation is not peculiar to Adamawa state but cuts across the northern region. For fear of being attacked, northern parents are no longer eager to register their children in most schools in the north. That is why parents of northern origin are sending their children and wards down to the southern part of this country for their education.

Possible Remedy to The Boko Haram/Fulani Herdsmen Menace in Africa (Nigeria)

Allegations from different quarters have been leveled against some high placed personalities in northern Nigeria over their hidden agenda in providing financial support to Boko Haram religious sect. According to Ifejeh⁴⁰, Senator Ali Ndume and Late Ambassador Saifu Pindar were believed to be some of the greatest financiers to the sect. This is in addition to the established case against a judge with the Kano

state judiciary that his call log showed that he actually had links with the religious sect (Boko Haram/Fulani Herdsmen). Considering the above, the federal government should regard these persons as terrorists, who aid and abet terrorism in Nigeria, and therefore should be arrested and prosecuted accordingly to serve as a deterrent to others who are yet to be exposed. Federal government should be reminded of the fact that the members of Boko Haram comprise the children of the less privileged people who were unable to have access to western education owing to financial incapability of their parents: and therefore, the products of long years of neglect and economic slavery. To reduce the incidents of violence and insecurity resulting from reactions of the aggrieved and frustrated people of the downtrodden from the north, all the governments from the crisis-ridden areas should focus on investing more in education to tackle the issues of illiteracy and economic backwardness. In this regard, the governors from the areas concerned should introduce free and compulsory education particularly to the “Almajiris”. The federal government had in many occasions exerted efforts in investigating and trying to question the states that were seriously devastated by the Boko Haram sect. Unfortunately, this strategy was of no effect as the members were not domiciled in a particular area. Alternatively, the federal government should invite the northern state governors and security agencies as well as the leaders of the sect who are known to claim responsibilities for the most attacks, for a dialogue. The multi-ethnic nature of this country is regarded as one of the major challenges facing the security situation in this country. This condition has obviously generated a lot of primordial feelings and sentiments among Nigerian populace. It is on this premise that Ofita⁴¹, reminded every Nigerian that this country belongs to all of us and each person has a responsibility not just the security agents. In this respect, Nigerians should not fold their hands indefinitely waiting

for the government to tackle the incessant bombings and gun attacks alone. If a dialogue approach fails, the government should provide enabling environment and adequate tools to well-trained security agents to perform, while the public provide reliable information on the whereabouts of the sects' members, who are residing in the midst of the people.

Considering the level of security consciousness in this country, one may be constrained to state that Nigeria is not yet ready to tackle the issue of Boko Haram/Fulani Herdsmen menace in the north. It is pertinent to remind Nigerians that after 9/11 disaster in United States and July 7 bombings in London, all important public facilities have been well guarded with modern technological gadgets capable of detecting and preventing bomb blasts. It is not out of place if Nigeria should borrow a leaf from these advanced countries by ensuring that all the various security agencies are put on red alert and ensure that all sensitive public facilities are properly guarded with modern technological gadgets capable of detecting and preventing bomb blasts.

Conclusion

The dangerous dimension the insecurity challenge has posed by the fundamentalist group (Boko Haram) has heightened serious fears among Nigerian populace. The trend has led to incessant suicide bombings and all sorts of attacks in the northern parts of the country with little or no provocation. Consequently, lives and property are lost, business ventures and shops have remained closed especially in the north. Most regrettably, the Igbo people who are the life-wire of economic activities in the north are relocating in large numbers to their states of origin to avoid losing their lives in the hands of the sect.

It was discovered from the study that the use of force or declarations of state of emergencies by the federal government were of no effect to the Boko Haram insurgency. Alternatively, the federal government should embrace dialogue approach, especially now that the fundamentalist group has declared its readiness to dialogue with the federal government Akhain⁴¹, but this can only be effective if the dissident group within the government cycle, who are ever ready to sabotage the strategy, are fished out, dislodged and prosecuted accordingly.

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Kant's Theory of Punishment: A Reexamination of Just Punishment and the Rule of Law in Africa

Chukwunonso Vitalis Ogbo

Introduction

Within one of society's core institutions, the legal system, there exists a practice central to the system and with grave implications, yet scandalously lacking in a sure philosophical justification. The practice is that of punishment, and despite exercising many capable legal and philosophical minds, no generally agreed upon justification of punishment has been reached. The two most frequently cited, and perhaps, most plausible potential candidates for such a justification (utilitarianism – represented by Beccaria and retributivism – represented by Kant) ebbed and flowed in their popularity throughout the century, with neither offering a sufficiently comprehensive rationale for punishment and both in fact harboring significant theoretical deficiencies. Nor did a potentially promising attempt to marry the merits of the two views into one superior position prove tenable.

In outlining the dilemma involved in attempting to justify punishment, it seems important to clarify why in fact such justification is needed. To this end there appear to be at least two factors of significance. In the first instance, although the practice of punishment has a long tradition in human society, it is nonetheless a practice human beings engage in by choice, and it is therefore one which could, theoretically at least, be

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abandoned. Secondly, the kind of suffering, harm and deprivation attached to punishment appear to be evils whose infliction is at least prima facie problematic and at worst morally wrong. Thus given the deliberate nature of punishment and the potentially odious consequences of its implementation, punishment surely requires at least an attempt at justification.

Punishment has been part of the human society ever since the beginning of civilization. Throughout the history, wrongdoing or wrong act have simply stood out like sore thumbs, greatly affecting the very emotions of man. These wrongful acts, which have been later termed as crimes, are as noticeable as kind acts but the only difference is that the former harbors condemnation than praise; punishment than reward. Human being see such crimes as condemnable especially those that are heinous such as rape, murder, arson, genocide and others that put humanity into shame and the community into disarray.

Rather than justifying punishment by reference to some advantageous social arrangement, or the intrinsic, non-instrumental value of the state, this study will do so by reference to the rights of the individuals. Unlike many of the dominant varieties of deterrence, which justify state punishment on the ground of the supremacy of the state's authority and the continued existence of the state, this study justifies the practice of punishment simply by reference to the fact that crime represents a threat to the civil order and by reference to state's obligation to protect each individual citizen from violations of her rights and for the reformation of both the crime victim and the offender.

We are, therefore, prepared to grant that although wrongdoing might be analytically concerned to moral desert, the main purpose for punishment incorporates elements of deterrence, rehabilitation, and reformation; and refusal to punish may sometimes be a refusal to

achieve these ends. Specifically we analyze Kant's writing on punishment under a very precise conception of what a theory of punishment is. It is easy to focus so closely on the concept of punishment that one can lose sight of what it means for an account to be a theory of punishment at all.

For the purpose of this article, we will be taking a theory of punishment to be a philosophical account comprised of a determinate number of discreet elements such as a definition, a justification, and distribution. The definition spells out what the necessary and sufficient conditions are for an act of violence or coercion to be punishment. There are many kinds of justifiable violence or coercion, but not all of them can be understood as punishment. Then, the justification (which in many respects is the most important elements of a theory of punishment) explains why the class of actions picked out by the definition is morally or politically permissible. The distribution finally specifies who is an appropriate target of punishment and the method or quantity of punishment that is appropriate, the later being a difficult component for any theory.

These necessary elements of a theory are deeply inspired by HLA Hart's division of punishment, outline in his collection of essays, *Punishment and Responsibility* (1970, p.3). According to Hart, any theory must offer a definition of punishment, must explain the aim that justifies the practice or institution of punishment, and must provide principles of distribution. In drawing distinctions in this way, he endeavors to establish the possibility of a theory justifying punishment according to one kind of aim, while specifying principles of distribution in accordance with some other (Hart, 1970, pp.8-10).

In exploring Kant's theories of punishment, then, this thesis seeks to identify his answers to each of these elements. It is our intention to do

so in a way that produces a consistent theory that respects the most foundational characteristics Kant's practical philosophy while still situating him within the context of a sustained examination of his theory as a whole – painstakingly identifying and making possible substitutes for loopholes, and then applying it to the African context using Nigeria as example.

The utilitarian is primarily concerned with consequences and the guiding principle of this consequentialism is to maximize in quantity and/or distribution some perceived good. Thus, utilitarianism as it applies to jurisprudence, the law and legal institutions is based on, and aims to, maximize happiness, utility, self-actualization, autonomy or whatever accounts of good the particular version of utilitarianism being advocated prioritizes. As a consequence, and in line with the type of justification being sought here, the reason the utilitarian can offer for punishment appears strong, straightforward and plausible; namely, that since crime presents an obvious impediment to the attainment of these valued goods, it should be prevented. The institution of punishment is legitimate on the utilitarian view therefore, if it acts as an effective deterrent, by preventing or at least reducing the evil that crime represents.

Punishment, then, is justified solely by the claim that it will have the effect of deterring any future crime. In line with this, Beccaria writes:

The purpose [of punishment], therefore, is nothing other than to prevent the offender from doing fresh harm to his fellows and to deter others from doing likewise. Therefore, punishment and the means adopted for inflicting them should, consistent with proportionality, be so selected as to make the most efficacious and lasting impression on the minds of men with the least torment to the body of the condemned (1995, p.9).

While Beccaria mentions the need for punishment to be consistent with proportionality, the way in which he conceives of proportionality is

quite different from a literal interpretation of equivalence between crime and punishment. He does not, for instance, endorse the idea that a punishment ought to be roughly equivalent to the crime committed in a vague, an-eye-for-an-eye sense. Instead, Beccaria argues that the appropriate amount of punishment is simply that which is required to outweigh whatever good that was gained from the commission of the crime (Beccaria, 1995, p.66).

However, Kant, who is often cited as the paradigmatic retributivist and whose view will be examined in more detail in this work, clearly distinguishes retributivism from other positions on punishment in terms of its embrace of the principles of desert and autonomy. On his view:

Punishment by a court... can never be inflicted merely as a means to promote some other good for the criminal himself or for civil society. It must always be inflicted upon him *only because he has committed a crime*. For, a human being can never be treated merely as a means to the purposes of another, or be put among the objects of rights to things (Timmons, 2002, pp.47-48).

Thus, for the retributivist, as Kant paints him, there is a clear and coherent answer which can be offered to the criminal as his desert for having committed a crime. In punishing according to desert, the retributivist can claim to be respecting an individual and treating him justly and as a rational being, not as a means to another end. The criminal is regarded as a responsible moral agent capable of making choices and he is dealt with strictly in terms of what he did, not according to other considerations of hope for consequences like the public good. The retributivist thereby avoids many of the difficulties which plague the utilitarian (Timmons, 2002, pp.47-48) about the individual being used in punishment as part of a larger social agenda. In any case, the employment of punishment as a tool for the promotion of justice can only make sense if the process gives necessary attention to both the victim and the offender and to the principle of the rule of law.

Social theorists such as Thomas Hobbes have characterized the state of nature as a place where life is nasty, brutal, and short. The question of the basis of this characterization can hardly arise since the state of nature is known for its utter lawlessness. But since such life is not worthy of rational human beings, man has no more choice than enter into a social contract for a civil society where there must be law and order to protect the rights, security, safety, and “equality of all”. In this way, the establishment of a civil society is justified and justice is ensured among members of the polis. Injustice results when a member of the society (an offender) acts in a manner that deprives another of her basic rights, security, safety, or suggests that she is unequal to the offender. To heal the wound and fill the gap created by an unjust action of a member of the society towards another, therefore, justice has to be established by means of punishment.

But how precisely can punishment translate to Justice? Undoubtedly, various justifications of punishment have been proposed through the ages by different traditions. While the utilitarians justify punishment based on its utility to the society, the deontologists justify it on retributive ground, as already observed. The commonsensical justification of punishment is the quest for justice – the need to render justice to the victim of crime, protect the society from further harm and in some cases to rehabilitate the offender. But, in Africa for instance, is this truly offshoot of punishment in real practice?

If this reasoning is true, then punishment is justice and justice is punishment. For the retributivist, punishment is a matter of choice on the part of an offender. The moment he perpetrates crime, he relinquishes his default rights and freedom as a member of the commonwealth of rights and freedoms. The offender must be punished simply because he has committed a crime. Does this not sound like punishment for punishment sake? Once you dish out the just desert to the offender, justice is *fait accompli*. If that is so, how does it translate to justice?

A dialectical foray into the institution of punishment has ironically shown that in our justice system, the victim is implicitly used to further the societal need – deterrence. Following this line of thought the approach to be adopted in this paper is nominated, namely that any satisfactory justification of punishment will need to offer up good reasons for the practice not only to the society more broadly, but also to the criminal and the victim. So what exactly does Kant's theory of justification of punishment tend to solve and how compatible is this with contemporary society? These relevant considerations constitute the problems which this research attempts to address.

The basic objectives of the study are to find out why there is need for punishment and how it can translate to justice in terms of the crime committed; to examine how Kant's theory of punishment can enhance the reform of justice system in contemporary African societies; to determine the proportionality and distribution of punishment that would suffice to engender justification in terms of the crime committed; to determine who is to be punished, who is to punish her, why she is to be punished, and how she is to be punished that can be consistent with justice; and to discuss the tenability of justice in a less democratic society where there is less regard for the rule of law and where the justice system itself is corrupt.

Retributivism: Conceptual Framework

This is a policy or theory of criminal justice that advocates the punishment of criminals in retribution (payback) for the harm they have inflicted. It is a theory of justice which holds that the best response to a crime is a punishment proportional to the offense, inflicted because the offender deserves the punishment (Cavadino & Dignan, p.39). Prevention of future crimes (deterrence) or rehabilitation of the offender is not considered in determining such punishments. The theory holds that when an offender breaks the law, justice requires that she suffer in return.

Regarding retributive theories, C.L. Ten states that, "There is no complete agreement about what sorts of theories are retributive except that all such theories try to establish an essential link between punishment and moral wrongdoing" (Ten, 1987, pp.38-39). He is surely right about this. Therefore, it is difficult to give a general account of retributive justification. However, it is possible to state certain features that characterize retributive theories: in accordance with the demands of justice, wrongdoers are thought to deserve to suffer, so punishment is justified on the grounds that it gives to wrongdoers what they deserve (Ten, 1987, pp.38-39).

Retribution is different from revenge because it is only directed at wrongs, has inherent limits, is not personal, involves no pleasure at the suffering of others, and employs procedural standards (Nozick, 1981, pp.366-368). Unlike utilitarian views which depend on the consequences of punishment, retributivist accounts hinge around the notion of criminal desert and it in effect promote the principle of autonomy the utilitarian seems to breach. Put simply, according to the retributivist the criminal deserves punishment for having committed a crime so that the rationale behind legal punishment is to mete out to the criminal his desert. On more radical versions of retributivist theory a stronger claim about the infliction of suffering on those who have morally transgressed is purportedly advocated, or the sanctioning of pain for pain's sake. Retributivism is occasionally even characterized as some form of disguised revenge.

Desert is a normative concept that is used in day-to-day life to describe the belief that being treated as one deserves to be treated is a matter of justice and fairness (Pojman & McLeod, 1999, p.21). Although desert claims come in a variety of forms, they are generally claims about some positive or negative treatment that one ought to receive as a result of

one's choice of action. It is widely held that desert is a relation among three elements: a subject, a mode of treatment or state of affairs deserved by the subject, and some facts about the subject, which are often referred to as desert basis (Pojman & McLeod, 1999, p.21). This relation is shown in the formula: S deserves M in virtue of B, where S is the subject, P is the mode of treatment, and B is the desert base.

Most desert theorists, such as Feinberg argue that desert is strictly a backward-looking concept, as a person's desert is based strictly on past and present fact about him (Celello, 2009, p.156). The argument is that in order for a person to deserve something at a given time there must be some relevant fact about the person at that time that gives rise to her desert. For, as Celello observes, a desert base with sufficient grounding conditions that lie in the future is metaphysically dubious and cannot be such a fact (Celello, 2009, p.156).¹⁸ In a general sense, justice can be understood to consist in a person getting what is appropriate of fitting for her.

Kant, who is often cited as the paradigmatic retributivist and whose view will be examined in more detail in this work, clearly distinguishes retributivism from other positions on punishment in terms of its embrace of the principles of desert and autonomy. On his view:

Punishment by a court...can never be inflicted merely as a means to promote some other good for the criminal himself or for civil society. It must always be inflicted upon him *only because he has committed a crime*. For a human being can never be treated merely as a means to the purposes of another or be put among the objects of rights to things...He must previously have been found *punishable* before any thought can be given to drawing from his punishment something of use for himself or his fellow citizens. The law of punishment is a categorical imperative, and woe to him who crawls through the windings of eudaimonism in order to discover something that releases the criminal from punishment or even reduces its amount by the advantage it premises (Ten, 1987, pp.38-39).

Thus, for the retributivist, as Kant paints him, there is a clear and coherent answer which can be offered to the criminal as his desert for having committed a crime. In punishing according to desert, the retributivist can claim to be respecting an individual and treating him justly and as a rational being, not as a means to another end. The criminal is regarded as a responsible moral agent capable of making choices and he is dealt with strictly in terms of what he did, not according to other considerations of hope for consequences like the public good. Thus, allegations that the utilitarian sanctions excessive punishment, insufficient punishment, or punishment of the innocent and those not responsible for their actions in order to send a broader message do not arrive for the retributivist. Similarly the retributivist can give a strong and cogent justification of punishment to the particular victim or victims of a crime, since through punishment what they have suffered at the hands of the lawbreaker has been recognized and thought to be significant. Appropriate and proportionate action has been taken in direct response to the crime so that justice has been done and the criminal has received what he deserved for the act he perpetrated against them.

Kant's Theory of Punishment

In the literature surrounding Kant he is almost invariably considered to be the paradigmatic retributivist. A sense is however conveyed by the manner in which these passages are put forward, that they lack an account which links and grounds them in any broader way – that such excerpts are isolated assertions rather than key markers of a more developed outlook on criminal punishment. Allen Wood, for instance, acknowledges Kant's commitment to retributivism but observes that his defense of it remains at best embryonic (Wood, 1990, p.109). While Don Scheid makes the even stronger claim that when it comes to his retributivist principles, Kant offers no foundation for them, he merely introduces them ad hoc (Scheid, 1983, p.274).

There are three main claims attributed to Kant on the traditional interpretation of his view of punishment. These are that for Kant the entitlement to punish derives from looking back to the crime; that the type and amount of punishment is also derived from this source according to a principle of equality; and finally that there is in fact an obligation to mete out to the criminal his desert. These standard claims will now be expanded on below.

In the first instance, it is clear that for Kant, punishment draws its motivation not from any of its potential effects such as deterrence, prevention, rehabilitation and so on (as it does for the consequentialist), but simply from the commission of crime. As he explicitly indicates in one of the frequently quoted passages from the *metaphysics of Morals*:

...the law of punishment is a categorical imperative, and woe to him who crawls through the windings of eudaimonism in order to discover something that releases the criminal from punishment or even reduces its amount by the advantage it premises (Kant, 1991, p.331; Ten, 1987, pp.38-39).

The only acceptable reason for carrying out punishment on Kant's account is as a response to a criminal act, and so his view can be labeled 'backward-looking' since quite simply, the motivation to punish is drawn from looking back to the crime. Forward-looking consideration about good effects for the criminal or society more generally is just not relevant to the decision to punish. Thus, Kant's account is often thought to treat the criminal justly, since he is not regarded as a pawn in some broader and future-focused social agenda about minimizing crime and its harmful effects. To coin the phrase from Kantian morals, the criminal in punishment is therefore not 'used as a means to another end,' rather he is punished in accord with his own freely and rationally chosen action.

Let us now consider the second principle of Kant's account as it is traditionally construed, namely that not only does an individual's entitlement to his punishment hinge on looking back to the crime, but

the type and amount of his punishment is also derived from this source. The criminal must be punished according to the desert which attaches to the crime, and for Kant, this is based on the standard retributivist principle of equality, as he outlines again in the *Metaphysics of Morals*:

Whatever undeserved evil you inflict upon another within the people...you inflict upon yourself. If you insult him, you insult yourself; if you steal from him, you steal from yourself; if you strike him; you strike yourself; if you kill him, you kill yourself...only the law of retribution (*ius talionis*)...can specify definitely the quality and the quantity of punishment (Kant, 1991, p.332).

Kant reinforces this point in another less cited passage, noting that there is only one just punishment, namely the one equivalent to the crime in a fashion analogous to the way in which for a straight line 'there can be only one line (the perpendicular) which does not incline more to one side than the other and which divides the space on both sides equally (Kant, 1991, p.33). The manner in which the criminal is punished and the degree of that punishment are determined by reference to the act itself and attempts to match punishment to the crime, not by assessment of the possible consequences of such punishment.

Finally, for the classical reading of Kant, it is important to note that his retributivism entails not only a right to mete out punishment according to desert, but in fact an obligation to do so. In his famous example of a civil society about to dissolve, Kant argues that in spite of their decision to disband, citizens are not thereby somehow absolved of their responsibility to undertake punishment of those found guilty of crimes and for whom punishment has already been determined. As he indicates:

Before the citizens separate, the least murderer remaining in prison would first have to be executed, so that each has done to him what his deeds deserve and blood guilt does not cling to the people for not having insisted upon this punishment (Kant, 1991, p.233).

Hence, even in the case where the society in which a crime was committed will no longer exist, the criminal cannot slip punishment if justice is to be done. This unwavering obligation to impose punishment is further reinforced in a passage where Kant discusses whether or not an individual convicted of a capital crime could opt to have potentially fatal experiments performed on him in lieu of punishment. Kant makes it clear that such experiments (even if they benefit society) are not an option, since they fail to meet his standards for justice (Kant, 1991, p.333). So in addition to supporting the obligation to punish, this passage also adds weight to Kant's claim that punishment should be set independently of any concern for the good of either the criminal or civil society more generally.

As it stands then (and significantly for the purposes of this research) the classic view of Kant on punishment suffers the same fate as other retributivist accounts when it comes to the practice's justification. While it seems Kant is able to offer a good justification of punishment to the criminal (since through punishment he is being treated as a rational and autonomous moral agent, solely in accordance with his actions rather than in line with other teleological agenda) and conceivably a satisfactory account to the victim (as an appropriate recognition of the wrong she has suffered), this is not the case when it comes to general justifying aim of punishment. On this traditional reading, Kant provides an inadequate rationale of the institution to society at large, since it appears as though he simply fails to address the broader question of why punishment should in fact exist at all.

Now although there is widespread acceptance of Kant's retributivist credentials among scholars and therefore of the above rendering of his view, there are those who challenge this reading of his doctrine on punishment. Some philosophers instead suggest that Kant's retributivism is in a sense limited or curtailed. So, for instance, Nelson

Thomas Potter (1998, p.91) and Don E. Scheid (2003, p.38) label Kant a partial retributivist, and Mark Tunick considers him to be a retributivist but not a deontologist (Tunic, 1996, p.64). What lies at the heart of all this is the idea that while Kant is clearly a retributivist when addressing issues concerning the distribution of punishment, he is a consequentialist when it comes to punishment's general justifying aim.

Thus, writers as Scheid and Tunick have no difficulty ascribing to Kant a retributivist stance in consideration of punishment's title and even its amount. They clearly regard him here to be backward-looking in the requisite retributivist way since he advocates punishment only for those who have committed a crime. In these respect then, their views incite no conflict with Kant's retributivism as traditionally conceived. However, when it comes to furnishing a general justifying aim for punishment, all those philosophers noted above suggest that Kant is really adhering to some form of consequentialism. They maintain that although he in fact fails explicitly to spell out what a general justifying aim of punishment might amount to, in effect teleological aspirations can be read into his philosophy. These teleological aspirations, for the convenience of analysis, can be considered to be of four different types. Firstly there is the commonplace notion that punishment is designated as a deterrent; secondly the idea that it is driven by the need to protect citizen rights; thirdly that it is intended to reform; and finally that punishment serves to promote good habits. Each of these points will now be detailed.

The idea that punishment aspires to deter crime is not an unusual one, although as has been made clear above, it is a view not generally attributed to Kant. Potter, Scheid, Tunick and others maintain, however, that Kant does consider punishment to be justified by its deterrent effect. To varying degrees, these authors all argue that for Kant Punishment serve as a disincentive to crime (though for Potter,

deterrence is, on Kant's account, only a secondary effect of punishment), that in the legal as opposed to the moral setting punishment provides the requisite external motivation to conform to the law. Further, for these authors Kantian punishment acts as both a special deterrent (serving to deter the individual criminal) and a general deterrent (serving to deter society more broadly, whose citizens are effectively warned off by the example of the punished criminal). Evidence for this interpretation of Kant is drawn from a number of sources and Tunick (1996) in particular carefully compiles it in order to substantiate the case for deterrence.

Both Tunick and Scheid draw attention to a section in the Collins' portion of Kant's *Lectures on ethics* entitled *Of Rewards and Punishments* to bolster their claims that Kant holds a deterrence account. In part of this passage Kant says:

Punishment in general is the physical evil visited upon a person for moral evil. All punishments are either deterrent or retributive. Deterrent punishments are those which are pronounced merely to ensure that the evil shall not call. Retributive punishments, however, are those pronounced because the evil has occurred. Punishments are therefore a means of either preventing the evil or chastising it. All punishments by authority are deterrent either to deter the transgressor himself, or to warn others by his example. But the punishment of a being who chastises action in accordance with morality are retributive (Kant, 1997, 286).

And later he added that:

All the punishments of princes and governments are pragmatic, the purpose being either to correct or to present an example to others. Authority punishes, not because a crime has been committed, but so that it shall not be committed (Kant, 1997, 286).

Thus it seems clear, as the advocates of a deterrent interpretation of Kant argue, that Kant (at least in this work) maintains that all state instituted punishment has deterrence as its goal.

Tunick also gleans evidence for a deterrent interpretation of Kant on punishment from the essay *On the Common saying: That May Be Correct in Theory, but It Is of No Use in Practice* in which Kant discusses a case where a man saves his own life by pushing another off a life raft. Tunick cites a portion of a footnote attached to this passage in which Kant writes that teachers of general civil right, “proceed quite consistently in conceding rightful authorization for such extreme measures. For, the authorities can connect no punishment with the prohibition, since this punishment would have to be death. But it would be an absurd law to threaten someone with death if he did not voluntarily deliver himself up to death in dangerous circumstances (Kant, 1999, p.301). A version of this life raft scenario is also to be found in the *Metaphysics of Morals* where Kant writes:

There can be no penal law that would assign the death penalty to someone in a shipwreck who, in order to save his own life, shoves another, whose life is equally in danger, off a plank on which he had saved himself. For the punishment threatened by the law could not be greater than the loss of his own life. A penal law of this sort could not have the effect intended, since a threat of an ill that is still uncertain (death by a judicial verdict) cannot outweigh the fear of an ill that is certain (downing). Hence, the deed of saving one's life by violence is not to be judged inculpable but only unpunishable (Kant, 1999, p.331).

Tunick wants to appeal to the excerpt to argue that Kant is making a distinction between the legal and moral domains, such that it is only the former which concerns external duties that can be reinforced by punishment motivated by deterrence. Thus, Tunick considers that “there is a moral not a legal duty not to kill the other person. The rescued person is to be morally condemned but not legally pushed (Tunick, 1996, p.65). The fundamental point is much the same as the one derived from *On the common saying*, namely that given the peculiarities of the situation, the threat of capital punishment cannot reasonably act as an effective deterrent.

Finally, further textual support for the deterrence interpretation of Kant is drawn from the *Metaphysics of Morals* where Kant discusses two additional instances in which, according to Tunick (1996), the person committing the crime could not be expected to be deterred by the threat of legal punishment. The cases are those of a mother who kills her illegitimate child and a soldier who murders a fellow soldier in a duel. Contrary to what Kant stipulates elsewhere, in these special circumstances he considers that neither killer should receive a capital sentence. Although Tunick admits that “much of what Kant says about these two cases is puzzling and difficult to agree with, he considers them to highlight the difference between the moral and legal realms, and he again explains the two cases as one in which “Kant implies that where a person could not be deterred by legal punishment from committing a crime, the state should not punish (Tunick, 1996, p.66). In both cases Kant invokes a consequentialist theory of why we have the practice of legal punishment.

Deterrence is not an isolated goal on the consequentialist reading of Kant, but is instrumental in promoting other goals with respect to citizens and the Kantian state. And this notion of punishment as motivated by the need to protect and bolster the claims of citizens, is the second strand which can be made out in the picture of Kant as a consequentially motivated philosopher of punishment. The institution of punishment exists on this interpretation as a means to secure and promote individual freedom and rights. The state is brought into being for Kant to secure the right to freedom we should all enjoy by virtue of being human, and this right is in turn supported by state sanctioned punishment (Tunick, 1996, p.63). In order to add weight to this view that punishment aspires to protect citizens' rights, Turnick points to the case outlined in the *Metaphysics of Morals* where accomplices to murder might have their sentences lessened if the security of the state is

at stake (Kant, 1999, p.334). If the execution of these individuals were to lead to the effective demise of the state because there were insufficient citizens, then Kant reserves for the sovereign power to ameliorate the situation by allocating non capital sentences. Thus, on Tunick's view because Kant provides a more lenient punishment in these circumstances, the case for Kantian punishment as fundamentally concerned with "preserving a society of ordered liberty" is reinforced (Tunick, 1996, p.63).

That punishment can help foster favorable behavior (or as Tunick ((1996, p.66) says, the habit of going good deeds) is the final teleologically inspired argument identified by the above-mentioned authors. Although not considered by Kant to be the ideal motivation for moral action, he does recognize in the *Lecture on Ethics*, that both "rewards and punishments can indeed serve indirectly as means in the matter of moral training...If a person refrains from bad actions because of the punishment, he gets used to this, and finds that it is better not to do such things" (Kant, 1999, pp.287-288). Though patently not Kant's preferred incentive, punishment can still effectively discourage repeat offenders.

The Problem of Proportionality

The retributivists argue that more serious offenses should be punished more severely because offenders who committed more serious crimes deserve harsher punishment than those who commit less serious crimes (Hart, 1968, p.2). Given our previous discussion of retributivism, it should not come as a surprise that the concept of *desert* plays a central role here. According to Immanuel Kant (1999) and other classic versions of retributivism, the deserved punishment is determined by invoking the *lex talionis*, which requires imposing a harm on a criminal identical to the one she imposed on his victim.

Those who argue that murderers ought to be put to death have often invoked the principle of *lex talionis*, but it is rarely invoked when attempting to determine the proper punishment for other crimes. Its lack of popularity can be explained by noting a couple of objections. More importantly, it is difficult to apply to many offenses, and it seems to be outright inapplicable to some. How should we, for instance, punish the counterfeiter, the hijacker, the rapist, or the childless kidnapper? Applying the *lex talionis* to these crimes is problematic. Surely we should not rape rapists! For these and other reasons, except when the topic at hand is capital punishment, appeals to the *lex talionis* are rare in the contemporary literature.

While retributivists (represented here by Kant) seem to have an easier time ensuring that there be a direct relationship between the amount of punishment and the offense committed, their position is subject to criticism. Because they are committed to inflicting the deserved punishment, they must do so even when a lesser punishment would produce better or the same social effects.

Just Punishment and the Rule of Law in Africa

Proportionality of crime to punishment is very important to whole idea of just punishment. It is the element of proportionality that ensures the proper functioning of punishment, namely to create that lasting association in the human mind between the two ideas: crime and punishment. Hence, Beccaria argues that there should be a fit between the crime and punishment and that this fit is necessary to reinforce the association: “The punishment should, as far as possible, fit the nature of the crime, this serves admirably to draw even closer the important connection between a misdeed and its punishment (Harcourt, 2013, p.9). This means that punishment should be in degree to the severity of the crime. Beccaria (1995) is an advocate of the rule of law and as such

he maintains that *the law should be no respecter of anyone at any point and at any position*. But what value do the ideas of just punishment and rule of law have in African societies? Obviously, they have little or no values in modern African world. To illustrate this point, let us look at the problem of immunity clause.

The immunity clause, as found in many constitutions of different African nations, provides the president, vice president, governors and their deputies, with protection from prosecution from offenses they commit while in office, and allows them open for trial only after leaving office. The Black Law Dictionary defines immunity clause as a provision that limits the responsibility of a trustee or a leader to liability for negligence or misconduct.

Immunity clause with its attendant problem of deferring punishment of an offender to an arbitrary future day rather than immediate punishment at the point of abusing an office, is a serious issue that merits reconsideration. This is because the original purpose which the clause is meant to serve has been adulterated and largely turned into an engine of fraud. While the original intention for its inclusion in the constitutions may be good, some politicians have corrupted and bastardized the well-reasoned privilege and willfully undermined the wisdom behind the grant of immunity to the detriment of Africans.

Crafted and provided as an open ended protection, the clause at present, provides a loophole that breeds criminals in power as it gives latitude to boldly commit crimes with impunity against the state and the people without any fear of punishment. Given this palpable danger, it is apparently clear that the immunity clause as presently provided can no longer serve the need of contemporary African politics. It therefore needs to be reviewed in line with emerging and contemporary realities. Any attempt to side-step or reject the call for a genuine and sincere

review of the clause in the light of mounting anti-democratic activities of some of our political elites is a disservice to the continent, a betrayal of public trust, and the power people repose in representative democracy.

Inasmuch as we are not calling for the outright removal of the clause from various constitutions, it is sad to note that most of the arguments put forward in favor of its continuous retention (Jeje, 2017) are superfluous and essentially untenable. For instance, the idea that the clause serves as a check on frivolous law suits is good, but the claim that institution of criminal proceeding against those in position of authority would interfere with their constitutional duties and invariably distract them from the business of governance seems unfounded and dishonest.

As Jeje (2007) rightly observes, the real danger is not distraction from frivolous law suits, nor interference caused by the institution of criminal proceeding, but the criminal intention of corrupt political elites whose immunity protection needs to be put on check. This is because the loophole created by constitutional lapse has created an incentive which continues to recruit and retain criminal gangs in power whose mantra is 'steal now and settle your way later,' or 'keep stealing and keep remaining in power.' More so, from the standpoint that there is no error without a commission (or an omission), and there is no reaction without an action – no smoke without fire, it follows that it is a faulty constitutional wisdom to shield offenders from prosecution on the bases of avoiding political distraction that they caused and used their very hands to invite willfully. This attitude is quite contrary to Kant's moral thought as already highlighted.

On this score, the constitution is unexpectedly used to condone corruption or shield misdemeanor of those who became distracted not by avalanche of criminal proceeding as generally being claimed but by

their own inordinate desire, the moment they conspired to steal from our common patrimony or do other harm to common good of the state. Our take is that if the executive, be it president or governor or whatever, wants no indictment, or criminal proceedings instituted against it, the political office holder must then strive to refrain from such things that may compromise the law and abuse her office. If this is not done, then punishment has lost its deterrent function, and failed in protecting people's rights.

For while immunity clause remains hostage by this criminal intent, billions of dollars of the nation's resources is being stolen daily with some portion reserved in anticipation to be used to combat a potential battle for impeachment or a possible criminal lawsuit following an arrest after the pendency of office, if this is ever possible (Jeje, 2017). In other words, the money stolen is used to wade-off arrest from anti-graft agencies, obstruct justice at the court, and frustrate any impeachment move on the floors of the National and State Legislative Assemblies.

Therefore, if we say that an erring executive cannot be punished for his crimes, or removed from office except by impeachment process, or be challenged with criminal proceedings except until after the pendency of office (Jeje, 2017), are we not inadvertently supporting a system whereby the immunity clause creates incentives not to avoid misconduct and leaves the nation without sufficient protection against the killing and stealing dispositions of those enemies of state? A criminal President or Governor is of course an enemy of state. The implication of this is quite threatening. The fact that allegations of corrupt enrichment can only be made, but cannot be investigated and proved against incumbent executive political office-holders, nor be called to account for their actions and inactions while in office, nor be made to resign on proof of gross misconduct, simply puts such individuals "above the law".

When punishment is put at a latter day and there is no immediate punishment at the point of abusing an office, this, in effect, encourages the recruit of more criminals with the intention to go into government to steal and use part of the same money to hedge themselves against impeachment or against any law suit. Today actually, the privilege of immunity has become so abused in Nigeria (for instance) that the practice of overlooking the evils of a government executive has almost become something traditional. This in part, explains, according to Jeje, the reason many cases of high profile individuals were not prosecuted, and others that were prosecuted were not successfully effected, talk more of being properly convicted beyond a slap-on-the-wrist conviction (Jeje, 2007). Of what value is the rule of law then? One finds out that in many African countries, like Nigeria, the idea of rule of law in effect exists only in theory but not in practice.

As often happens in our elections, this emerging pattern is the same as when politicians without conscience, rig an election to steal people's mandate which comfortably puts them to sit in government houses and allow their opponents in the rigged election to fight from outside by going to court, while they use state machinery and the money stolen from the state to fight back.

In addition to the above issues bedeviling its application, technically by law, the provision of immunity clauses within the constitution also fundamentally poses some limitation that biases against the “rule of law”, and under which every citizen of a country, no matter how highly placed is subject to the authority of the same law. Literally, the immunity clause says that those within its protection are above the law at that point in time, and this is a contradiction to the principles of the rule of law which claims superiority of the law over every member of the citizens at all points in time insofar as one is a citizen or guidable by laws of the nation.

If immunity clause, because of political expediency is accepted into the constitution to check frivolous law suits that may impair government functions and cause unnecessary political distractions (Jeje, 2017), then by the same token, the clause should be reviewed to take care of the loopholes and check the new wave of criminal activities perpetrated by government officials. To forestall abuse, such immunity from arrest, immunity from prosecution or immunity from imprisonment should be reviewed. The clause should not be made to protect fraud, corruption, embezzlement, and vindictive tendencies in government. Since graft in whatever forms wrought the same effect as overthrowing the sovereign, then, any incumbent executive found polluting the 'excellency' with our common patrimony should be immediately arrested, tried and charged with treasonable felony against the state.

The immunity clause though supported by Hobbesian writings on the absolutism of the sovereign is not in consonance with Kantian philosophy. For although Hobbes offered some mild pragmatic grounds for preferring monarchy to other forms of government (Malcolm, 1957), his main concern was to argue that effective government (whatever its form) must have absolute authority. Its powers must neither be divided nor limited nor checked. For Hobbes, to impose limitation on the authority of the government is to invite irresolvable disputes over whether it has overstepped those limits (Warrender, 1957, p.100). To refer an authority to a further authority would be just to relocate the seat of absolute sovereignty, a position entirely consistent with Hobbes' insistence on absolutism. It follows then that, in Hobbesian view, to avoid the horrible prospect of governmental collapse and return to the state of nature, people should treat their sovereign as having absolute authority.

This sort of reasoning, however, has no merits in contemporary political society as Africa. The fact of rule of law, and of Kant's moral philosophy are evidence that Hobbesian civil society is not far removed

from the state of nature he seeks to avoid. For Immanuel Kant, an act or a law cannot be right if it cannot be universalized in any given situation. No political official would reasonably will it to become a law the fact that whoever is in office should be self-interested, an embezzler, a killer, a thief, a supper-human, and at the same time give no answers for these.

No wonder speaking on the subject of social contract in his *Republic*, Plato made it clear that what men would most want is to be able to commit injustices against others without fear of reprisal, and what they most want to avoid is being treated unjustly by others without being able to do injustice in return (Plato, 1955). But this life which characterized the state of nature would lead to an agreement to establish a civil society where justice would prevail. How can it be reconciled that in contemporary Africa, this same life in Plato's state of nature obtains in our civil society with respect to government officials?

If, as we have so far established, punishment is justified as it helps to deter criminals, prevent crimes, and ensure a better society, then refusal to apply punishment to government officials who arbitrarily overlook the laws of the land in the name of immunity is not only unjust but a disservice to these criminals and the country at large.

This conclusion is also in line with Beccaria's conception of social welfare which is unique in its emphasis on equality. As Harcourt points out, Beccaria's philosophy was very much a rejection and reaction against the privileges of the aristocracy and notions of natural hierarchy. He says that a major theme running through Beccaria is that the nobility, the rich, and the powerful should be subject to the same form of punishment and should not be able to buy their way out of justice (Harcourt, 2013, p.9). The resulting conception of utility thus focuses on the goal of maximizing equally the happiness of each individual. At the same time, Beccaria observes that punishment must

be related to the harm associated with the criminal offense. He thus insists on prompt and immediate punishment of crimes.

Punishment should be close in time to the criminal action to maximize its deterrence value. Beccaria defends his view about the temporal proximity of punishment by appealing to the associative theory of understanding in which our notions of causes and the subsequently perceived effects are a product of our perceived emotions that from our observations of a cause and effect occurring in close correspondence. Thus, by avoiding punishments that are remote in time from the criminal action, we are able to strengthen the association between the criminal behavior and the resulting punishment which, in turn, discourages the criminal activity.

For Beccaria, when a punishment quickly follows a crime, then the two ideas of 'crime' and 'punishment' will be more closely associated in a person's mind. Also, the link between a crime and a punishment is stronger if the punishment somehow related to the crime. This should be a lesson to Nigeria and other African judicial systems. There is need for prompt treatment of a case brought to the court rather than the culture of postponement of hearing by which our contemporary courts are well known. This will in turn enable the offender to serve her punishments with propinquity to the crime she committed. In this way, punishment will be able to serve its rightful purpose.

Conclusion

In the foregoing, this research has carefully examined the justification of punishment in the light of Kant with a view to ascertaining implications of his thought on the increasing quest for socio-political justice in Africa. The research acknowledged the impacts of Kant in moral and political thought and the current wave of change that is blowing around the world. With the aid of communication

technologies like internet, the increasing reality of poverty and hunger due to joblessness and poor education, the phenomenon of crime is rapidly rising to its apex, especially in developing countries of Africa. The overemphasis on material gains have compounded and increased criminal tendencies in Africa. Punishment is therefore required to check misconduct and to improve the wellbeing of the society as such.

We attempt to take features of utilitarianism and retributivism (Kant) and combine them in a manner that retains the strength of both while overcoming their weaknesses. This is because the idea that punishment should promote good consequences, such as the reduction of crime, surely seems attractive; however, the idea that it would be justified to punish an innocent in any circumstance where such punishment would be likely to promote the greatest happiness surely seems wrong. Likewise, the idea that justice and the desert of the offender should play a central role in a justification of punishment is attractive, while being committed to punishing an offender even when nobody's welfare would be promoted as a result seems to be problematic.

It is our view that punishment may take the form of the offender righting the wrong or making restitution to the victim. The point is that crimes harm people and relationships. Justice requires that harm be repaired as much as possible. This research invites a reconsideration of the immunity clause, as presently enshrined in different African societies with its attendant problem of deferring punishment of an offender to an arbitrary future day rather than immediate punishment at the point of abusing an office. This is because the original purpose which the clause is meant to serve has been adulterated and largely turned into an engine of fraud. The need for review of such constitutions has become eminent, because as it were, the constitution is unexpectedly used to condone corruption or shield misdemeanor of those in certain government positions.

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6

Environmental Justice and the Quest for Equitable Resource Control and Political Restructuring in Nigeria: The Ogoni-Niger Delta Experience

Deezia, Burabari Sunday

Introduction

Nigeria is made up of independent ethnic groups, kingdoms and empires lumped together into a nation state via the 1914 Fredrick Lugard Amalgamation (Deezia, 2018:167), without giving them the opportunity to know themselves, and build a consensus for the union. Thus, the gap between the North and South; minority and majority Chauvinism, and the truth claims between Muslims and Christians in Nigeria. Consequently, the relations and political behaviour of the people are characterized by mutual suspicion, subterranean struggle for domination and invidious hatred since they are strange bed-fellows.

The discovery of oil in the 1950s in Nigeria contributed immensely to the widening gap between the South and the North. The Ogoni-Niger Delta region of Nigeria is sitting on a treasure trove of oil and natural gas. However, oil exploration and exploitation from the region have gone on with little or no considerations, consent or approval of the people credited with the natural ownership of the land, owing to the obnoxious land use Decree of 1977 which ceded all lands to the government (Kii, 2017:10). By this singular act, land which for ages had been accepted by all nations as valid inheritance of the people, is here in Nigeria, made an inheritance of the federal government, in

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flagrant negation of natural law. For the same reason, all resources extracted from the same land and accruing economic earnings are solely and wholly made a federal government inheritance, which in turn decides on ways and means of appropriating such funds to various parts and components of the federation.

For over four decades, the Ogoni-Niger Delta region, where the oil is drilled has remained the metaphor of ecological and socio-political and economic injustice. The people are so poor that there is nothing show for the wealth of the region as it suffers a deficit of infrastructure in all ramifications. Oil exploration has turned the Ogoni into a wasteland: lands, streams, and creeks are totally and continually polluted; the atmosphere has been vapours, methane carbon monoxide, carbon dioxide and soot emitted by gas which has been flared twenty-four hours a day for over thirty-three years in very close proximity to human habitation. Acide rain, oil spillages and blow-outs have devastated Ogoni territory.

Ken Saro-Wiwa saw the need for the Ogoni-Niger Delta to have much more control over their environment and resources, he took the campaign to the international community. However, the state responded with terrors killing and maiming defenseless Ogoni-Niger Delta people and burning down their homes. In the event, leader of the movement for the survival of Ogoni people (MOSOP) including the write and environmentalist ken Saro-Wiwa were murdered. This therefore raise the following posers; is oil a blessing or a curse? Does the killing of the Ogoni Nine (including Ken-Saro-Wiwa) stop the agitation for environmental justice and resource control? Why has there been no meaningful development in the Ogoni-Niger Delta region at least to compensate for the ecological and main time devastation of the region due to oil exploitation? How long shall, the Ogoni-Delta people continue to line in deplorable conditions even

when complains are made? The reality of the movement is that of a Nigeria caught up in its own monster. Hence, the essence of this paper as it explores the reasons behind the continuous agitation in the Ogoni Niger Delta, the role Ken Saro-Wiwa's philosophy in solving the Nigeria's dilemma, using the historic philosophical method.

Theoretical Framework

The politics of revenue allocation from the nation's common-wealth constitute a major threat to Nigeria's federal structure. This study therefore adopts John Rawls theory of justice and fairness, John Rawls's, *A Theory of Justice* (1971) is often described as one of the most influential political philosophical works on justice during the 20th century. The epistemological foundation of Rawls theory of justice could be traced to the socio-political philosophy of “social contract” which dominates the works of authorities like Thomas Hobbes, John Locke, and Rousseau etc. The major conceptual perspective of Rawls is that the principles of justice which is to be the foundation of society on the result of an agreement in what he calls “the original position” or a social contract theory (Kanu, 2015:80), he maintained that the original position is “the appropriate initial status quo which ensures that the fundamental agreements reached in it are fair”. This manifest the legacy “justice as fairness” (Rawls, 1974:47).

This theory holds that justice is fairness which has to do with right dealings among people who are co-operating with or competing against one another and distribution of social primary goods (Rawls. 1971:50), that justice should seek first to provide adequate principles to ensure that all people are treated equally with the realization that respect for human beings, for human life and dignity are non-negotiable points of justice, and that the basic requirements of all people are provided. In his philosophical analysis of the concept of

justice from “original position” that is the Hobbesian state of nature and the “veil of ignorance”, Rawls develops two principles of justice;

1. Each person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all.
2. Social and economic inequalities are to satisfy two conditions; first they are to be attached to offices and positions open to all under conditions of fair equality of opportunity, and second they are to be to the greatest benefit to the least advantaged member of society (Rawls, 2001:43).

Rawls' concept of justice depicts two fundamental principles: the principle of equal liberty, and the principle of equal opportunity. The principle of equal liberty upholds the basic right of individuals in the nation state. For Rawls the liberty of the individuals as assigned by nature must not be hampered, restricted nor destroyed by the nation. He further stresses to ensure the preservation of equal liberty and opportunity of citizens. Citizens must be given equal economic and political opportunities and level playing ground for participation.

Apparently as democratic principles are portrayed theoretically, it is believed that democratic practice is the best chance of establishing humanity's a vowed harmonious society and guaranteed between nations. But the contrary is the case in Nigeria in spite of the advantage of quota system as enshrined in the acclaimed constitution.

Conceptualizing Environment, Justice, and Resource Control

The word environment emanates from the French word “Environ” which denotes circle, surrounding or circle around. Human surrounding includes biotic factors like human beings, plants, animals, microbes, etc, and abiotic factors such as light, air, water, soil etc. In

other words, considering the etymology of the term, two important things are involved, namely: the circumstances and the conditions that surround an organism or group of it; secondly, there are the social and cultural conditions that affect an individual or community. Environment is therefore the surrounding of an organism in the place where it lives or exists. (Gbenda, 2010:15). It is the complex set of physical, geographic, biological, social, cultural and political conditions that surround an individual or organism and that ultimately determine its form and the nature of its survival.

Justice is giving to another what is due, either strictly or proportionately. Justice is a universal concern, and it is loyalty in one's debts to others (Stravinskis, 1994:10). Justice is correlated and dependent on other virtues for its meaningful actualization. In other words, justice is the "sovereign virtue (Aristotle, 1976:173) and the major purpose of the state. It is treating equals equally in proportion to their relevance and differences. It is the strong and firm will to give to each his due (Aquinas 1979:129).

Environmental justice is therefore the fair treatment and meaningful involvement of all people regardless of race, colour, national origin, or income with respect, to the development, implementation, and enforcement of environmental laws, regulations, and policies (Bullard, 2005:3). Bullard added that fair treatment means that no group of people, including racial, ethnic, or socio-economic groups, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, State, local, and tribal programs and policies. This implies that all human beings are entitled to equal protection, and equal enforcement of their environmental land use ... Energy, laws, and regulations (Bullard, 2005:3).

In other words, environmental justice is about social transformation directed towards meeting basic human needs and enhancing the quality of life-economic quality, health care, housing, human rights, environmental protection and democracy (MacDonald, 2002:23). From his analysis of various definitions and conception of environmental justice David Schlosberg identified four basic themes in the environmental justice, discourse, this include the equitable distribution of environmental risk and benefits; fair and meaningful participation in environmental decision-making, recognition of community ways of life, local knowledge, and cultural differences; and the capability of communities and individuals to function and flourish in society (Schlosberg, 2007:23).

Resource Control

Resource control denotes the wish, desire, effort and agitation for total control or absolute anatomy over the natural endowments within their territories. It is the demand for power and authority to order, direct and retain the exploration, allocation and distribution of these resources (Egbe and Ihejiamaizu, 1999:23). It also denotes a compelling determination by communities and people whose resources have been taken away to regain ownership, control, use and management of resources for the primary, benefit of the Ogoni-Niger Delta on whose land the resources originate. In other words, resource control is the practice of true federation and natural law in which the federating units' express primary control over the natural resources within their borders or land marks and made agreed contribution towards the maintenance of common services of the government at the centre.

The Ogoni as a people: Towards, the Birth of a Protest Movement

In about 1245, the Ogoni originally known as the Khana people settled on the West African coast of Atlantic Ocean (Yira Kina, 2010:1). The Ogoni established themselves as a distinct ethnic group within the

Federal Republic of Nigeria. Their territory forms the eastern Niger Delta, lying in an area between approximately latitude $4^{\circ}05''$ and $4^{\circ}20''$ north and longitudes $7^{\circ}15''$ and $7^{\circ}30''$ east. Covering a total of approximately 405 square miles, it forms part of the coastal plains terrace, with here appears as gently sloping plateau. The central part of this plateau is about 100 feet above sea level. The Ogoni comprised Babbe, Eleme, Gokana, Ken-Khana, NyorKhana, Tai, Oyigbo and Ban-goi (special unit).

The advent of British colonialism was to shatter Ogoni society and inflict on them a backwardness from which they are still struggling to escape. It was British colonialism which forced alien administrative structures on the Ogoni and handed them into the domestic colonialism of Nigeria. Right from 1908 when Ogoni was administered as a part of Opobo Division, through the creation of Rivers province in 1947, Eastern Region in 1951 and Rivers State in 1967, the Ogoni people have struggled to resist colonialism and return to their much-cherished autonomy and self-determination.

Prior to oil exploration in 1998 in the Ogoni-Niger Delta region, agriculture was the mainstay of the economy in Nigeria, with agricultural produce exported to the more industrialized regions of the world. By 1971, there has been a slight shift from agriculture to petroleum production, such that agricultural exports fell from more than USD 1.5 billion to about USD 0.3 billion (UNEP, 2011:20). Currently, oil provides 80 percent of the foreign exchange earnings. In other words, oil from the Ogoni-Niger Delta region in Nigeria has over the years sustained the country's revenue earnings, bringing in billions of petrodollars that has helped to transform other areas notably in the North and Western part of the country. The Ogoni-Niger Delta area that produce the oil have suffered many years of neglect, economic exploitation, impoverishment, ecological degradation and under-development.

Trapped between a military regime which appropriated the bulk of the revenue and a cynical and complicit Shell, Ogoni community leaders established the Movement for the Survival of Ogoni People (MOSOP), a mass-based social organization, in 1990 and took to the path of peaceful protest. The demands of these movement became codified for the first time, as Bills of Right Charters, Resolutions or Declarations directed at the Federal Government and the oil multinationals.

The Ogoni adopted an alternative weapon of peaceful mass protest and enlightened propaganda. The Ogoni Bill of Rights issued in 1990 sought pacific means to resolve the conflict of poverty in the midst of oil wealth (Dara, 2005:27). The Ogoni demanded equity in resource distribution. They asked for adequate representation in federal establishments. They demanded an end to the rapacious exploitation of oil and gas in their lands. More significantly, the Ogoni presented a case of reparation for the restoration of damage ecosystems. Rather than use arms, the Ogoni armed themselves with the righteousness of their case. To propagate their plight and demands, they employed the media of mass rallies and folk festivals. The Ogoni Day of January 4th was the superstructure of this cultural mobilization.

For years, Ken Saro-Wiwa led the campaign against the ruthless exploitation and pollution of the Ogoni-Niger Delta environment. He effectively presented the Ogoni case to internal human rights groups. It received sympathetic hearing and interest from the Holland-based Unrepresented Nations of people organizations (UNPO), the British Parliamentary Human Rights Groups (BHRG), the international federation of the rights of ethnic linguistic, Religious and other minorities based in New York. In the summer of 1993, MOSOP members attended the Vienna world conference on Human Rights and Geneva meetings of the committee on Racial Discrimination (CERD), Amnesty International (News Watch, January 25, 1993), and the Green

Peace Organization (GPO), and the London Rain-forest Action Group (LARG), etc.

During one of the world cup soccer in the United State in 1994, the Ogoni issue was again brought to the forefront. There was a match between Nigeria and Italy on July 5, 1994 at Massachusetie was going on, a small plane flew over the stadium with a banner carrying inscription: RED CARD, SHELL OIL, STOP Ogoni SUDDEN DEATH. This made Ken Saro-Wiwa the Worst enemy of the federation and state securities that he was secreting by printing of the Ogoni flag and Anthem. Ken Saro-Wiwa speech and campaign brought down international observers that witnessed a mass rally organized by MOSOP at Bori, the traditional headquarters of Ogoni land during January 4, 1993 as their declaration day in Nigeria, which is also acknowledge by the world, it was on this day that Shells presence in Ogoni land was declared personal non-granta.

Ken writes;

I submit that we have every reason to be emotional in our struggle for the sanctity of our environment. The environment is man's first right. Without a safe environment men cannot exist to claim other rights, be they political social or economic (Saro-Wiwa, 1994:10).

In May 1994, Saro-Wowa was arrested by the government on trump up charges of murder. Several other MOSOP members were detained along with him from prison. In his testimonial, and foresight Ken Saro Wiwa writes;

My lord, we all stand before history. I am a man of peace, of ideas. Appalled by the denigrating poverty of my people who live on a richly-endowed land, distressed by their political marginalization and economic strangulation, angered by the devastation of their land, their ultimate heritage, anxious to preserve their right to life and to a decent living, and determined to usher to this country as a whole a fair and just democratic system which protects everyone and every ethnic group and gives us all a valid claim to human

civilization, I have devoted all my intellectual and material resources, my very life, to a cause in which I have total belief and from which I cannot be blackmailed or intimidated. I have no doubt at all about the ultimate success of my cause, no matter the trials and tribulations which I and those who believe with me may encounter on our journey. Neither imprisonment nor death can stop our ultimate victory. I repeat that we all stand before history. I and my colleagues are not the only ones on trial. Shell is here on trial and it is as well that it is represented by counsel said to be holding a watching brief... In my innocence of the false charges I face here, in my utter conviction, I call upon the Ogoni people, the peoples of the Niger Delta, and the oppressed ethnic minorities of Nigeria to stand up now and fight fearlessly and peacefully for their rights. History is on their side, God is on their side. For the Holy Quran says in Sura 42, verse 41: "All those who fight when oppressed incur no guilt, but Allah shall punish the oppressor". (Saro-Wiwa, 1995:45).

After a judicial flawed trial that was widely condemned by human rights groups and opinion leaders, Ken Saro-Wiwa and eight other MOSOP leaders were hanged in a Nigerian prison in the morning of November 10th, 1995. By the way of philosophical reflection, Ken Saro-Wiwa's crusade was not a matter of mere emotional political outburst attracting a motley crowd of desperate tries men out for revenge and destruction (Okara, 2005:20). It was forged from a robust intelligence which provided solid theosophical bases for his agitations. His appeal was to both the national and international audience and conscience. His conduct and leadership were sophisticated, honesty, sincere and imassoilatble (Okarra, 2005:20). Only the power of his intellect as shown in his writings, his conviction and force of character could transform what some have regarded as a "sub-national" crusade into what has today provided the basic argument in the political economy of Nigeria and the question of the reality of the Nigeria nation. In a poem dedicated to the memory of a human/environmental rights activist, a business man and politician a social crusader Ken Saro-Wiwa, who died as ransom for the world minority, Deezia compare the attributes of Ken to that of Christ, in a poem he entitled *like*

Ken, like Christ;

Tree of beauty, tree of light,
Tree of royal purple delight,
Like Ken like Christ
One who's dear arms so widely flung
The price of human kind to pay
And spoil the spoiler of his prey

A grief without a pang, void, dark and dread,
A stifled, drowsy unimpassioned grief
In word, or sigh or tear

In angry scheming, restlessness day and night,
They bent on ranging and prowling in our plight,
With weapons burne of monster serpent sharp with flung
unsparing dent.

I stand to defend my patrimony
To transform the jingling discord into beautiful
symphony
Guns of the world, the casuistry of weapons
Casually threat my visions
But upon the Ogoni indigenous flag
I pledge my tag (Deezia, 2015:18-20).

Ken Saro Wiwa therefore occupied a special place to African political historiography today, precisely because he dared to break the deadly trap. He bravely sketched out the contours of Africa's political future; the future the continent must embrace or face extinction (Okonta, 2005:31). In other words, Saro-Wiwa not only dreamed the African revolution. He inhabited it and gave it shape and texture.

What we fail to learn from History: The Ogoni Cleanup and Shell Re-entry into Ogoni

Concerns for petroleum-related contamination have been at the heart of social unrest in Ogoni land. Although, oil industry operations were

suspended in Ogoni land in 1993, widespread environmental contamination remains. In July 2006, the United Nations Environmental Programme (UNEP) received an official request from the Federal Government of Nigeria to conduct a comprehensive assessment of oil environmental and public health impacts of oil contamination in Ogoni-land, together with options for remediation.

In 2011, the UNEP published a ground-breaking scientific study on the impacts of oil pollution in the Ogoni region of Niger Delta. This reports sets out the background and context to the present day conditions in Ogoni land, provides a synthesis of UNEP's finding and gives a set of overarching recommendations to deal with the multi-facet environmental challenges currently facing the Ogoni people.

The report stated that a vast area of Ogoni land are unsafe for human habitation due to oil pollution. The report found that, in over 40 locations tested, the soil is polluted to a depth of 5 meters. Ogoni land's water bodies are all polluted. The level of benzene is approximately 901 of the location is more than 900 times above accepted world health organization standards (Ojo, 2015:6). This dangerous contaminated water is the source of drinking water for the local community. The UNEP recommended that US \$1 billion should be allocated fund to begin the clean-up. Some of the recommendations include the following;

- Provision of water in Ogoni land
- A focused medical study should be initiated to track the health of the Ogoni community over their lifetime to ensure any possible health impacts are identified early enough and acted upon.
- A public health registry should be established for the entire Ogoni land in order to determines health trends and take proactive actions individually or collectively where impacts

related to long-term exposure to hydrocarbon pollution are evident.

- A centre of excellence for environmental restoration should be established in Ogoni land
- A proposed integrated contaminated soil management centre will be a modern industrial enterprise in Ogoni land employing hundreds of people.

However, effort to clean up Ogoni by Shell and the Federal Government has been slow. Since UNEP report was release. The Ogoni have witness an unholy alliance of the Nigerian government and Shell which manifested in half-steps, deliberate attempts to muddle the issues and the setting up of a Hydrocarbon Pollution Restoration Project (HYPREP) that has been use to decline and muzzle the Ogoni people (Ojo, 2016:131). Shell through the federal ministry of petroleum rather than the federal ministry of environment took the lead in selecting stakeholders and extended invitations to meeting other civil societies groups critical to Shell. Currently, HYPREP claimed to have started the actual cleanup process in Ogoni without the provision of any of the emergency measures recommended in the UNEP report. This justifies the claim that Ogoni cleanup is a scam, a mere smokescreens of deception. HYPREP came with a hidden agenda to prepare the ground for Shell reentry into Ogoni. Amidst resistance, and campaign for environmental justice, the Muhamadu Buhari led federal government directed the Nigerian National Petroleum corporation/Nigerian Petroleum Development Company (NPDC) to take over operation from Shell in the Ogoni area of OML II. An NPDC Ogoni re-entry execution plan and first cost summary obtained by the Guardian revealed that the federal government and its joint ventures (NNPC, Shell, AGIP and TOTAL) partners intend to commence crude oil and gas production in Bomu (52 Oil Wells), Ebubu (17 Wells), Tai

(13 Wells), Yorla (14 Wells) and Bodo West (12 Wells) as major fields of interest (Guardian, 2019).

While MOSOP under the leadership of Legborsi Pyagbara, KAGOTE under the leadership of Dr. Peters Medee and the Supreme Council of Ogoni Traditional Rulers under the leadership of HRM. King G.N.K Giniwa seems to be accommodation seeking and weak to resist this rising smoke, nor present a holistic template for oil resumption in Ogoni some Ogoni elders, under the ages of the Gbo Kabaari Ogoni, had petition president Muhammadu Buhari to halt planned resumption of crude oil and gas production in Ogoni without due consultation in order to avert blood bath in the area, as they have started burning houses in the area again, based on the information or misinformation that some Ogoni leaders have taken bribe to clear road for Shell re-entry into Ogoni.

Gbo Kabaari Ogoni Chairman and secretary Senator Benneth Birabii and Dr. Desmond Nbeta said government must bear in mind that oil activities in Ogoni and OML II have a unique history that cannot be wished away by an executive flint for a restart of oil production, without duly engaging the people in a proper and painstakingly conservation. They said “production activities in OML II stopped about 29 years ago, and in line with industries practices, such fields like OML II ought to be treated, as green fields and not brown fields”, (Guardian, 2019). At this point, the question that comes to mind is, if Shell and the Nigerian government have address all the issues raised in the Ogoni Bill of Right, that made the Ogoni Declare Shell personal non granter 29 years ago?

The author of this paper lamented that the Ogoni Bill of Right (OBR) is yet to be address, and some people have started flying to Abuja and foreign countries to discuss with Shell in regards to the moves by Shell

to return to Ogoni whereas the smoke of genocide has not been snuffed out and open wounds are yet to be healed. The paper reminded the Ogoni people that reconciliation cannot be built on hypocrisy, deceit, or oppression. The demands of the Ogoni before Shell was declared person non granta remain unattended to, (Bassey, 2005:22). The Ogoni environment remains one laboratory or museum of degradation. While the people agree that the absence of Shell has given the land the space of time in which to recover somewhat, it has been the case that everyone can see that polluting acts of oil Corporations are left unattended to the passage of years do not mean their disappearance of self-remediation.

One Nigeria Relationship Syndrome and Socio-Economic Injustice

Nigeria is a country of loosed union of various ethnic groups with diverse and evidently irreconcilable and mutually antagonistic cultures and religions. The Nigerian contraption was put together by the foreign power (The Great Britain during the colonial days) without any reference to the opinions of and due consultation with the indigenous ethnic peoples as to whether they would like to associate with one another as citizens of the same country. By this action independence and sovereignty of the various ethnic people were forcefully taken away from them. Therefore, the Nigerian state or country is not a union of voluntarily consenting partners as is supposed to be the case in all modern definition of the state as of contractual agreement where willing adults enter into agreements with specific conditions on which to relate with one another, execute projects and resolve resulting disputes. Nigeria is an entity where most of the members do not even know why they there in the first place (Osita, 2014:10). Hence, Nigeria was conceived in greed, born in deceit and nurtured in falsehood and violence. Alhaji Sir Ahmadu Pellow writes;

The New nation called Nigeria should be an estate of our grandfather Uthman Dan Fodio. We must ruthlessly prevent a change of power, we use the minorities sin the North... and never allow them have control over their future (Parrot Newspaper, November 13, 2002).

Obafemi Awolowo in his *Part to Nigerian Freedom* (1947:10) asserts that “Nigeria is not a nation. It is a mere geographical expression. He further describes the amalgamation of 1914 as “the mistake of 1914”. Abubakar Tafawa Belewa writes;

Since 1914 the British Government has been trying to make Nigeria into one country, but the Nigerian people themselves are historically different in their backgrounds, in their religious beliefs and customs and so not show themselves any sign of willingness unite... Nigerian unity is only a British intention for the country (Belewa 1948:55).

The amalgamation of the southern and Northern protectorates therefore complicated the Nigerian destiny. The Noble Laureate, Wole Soyinka has lent his voice to the growing call for the restructuring of the Nigeria's federation, saying the sovereignty of the country is negotiable;

The sovereignty of Nigeria is bloody well negotiable... and we better negotiate it, not even at meeting, not at conferences, but every day I our conduct towards one another... we cannot continue to allow a centralization policy which makes the constituent units of this nation resentful; they say monkey day work bamboo day chop. And the idea of centralizing revenue allocation system, whereby you dole out... I call it anti-healthy rivalry (Wole-Soyinka Punch, June 29, 2016).

What we are saying in effect is that, Nigeria was put together by force and violence. Now each group should be free to choose what it wants to do for itself. Hence, one must not think that there is this thing called Nigeria and its untouchable.

In June 2017, Femi Fani-Kayode wrote a piece which he called *The Seven-fold yoke and the cabal that own Nigeria*. The piece which first appeared in freedom journal vol 2. No 4, 2017 edition, is a shocking revelation of how the Hausa-Fulani ethnic group has been holding the

rest of Nigerians in bondage. He enumerated the seven yokes as follows: (1) The political yoke; (2) The economic yoke; (3) the religious yoke; (4) the cultural yoke; (5) the administrative yoke; (6) the diplomatic yoke; (7) the military/security yoke. He went on to substantiate his claim as follows;

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7**Globalization of the World's Economy: Implication for Africa's Economic Development**

Egbule, Philip Onyekachukwu

Introduction

It is an indisputable truism that no country in the contemporary world can really be an island unto itself, either due to her vibrant economic strength or political stability, not even the United States of America. The critical message of globalization in this context is that in this moment of integration of global markets, Africa and other developing regions have little choice but to try and join the globalization train despite their disadvantaged position in the process (Kabir, 2012). Globalization has become a major topic of discussion and concern in economic circles. It is clear that the trend toward more integrated world markets has opened a wide potential for greater growth, and presents an unparalleled opportunity for developing countries to raise their living standards (Alassane, 1997).

Globalization finds expression in the process whereby the transmission of knowledge, skills, attitudes, abilities and behaviour cease to be geographically fixed, partly as a result of technology, also through international media. Globalization is a process driven by trade liberalization, modern technology and democratic government and aided by global organizations. Globalization has also been described as

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a multi-dimensional process of unprecedented rapid and revolutionary growth in the extensiveness and intensity of global interconnections, encompassing globalization of democracy, global technology, revolution in information and communication technology and increasing globalization of culture, but more importantly, globalization of the economy (United Nations Development Programme, UNDP, 2001). The United Nations sees globalization as the reduction and/or removal of barriers between national borders in order to facilitate the flow of labour, capital, goods and services.

The researcher uses historical research and content analysis techniques in achieving its aim, because of the nature of the study. The paper addressed the following questions: What is globalization? What is economic globalization? What are its implications for economic development, particularly in Africa? What are its potential benefits? What will developing countries have to do to benefit from it and avoid its downside risks?

Conceptual Underpinning

In this section, attempt was made to explain the major concept in this study. These are: globalization, economic globalization and world's economy.

What is Globalization?

Globalization means different things to different people. However, simply put, globalization is the movement of people, language, capital, goods, services, ideas etc around the world. Globalization is the process of international integration that is possible and achievable due to the increasing connectivity especially through modern technology, telecommunication and interdependence of the world's markets and businesses. In addition, globalization is said to be a process (or set of

processes) that embodies a transformation in the spatial organization of social relations and transactions, generating transcontinental or interregional flow and networks of activity, interaction, and power (Heild, et al., 2001) cited in (Egbule, 2017). Globalization is the process whereby capital market, tourism migration and technology linked the nations of the world together in political, economic, cultural and ecological reaction (Kabir, 2012). Ogakwu and Isife (2013) conceptualized globalization as the process of interaction and integration among the people, companies, and governments of different nations - a process driven by international trade and investment and aided by information technology.

Contributing, Shenkar and Luo (2004) cited in Olubukola (2012) defined globalization as the growing economic inter-dependencies of countries worldwide through the increasing volume and variety of cross-border transactions in goods and services and of international capital flows, as well as through the rapid and widespread diffusion of technology and communication. Ikem and Ebegha (2013) see globalization as the creation of a global economy in which the most remote and culturally distinct nations are joined together by a vast network of international trade. Ebaye (2006) cited in Oleforo (2013) sees globalization as the compression of the world and the intensification of consciousness of the world as a whole and has such products as the emergence of a global division of labour and a deregulated world economy. Waters cited in Oloya and Egbule (2016) defined globalization as a social process in which the constraints of geography or social and cultural management recede and in which people become increasingly aware that they are receding. This definition suggests that the world has become almost without borders (borderless). Simply put, globalization is the transformation of the world into a global village.

Economic Globalization

Economic globalization is the integration of national economies into international economy through trade, foreign direct investment (FDI), capital flow, migration etc. It also connotes the increasing economic interdependence of national economies across the world through a rapid increase in cross-border movement of goods, service, technology and capital. Whereas the globalization of business is centered on the diminution of international trade regulations as well as tariffs, taxes, and other impediments that suppress global trade, economic globalization is the process of increasing economic integration between countries, leading to the emergence of a global marketplace or a single world market. Depending on the paradigm, economic globalization can be viewed as either a positive or negative phenomenon. Economic globalization comprises the globalization of production, markets, competition, technology, corporations and industries. According to Joshi (2009), current globalization trends can be largely accounted for by developed economies integrating with less developed economies by means of foreign direct investment, the reduction of trade barriers as well as other economic reforms and, in many cases, immigration. In fact, no national economy really operates in isolation, which means national economies influence each other. In Unisom with the above statement, Ogunrinola and Osabuohien (2010) assert that economic globalization and its attendant global competitiveness are aimed at increasing the level of interconnectedness among countries for bringing about greater economic integration through trade and other exchanges. These are expected to create improved economic restructuring across the globe. In addition, economic globalization refers to “the intensification and stretching of economic interrelations across the globe” (Steger, 2003). According to Martin, Schumann and Camiller (1997), economic

globalization refers to the progressive “networking” of national market economies into a single, tightly interconnected global political economy whose accumulation and distribution of resources are increasingly governed by neoliberal principles-emphasizing the role the market while minimizing governmental involvement in economic matters”.

The Concept of World's Economy

Contemporary world's economy is a result of gradual emergence of international economic order, which started from economic conference held at the end of World War II in Bretton Woods, England. Major economic powers of global North reversed their interwar (1918-1939) policy of protectionism. America and England played leading role in the success of that conference (Steger, 2003). Other than reaching towards consensus on increasing international trade, these countries also agreed on establishing binding rules of international activities. Bretton Wood's conference laid foundation for the establishment of other important international organizations like IMF, World Bank and World Trade Organization (Steger, 2003). International Monetary Fund was established to handle international monetary systems. Similarly, World Bank was created to facilitate loan facility for the reconstruction of post-war Europe, its scope was expanded to provide loan for developing countries of the world.

In simple terms, world's economy refers to the economy of the world, comprising of different economies of individual countries, with each economy related with the other in one way or another. A key concept in the world economy is globalization, which is the process that leads to individual economies around the world being closely interwoven such that an event in one country is bound to affect the state of other world economies. The positive implication of world economy is that people

are now able to sell their commodity in any market across the world. Likewise, consumers also enjoy a much wider variety of goods and services since they can sample them from other places and not just their own countries alone. According to Alassane (1997), the globalization of the world economy is the integration of economies throughout the world through trade, financial flows, the exchange of technology and information, and the movement of people. The extent of the trend toward integration is clearly reflected in the rising importance of world trade and capital flows in the world economy.

Economic Globalization and its Impact on Africa's Economy

As a fundamental factor affecting humanity in this century, globalization has provided many opportunities. Although, the term globalization seems to be complicated especially in Africa, because of the argument that globalization is the third phase of colonization. Thus, Adesina (2012) cited in Mezieobi (2018) averred that "...some writers characterize globalization as the third phase of colonization, the second phase being neo-colonialism". Economically, according to Bhagwati (2004), many in developing countries see economic globalization as a positive force that lifts them out of poverty. It has many advantages. Some of them are considered, thus:

Since the emergence of globalization, world output has been on the increase. Either this is achievable because of the old David Ricardo (1817) theory of comparative advantage, exchange of goods (sometimes raw materials) and services, international or global institutions like the International Monetary Fund (IMF), World Trade Organization (WTO) and so on. Globalization has led to the production, distribution and consumption of goods and services at a global or international level. According to the former, Chief Economist for the South Asia Region at the World Bank, Mr. John Williamson,

globalization brings products that would otherwise be unavailable to the countries where the investment occurs, which presumably increases the quality, and therefore, the value of world output (Williamson, 1998). The benefits of these developments are easily recognizable--increasing trade has given consumers and producers a wider choice of low-cost goods, often incorporating more advanced technologies, and facilitated a more efficient use of global resources. Greater access to world markets has allowed countries to exploit their comparative advantages more intensively, while opening their economies to the benefits of increased international competition. The rapid increase in capital and private investment flows has raised the resources available to countries able to attract them, and accelerated the pace of their development beyond what they could otherwise have achieved (Alassane, 1997). Globalization certainly fosters an increase in the level of global output.

Foreigners make up between a fifth or a quarter of the professional workforce in countries like Australia, Canada and Switzerland (Lagarde, 2012). In his view, Lall (2004) stated that when a developing country opens its borders to foreign capital, Foreign Direct Investment (FDI), it would generate positive employment impacts both directly and indirectly through job creation within suppliers and retailers, and a tertiary employment effect through generating additional incomes and so increasing aggregate demand. In addition, the concentration of foreign companies (multi-national corporations like Agip, Mobile, Chevron, Total, etc.) in developing countries has generated, and is still generating employment opportunities for indigenes.

Moreover, greater openness and participation in competitive international trade have increased employment, primarily of skilled labor, in tradable goods sectors. With the expansion of these sectors, unskilled labor has found increased employment opportunities in the

non-tradable sectors, such as construction and transportation. The expansion of merchandise trade may also have lessened migratory pressures. On the other hand, the movement of labor across national boundaries has in many cases lessened production bottlenecks, raising the supply response of recipient economies, and increasing income in the supplying countries through worker remittances. Openness to foreign expertise and management techniques has also greatly improved production efficiency in many developing countries (Alassane, 1997).

Globalization presents many opportunities; educational opportunities inclusive. Education in a globalizing world has benefits that developing nations can and should take advantage of. It has become one phenomenon that described the current world in which we live. I express optimism that education is a stepping-stone to a better world. Through education, we pass on knowledge, learn from each other and better understand each other. It is a bridge between people and generations. Education is a passport to the new world – the globalizing world. In fact, the spread of western education is traced to globalization. Globalization has given rise to many educational opportunities, such as online distance learning; it has attracted foreign students, introduction of new programmes and competition in higher education. Scholarship schemes, online studies are all the benefits of globalization. The Global Distance Learning Network (GDLN) is one of such initiatives. Opportunities provided by the World Bank Development Research Group Conference for researchers to participate in conferences, is a very good example - this is quite commendable.

Economic integration and free trade conditions have produced an unstoppable movement towards economic globalization. Most economists applaud the trend, pointing to the modernization and

growing wealth that have resulted. The positive implication of world economy is that people are now able to sell their commodities in any market across the world. Likewise, consumers also enjoy a much wider variety of goods and services since they can sample them from other places and not just their own countries alone. In fact, an increasingly large share of world GDP is generated in activities linked directly or indirectly to international trade. And there has been a phenomenal growth in cross-border financial flows, particularly in the form of private equity and portfolio investment, compared with the past. In addition, the revolution in communication and transportation technology and the much improved availability of information have allowed individuals and firms to base their economic choices more on the quality of the economic environment in different countries. As a result, economic success in today's world is less a question of relative resource endowments or geographical location than it used to be in the past. Now, it is more a question of the market perception of the orientation and predictability of economic policy (Alassane, 1997).

Globalization fosters economic and human capital development in different countries through the exchange of ideas, goods and services by the globalizing countries. Exchange of ideas, knowledge and technical know-how have led to human capital development which increases efficiency and effectiveness, uniform standards, hence; leading to an increase in output. In fact, it makes possible not only the export and import goods, but it allows for outsourcing services and jobs. It has been seen that jobs in the information technology sector are especially outsourced. Many American companies set up branches in the Indian sub-continent because the labor is relatively cheaper there as compared to their country. This results in a direct increase in their net profits. In addition, as for India, they get a sudden burst of jobs that is helpful for their economy.

Globalization also facilitates development projects in third world countries. For example, the Millennium Development Goals (MDGs) is a project designed primarily to eradicate poverty and hunger, as well as to improve health care in third world countries. In fact, globalization promotes or helps to increase the standard of living of people in Third World countries. The material aids such as food, medicine, vaccines, educational aids, etc given to developing countries by the UNO through specialized agencies like the WHO, UNICEF, etc have helped to raise the standard of living in the developing nations.

Key Issues for Consideration

It is a common knowledge that Africa's development performance has been unimpressive. In fact, majority of African countries, have been adjudged failures in achieving past developmental goals (like MDGs). Some identified issues faced by African countries are weak political institutions, economic dependence, mono-resource reliance, poor infrastructure, weak health systems, capital flight, insecurity, high population growth rate, under-employment and slow technological development. Currently, Africa is the poorest continent on the planet, housing 28 of the world's poorest countries with majority lacking access to basic human needs (nutrition, clean water improved sanitation and shelter). However, rather than completely blaming the developed countries and globalization for their woes and avoidable underdeveloped state, developing countries should consider the following options as remedial strategies, in order to benefit maximally from the inevitable globalization process. While Africa is clearly on the right track, there is still some way to go. I see ten main areas where African countries need to achieve greater progress in order to speed up their participation in globalization:

Technological Development and Revolution

Science and technology are twin factors that tend to revolutionize the world today. A country has to be fully integrated into the world economy in order to harness the benefits of such integration. She has to first embark on serious technological revolution such that it will be able to play significant role in the globalization process. Any nation that is not making concerted efforts at technological revolution is doing so at its own peril. This understanding gave Usman (2000) cited in Ikem & Ebegha (2013) the impression that only the nations that embarked on technological revolution can effectively join the globalized world. Science and technology should be made the key to developing countries' developmental efforts and should be seen to be pursued with zeal and zest.

Partnership with Civil Society

African governments will need to actively encourage the participation of civil society in the debate on economic policy, and to seek the broad support of the population for the adjustment efforts. To this end, governments will need to pursue a more active information policy, explaining the objectives of policies and soliciting the input of those whom the policies are intended to benefit (Alassane, 1997).

Free Competitive Economy

African countries also have to adopt a free competitive economy. They have to transit from government regulated market to a free competitive economy; liberalizing its economy for foreign investors. Capitalist economy (competitiveness) is known all over the world as the economic policy that creates wealth and promotes real growth as production is geared towards profit making.

Reform of Domestic Finance

Developing countries should endeavour to reform their domestic financing to make it strong and capable of supporting their nation's economic growth. A strong financial base is necessary for industrial development. It also guarantees both short-term, medium-term and long-term investment. In Nigeria, for instance, the bank reforms, leading to mergers and acquisitions are geared towards this goal, as they will have the capacity to finance viable capital projects that will improve the national economy. Against this backdrop, the researcher recommends a restructuring the countries' economy in order to minimize the negative effects of globalization and harness its benefits.

Diversification of the Economy

For a very long time, Nigeria, for instance, has completely depended on revenue from crude oil (a one-time agrarian economy). There was a total neglect of other sectors of the economy. This has put serious strain on the revenue from crude oil. Diversification of national economy, therefore, is the only antidote to economic growth and development. The approach has been used by the Asian Tigers to achieve success, as they now emerged as the New Industrialized Countries of the world. Developing countries like Nigeria should divert their interest, especially to agricultural products such as cash crops and animal products, as well as solid mineral exploration. In fact, it can be unequivocally asserted that Africa's development impotence cannot be solely attributed to colonialism, neo-colonialism and imperialism as often perceptively advanced by scholars of radical persuasion; but also its weak domestic economic structure. There is therefore the necessity for African countries to diversify their economic base in order to confront the challenges of contemporary globalization process and remain relevant in the scheme of world events.

Foreign Investment

Developing countries have to attract foreign investments both wholly and in partnership with indigenous entrepreneurs in the areas of construction, power generation, oil refining, real estate development, telecommunications, and gas stations infrastructural provision. In concrete terms, foreign investment has been quite staggering. Globalization and indeed its neo-liberalists expansionism in the African space have opened up a wide economic movement and multi-national labour market orientations (Nwankwo & Ofozoba, 2016).

Improved Human Resources

The governments of the developing countries should develop their human resources to meet up with the knowledge requirements of the globalization process. Most developing countries, has a large chunk of human resources ready to be utilized by foreign firms. Their human resources should be properly developed so that they are able to contribute and participate in national and international economic activities. In the education sector, for instance, the governments of the developing countries should sponsor teachers to attend conferences and seminars both locally and internationally – this will help to update their knowledge on current global issues, especially the application of ICT in the teaching-learning process.

Efficient and Effective Economic Management

No country is poor as far as distribution of natural resources is concern. I believe the main challenge of developing countries is the mis-management available resources, both natural and human, as well as money politics. Hence, they should pursue efficient and effective economic management of their resources so as to raise the people's standard of living and overall economic development of the nations. The resources of the nations should not be wasted through high-level corruption, ethnic sentiment, self-centredness and embezzlement.

Regional Integration

Common regional objectives should be set in terms of international best practices. With closer economic integration, each country has an interest in ensuring that appropriate policies are followed in its partner countries. This could be achieved by coordination the relevant national policies within a regional context. Throughout the continent, African governments are coming together to coordinate components of their policies, and virtually all countries are now members of regional organizations. The regional organizations should seek to push through reforms in the areas of the legal and regulatory frameworks, financial sector restructuring, labor and investment code reform, and exchange and trade liberalization that seek to reach international standards as quickly as possible. The pace of progress should be what is feasible, not what is comfortable for the slowest member (Alassane, 1997).

Conclusion

We live in a world that is simultaneously shrinking and expanding, growing closer and farther apart such that national borders are increasingly irrelevant (Attah, 1991). Nevertheless, as I pointed out earlier, it is essential to achieve the right combination of policies. Evidences abound that this phenomenon has led to shift in patterns of production and other economic activities in different countries of the world.

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Business Education: A Recipe for Stemming the Tide of Human Trafficking and Organ Theft in the 21st Century

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Introduction

Right from the olden days, our forefathers faced certain societal issues and problems such as slave trade, wars, natural disasters and famine which posed serious challenges to their living condition but these problems were nothing compared to what the world is currently facing. In our contemporary time, the society is faced with enormous challenges such as climate change, terrorism, kidnapping, wars, natural disasters, armed robbery, man's inhumanity to man which include ritual killings, human trafficking, to mention but a few. In the context of this work, our focus will be on human trafficking and organ theft. Human trafficking has existed before the 60's and many human right activists, government agencies and non-governmental organizations including international bodies have worked tirelessly in various ways towards combating this menace. Human trafficking involves the act of recruiting, transporting, transferring, harbouring and receiving a person through the use of force, coercion or other means, for the purpose of

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exploiting them (United Nations, 2009). To the author, trafficking can include the selling of labourers, organs, infants and forcing people to work as beggars or prostitutes. The majority of women who are subjected to trafficking are being exploited in organized prostitution.

Sadly, the issue of human trafficking has not only increased recently but has metamorphosed into a deadlier stage – Organ theft (trading in human parts) and this has eaten deep into the heart of the society. *Organ Theft is an element of trafficking that involves the removal and sale of human body and its parts as well as organs and tissue from unwilling or unsuspecting individuals said to be kidnapped, murdered or otherwise coerced or deceived for the purpose of financial gain. The question now is, how can education in general and business education in particular serve as a recipe for stemming the tide of human trafficking and organ theft in our modern society?*

Business Education as a programme is expected to prepare many professionals, such as civil servants, accountants, administrators, marketers, executive secretaries and business educators. According to Ulinfun, (2005) the primary aim of business education is to equip individuals with skills which are required for use in business offices, clerical occupations and business policy analysis. It is also an educational process that prepares people for roles in enterprises; such roles could be as employee, entrepreneur/employer or simply as self-employed (Anao, 2006). It is also that aspect of the educational process involving in addition to general education, the study of technologies and related sciences and the acquisition of practical skills, attitudes, understanding and knowledge which most of the trafficked individuals are lacking. To this effect, researches have shown that many of these individuals who indulge in this heinous crime and also those who fall victims of it do not have a better skill, entrepreneurial orientation, business acumen and are not empowered financially to engage in

legitimate businesses that will help them make profit thereby improving their standard of living. This underlines the role of business education in stemming the tide of human trafficking in the 21st century Africa.

Human Trafficking

Trafficking refers to all acts involved in the recruitment, transportation within or across Nigerian borders, purchases, sale, transfer, receipt or harbouring of a person, involving the use of deception, coercion or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in forced or bonded labour or in slavery-like conditions (United Nations Office on Drugs and Crime, 2006). In other words, human trafficking was said to involve recruiting, transporting, transferring, harbouring or receiving a person through a use of force, coercion or other means, for the purpose of exploiting them' (UNODC 2009a). In agreement with UNODC (2006), Lie & Lund, (2008) opined that human trafficking is a form of slavery or bonded labour, involving abuse and deprivation of freedom. Human trafficking is a heinous crime and a gross abuse of fundamental human rights. It has been classified by the United Nations as the third most profitable crime in the world (Fichtelberg, 2008).

Human trafficking can involve movements between countries (known as international or transnational trafficking), within the borders of a single country (known as internal or domestic trafficking), or both. A country can serve as a *country of origin* – that is countries people are trafficked out of; a *country of destination* – that is countries where trafficked persons end up or *country of transit* – that is, countries through which trafficked persons are moved en route to their final destination (Winterdyk & Reichel, 2010). Many people might assume that human trafficking is something that happens only in impoverished

countries where civil and human rights may be less valued. However, some reports illustrate that this is not the case. Human trafficking has become a transnational phenomenon which cuts across all parts of the world. Whereas before 1989, women and children subjected to trafficking mostly come from countries in Africa, Latin America and Asia, today a large part of the traffic originates in, or goes through countries in Eastern Europe and the former Soviet Union (Lie & Lund, 2008). What these countries have in common is that they are economically poor and often plagued by turmoil, war or conflict. Another common characteristic is that there is no equality between the sexes, so that women often have a weaker position in the job market than men. Many also come from countries characterized by corruption, violation of human rights and organized crime.

Oftentimes, it is difficult to separate trafficking from smuggling. Smuggling of migrants and trafficking in human beings differ on four specific points. Firstly, the issue of consent. The smuggling of migrants, involves persons who, while often subject to dangerous or degrading conditions, have consented to the smuggling. Trafficking victims, on the other hand, have either never consented to such acts or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers. A second major difference is the element of exploitation. Smuggling ends with the arrival of migrants at their destination, whereas trafficking involves the ongoing exploitation of the victims in some manner to generate illicit profits for the traffickers. This highlights a third difference, the source of financial gain. Smugglers draw profit from the initial fee paid by the person willing to be smuggled into another country, whereas traffickers' profits are generated by the exploitation at the end of the process. Lastly, smuggling is always transnational, whereas trafficking need not be.

Trafficking can occur regardless of whether victims are taken to another country or only moved from one place to another within the same country. Cases are not always immediately distinguishable, as often both smuggled migrants and trafficking victims leave their country of origin willingly. However, as noted above, trafficking cases may be differentiated by, for example, the use of force or deceit, and the existence of exploitation. They may be exposed to similar cases of danger or discomfort during long journeys but, upon arrival in the destination country, smuggled individuals are usually left free by the smugglers. Trafficked persons, upon arrival, are often put in a situation of debt bondage and forced into slavery-like practices in the sex or labour market or exploited in other ways (ECPAT Newsletter, 2001).

Who can be trafficked?

Anybody could be a victim of human trafficking especially youths (young men and women) between the ages of 17 – 35 years, mature women and then children. This analysis may not include aged people because the traffickers know that they can no longer work to earn money. It is important to note here that human trafficking tends to victimize the most vulnerable of the global community – young women and children. As a recent US government report has observed, victims are routinely 'tricked' with false promises of employment, educational opportunities, marriage and a better life (US Department of State 2008). Afterwards, they are typically forced into the sex trade industry or illegal labour markets such as sweatshops, farm work and domestic work and even as child soldiers. In many cases, women understand that they will be working as prostitutes, but they feel they have lost control over their lives. In other cases, they have been tricked into believing that they will be doing other jobs, such as factory work, housekeeping among others.

Sometimes they are also taken to other countries against their will. However, according to the Palermo Protocol, whether the person has consented to work in prostitution or not is unimportant. If a person is no longer in control of where and when he/she prostitutes her/himself and this person has no right to defend her/himself or, she/he cannot quit whenever he/she wants, this person is a victim of human trafficking. In addition, family problems such as family disorganization, divorce cases, domestic violence has become some of the triggering factors for the more vulnerable women to be easily trapped in the trafficking activities (Symsuddin & Azman, 2013). Hence, women and children are the most vulnerable people, and subject to trafficking.

Legislation on Human Trafficking and other related crimes

Many countries in Africa are yet to implement specific anti-human trafficking legislation. In the absence of such legislation, countries utilize existing laws dealing with five principal offences: Prostitution and related 'sexually exploitive' activities (e.g. pornography, incitement to prostitution, sexual relationship with minors); Child exploitation, mistreatment, abandonment or abduction; Offences in violation of personal integrity (unlawful detention, slavery, torture); Employment regulations and child labour; Immigration (UNICEF, 2003).

However, Nigeria is one of few countries in Africa with an anti-human trafficking law. In August 2003 Nigeria enacted the *Trafficking in Persons (Prohibition) Law Enforcement and Administration Act*, commonly referred to as the Act. Prior to the passage of the Act, Nigeria depended on laws in the penal or the criminal code 80 to deal with offences related to trafficking in humans. Trafficking cases were dealt with under provisions of the law applicable to the offences of slave trading, forced prostitution, abduction, sexual exploitation,

deprivation of liberty, and forced labour. The law has a total of 51 sections. Across the globe, there are many anti-trafficking agencies like UNICEF, WOTCLEF, UNDP, UNESCO among others. Though in Nigeria, NAPTIP – National Agency for Prostitution and Trafficking in Persons was created in 2004, this agency set up its own investigation and prosecution unit called NAPTIP's National Investigation Task Force (NITF) unit which other agencies like WOCON, NIS and NPF refer their trafficking cases to for further investigation and prosecution and in the end NAPTIP is responsible for investigation and prosecution in all cases concerning human trafficking (Mensah-Ankrah & Sarpong, 2017). Altogether NAPTIP has six zonal offices in Nigeria, and in areas where NAPTIP is not present, one of the two anti-human trafficking units will be referred to.

Causes of Human Trafficking

Human trafficking, particularly in women and children, is intrinsically related to a number of factors known as “push and pull” factors.

Push factors are those which induce individuals to leave an area or country in search of a better life elsewhere. Salah, (2001) enumerated some of the push factors with respect to the case of women and children trafficked in the West Africa region to include difficult socioeconomic environment and deep-rooted abject poverty, regional inequalities and inadequate programmes for the creation of employment or revenue-generating activities particularly for youth in rural areas. Salah (2001) blames other factors such as ignorance on the part of families and children of the risks involved in trafficking; the high demand for cheap and submissive child labour in the informal economic sector; the desire of youth for emancipation through migration; and institutional lapses such as inadequate political commitment, non-existent national legislation against child trafficking, and the absence of a judicial framework allowing for the perpetrators and accomplices of trafficking to be held responsible and punished for their acts.

Another push factor is the devastation brought by AIDS. Children who have been orphaned by the death of a parent/ parents from AIDS are at risk of being trafficked. Even in instances where one or both parents is still living, a child may be forced to care for or support a sick parent and/or the other children or may be pressured to leave a village due to the stigma attached of having a family member with AIDS. All these factors place children at high risk of falling victims to trafficking and exploitation (Human Rights Watch, 2003). According to Aronowitz and Peruffo, (2004), other push factors of trafficking in persons include porous borders, corrupt government officials, involvement of international organized crime groups or networks, limited capacity of or commitment by immigration and law enforcement officers to control trafficking at the borders, lack of adequate legislation and lack of political will or desire to enforce existing legislation or mandates.

Pull factors on the other hand, has to do with application of force or coercion in order to get the victims to do, perform or comply with the traffickers. Pull factors can be attributed to two main causes: the demand for cheap manual labour and the high demand for paid sex in destination countries. Children and women may be targeted for the trade due to their powerlessness, innocence and inability to protect themselves. Children and women are easier to manipulate and less able to claim their rights. Children can be made to work longer hours with less food, poor accommodation and no benefits allowing employers to keep costs down (ILO-IPEC, 2002). The causes or factors contributing to the trafficking in persons in the West Africa region can be classified as 'intermediate' and 'deep structural' causes. Intermediate causes, include lack of job opportunities in rural areas, children's desire for more freedom or the failure of parents to recognize the dangers to their children while Deep structural causes include historically accepted practice of child placement outside of the home, regional inequalities

and countries' massive structural debt, as well as the endemic practice of those in power trying to protect their interests (Aronowitz and Peruffo, 2004). Intermediate causes can be more easily and quickly addressed than deep structural causes which require long-term approaches.

Trafficking Cartels and Criminal Networks

Trafficking organizations can range from individuals who are involved in the recruitment, transportation and exploitation of an individual victim, to networks providing isolated services and linking together to expand coverage, to numerous people who provide the entire range of services in highly sophisticated, structured networks. Limited information is available on the degree of organization behind the trafficking in women and children from Nigeria to other countries. Information usually provided by law enforcement officers involved in investigating trafficking cases are very limited. The available information on individual traffickers comes from police and judicial files of individuals who were stopped at border crossings trying to leave the country with a number of children or young women.

Trafficking in persons is a highly organized and syndicated trade. Criminal groups based in Europe are sponsoring traffickers working at local levels. In cases where women are trafficked for commercial sexual exploitation, there is evidence of highly sophisticated international networks involved in recruitment, provision of travel documents, transportation, accommodation and the exploitation of the women in the receiving countries. However, these networks are hidden and more or less informal because of the fact that victims especially women are often recruited by persons known to them – family members, neighbours, friends. The degree of organization may be dependent upon the size of the operation and the number of women

which an organization is “moving and managing” in source, transit and destination countries. There are intermediaries whose job is to provide girls and women with travel documents and tickets, and then create a debt bondage relationship, based on economical and psychological subordination (Aronowitz, 2004).

Trafficking routes in Nigeria

Four trafficking routes have been identified from northern Nigeria according to Okojie, (2004). These routes are:

- Kebbi or Sokoto - Republic of Benin - Niger - Ghana - Senegal and from there on the destinations of Libya, Algeria or Morocco. These are transit countries for the destinations in the Middle East or Europe.
- The Zindel (Katsina State) and Megatel (Jigawa State) exits are used to trafficking persons through Niger to Mali, Burkina Faso, to Libya and on to Europe or the Middle East.
- From Yobe and Borno States, persons travel by road to Chad, Sudan and onwards. Mayo, Sudan is known as the Nigerian traffickers' transit camp. Persons may wait for days or weeks to procure travel documents to take them to Europe or the Middle East.
- The fourth transit route takes persons from Adamawa and Taraba States (these two states have the most porous borders) through Cameroon on to Gabon. This route is used predominantly to traffic women and young children out of Nigeria. Through the southern axis, persons are trafficked from Imo, Cross River and Akwa Ibom States to Gabon, Equatorial Guinea and Cameroon for cheap labour. There is the “Hajj by land” route starting from Maiduguri (Borno State in Nigeria) through Gambaru, a border town in the state,

through Gala to N'djamena through Sudan to Saudi Arabia. This particular route takes months to traverse because Sudan has stricter immigration laws than Nigeria (Okojie, 2004).

Organ Theft

Human trafficking for the purpose of organ removal has been a subject of rumor and urban myth for a very long time but the advances in medicine has provided technology and skills to perform organ transplant surgeries in many countries across the world. This has proven these stories which were perceived as rumours and myths to be true. Medically, it is possible to transplant different organs including the lung, cornea and liver but the most common organ transplanted is the kidney, which is generally the technically simplest of organ transplants. The transplanted organs can come from deceased or living donors.

Therefore, Organ theft is an element of trafficking that involves the removal and sale of human body and its parts as well as organs and tissue from unwilling or unsuspecting individuals said to be kidnapped, murdered or otherwise coerced or deceived for the purpose of financial gain. There is a clear indication that leading factor in human trafficking and organ theft is for financial gain though in most cases the victims who are always the poor and vulnerable members of the society which are the target of the traffickers are exploited. The desperation of those in need of organ transplants and the desperate poverty of those ready to offer an organ to survive create the opportunity exploited by trafficking networks. UN (2006) report confirms this by stating that the “*general trend is for the routes [of organ trafficking] to lead from South to North, from poor to rich [...] mostly targeting the poor and vulnerable members of the population*”. The report states further that “*it appears that individuals in many developing countries are being exploited and*

that the selling of organs is the last resort to alleviate, though only temporarily, extreme poverty". In addition, the Council of Europe's Parliamentary Assembly also noted that: *"International criminal organizations have identified this lucrative 'lacuna' between organ supply and demand, putting more pressure on people in extreme poverty to resort to selling their organs"*. The lead prosecutor in one of the cases being prosecuted (the Medicus Cases) puts it more bluntly: the traffickers *"recognize the obscene profit that can be made in the expanding black market in body parts [...] It keeps happening because there is so much money in this."* This proves that financial gain remains the primary motive for Human trafficking and organ theft networks and their elements. For instance, from the work of journalists and academic researchers, particularly Scheper-Hughes and journalists from Moldova and Romania, sources indicate that in Moldova, a high price for a kidney donor is set around USD 10,000, with lower prices between USD 2,500 and USD 3,000. Field research by Scheper-Hughes finds similar price trends among kidney donors in Brazil. She explains that the earlier Brazilian kidney donors were paid USD 10,000, a price which later fell to USD 3,000. The price drop occurred because of the strong interest generated in selling a kidney when news spread in Recife, creating an even stronger buyer's market (OSCE, 2013). In the Moldova Cases, kidney donors were paid USD 10,000 at first, while the alleged head of a trafficking network was paid ten times that which underscores the issue of exploitation by those traffickers.

Consequences of Organ Removal

As the victim is returned to his or her home shortly after the transplant surgery, generally before he or she has properly recovered from surgery, medical complications may arise. Payment is generally not made to the donor until after the surgery, and the amount promised is

often not paid. Where the donor reveals any dissatisfaction with the experience, he or she may be subjected to threats and warned not to contact the police. From this point, the persons operating the Human Trafficking and Organ Removal network are generally in contact with the donor for only two reasons – either as part of the donor's effort to receive the full payment promised, or because the donor, through a variety of arrangements, has become himself or herself, a recruiter of organ donors. The victim-donor of Human trafficking /Organ theft is not viewed as an element in the network. As described above, the donors are generally in a position of vulnerability. In particular, they lack basic medical knowledge about the potential consequences of giving up an organ, and are often misled as to both the nature of the organ removal surgery and the health consequences. They are led to a decision to sell an organ through a combination of their financial desperation and their vulnerability to deliberately misleading and fraudulent inducements, as well as coercive factors. The donors in any particular network may come from a number of different countries.

Participants of Organ Theft

- **International Coordinators/Brokers**
These persons are usually the head of the network, as they are the ones who establish the network. As described above, these brokers make the strategic decisions for the network. The international broker is also generally the primary point of continuous contact with the organ recipient and the channel for the recipient's payments. The brokers are generally responsible for providing the supply of organ recipients to the network.
- **Local Recruiters**
Local recruiters (sometimes referred to as the “kidney hunters”) find or identify the victim-donors. They generally

work in one country, of which they are nationals, but there have been some exceptions, particularly across borders with shared or similar languages. Some local recruiters may have been involved in other forms of trafficking previously. There are often multiple local recruiters, in which case there may be a national-level recruiter or another form of hierarchy. Many of the recruiters may be designated a specific geographic area they cover. Recruiters may themselves be former victims (or acting under coercion).

- **Medical Professionals**

Several categories of medical professionals are required for a Human Trafficking/Organ Theft network. Specialist doctors include transplantation surgeons, nephrologists and anesthesiologists. The transplant surgeons may come from different countries. In addition, nurses and other assistants to the transplant surgical team are involved. Other doctors and medical staff may also be required for post-operative care for the organ recipient.

- **Medical Facilities, Administrative Staff and Potential Role of Health Officials**

Some form of medical facility is required for a Human Trafficking/Organ Theft network, although the degree of technical sophistication required may not be very high. Medical facilities are required not only for the transplant surgery itself, but also for the donor-recipient matching process (for blood and tissue cross-match compatibility).

The need for some form of medical facility can result in the involvement of the administrators of that facility, particularly those with responsibilities related to organ transplants, such

as the transplant coordinators. A range of medical authorities or regulators may also be involved in a trafficking network, particularly where illicit licenses and authorizations are needed. The relevant regulatory functions involved may include: licensing of medical doctors; licensing for the specific purpose of organ transplants; licensing of medical facilities; the approval of transplant surgeries. Administrative and/or health officials may assist the network directly, such as through alleged provision of official paperwork and licenses in order to operate.

- **Enforcers/Minders and Others**

Trafficking networks involve supporting staff in a range of functions that are relatively minor but necessary to a network's operation, including enforcers, minders, drivers, and translators. Minders accompany both the donor and the recipient during their travel to and from the locus of surgeries. Enforcers are minders who employ force, the threat of force or other means of conveying coercive pressure to ensure that the objectives of the Human Trafficking/Organ theft network are achieved. In some cases, the networks deploy individuals whose principle role is as an enforcer. In other cases, enforcement functions can be played by other elements of the Human Trafficking/Organ theft network.

Business Education

A generally acceptable definition of business education has been difficult to arrive at because there are as many different meanings of the concept as there are many experts who have tried to define it. However, we shall attempt to discuss the concept. Business education is a component of general education. It is an aspect of educational

programme offered at the higher institution of learning which prepares students for careers in business. It is education needed to teach people business in order to be a good citizen of a society. It is a profession of itself with the primary aim of elevating one's skills as well as providing citizens with the required skilled to secure gainful employment as to earn a living and to succeed in life. According to Osuala (1981), business education is a programme of instruction which consists of two major parts. One part is composed of office career through initial refresher and upgrading education leading to employability and advancement in office occupations. The second part according to him is the general business education, a programme to provide students with information and competencies, which are needed by all in managing personal business affairs and using the services of the business world. In accordance with the above definition, Ulinfun, (1985) said that Business education is education for business or training in business skills which are required for use in business offices, clerical occupations and business policy analysis. It is also that aspect of the educational process involving in addition to general education, the study of technologies and related sciences and the acquisition of practical skills, attitudes, understanding and knowledge.

Objectives of Business Education

Njoku (2006) gave the objectives of business education as follows:

1. To empower you with skills, knowledge and value to perform specific functions so as to become self-reliant.
2. To help you appreciate the world around you and contribute maximally to the social and economic development of the nation.
3. To empower you in such a way that you will develop your intellectual capability that would help you to make informed decisions in all spheres of life.

4. To understand the political framework of a nation so that you can contribute to the economic development of the nation.

Business Education as a Recipe for Stemming the Tide of Human Trafficking & Organ Theft

From the objectives enumerated above, business education can curb the menace of human trafficking and organ theft in the following ways:

1. Business education should produce people who have skills that can make them ready employers of labour. Dependence on the nation would be minimized as people become job creators. This would provide opportunities and means for those at risk to improve their lives at home rather than taking a risk abroad. This could help reduce trafficking.
2. Business education should help to develop proper values towards work to contribute more economically to the nation. For instance, the nation is divorced from violence, sexual immorality, pride, corruption, kidnapping among others.
3. It will enable individual citizens to become judicious spenders, thereby helping the country to invest excess resources on meaningful projects that would lead to economic development.
4. It will also help citizens of this country to develop sound moral values which will free the country from insecurity and peace will reign supreme. More people will invest in the country and there will be increase in economic growth and development.
5. Finally, business education should advocate the acquisition of vocational and technical skills at all levels. For instance, after primary, secondary or tertiary education, one must have acquired basic skills that can help him/her earn a decent living

thereby eradicating hunger and abject poverty which is one of the major factors pushing people into human trafficking and organ theft.

Conclusion & Recommendation

Since it has been observed that many individuals who indulge in human trafficking and also those who fall victims either lack better skill, entrepreneurial orientation, business acumen or are not empowered financially to engage in legitimate businesses, business education should be able to fill this gap by producing people who have skills that can make them ready employers of labour. This would provide opportunities and means for those at risk to improve their lives at home rather than taking a risk abroad.

Again, it has been found that poverty is one of the major factors pushing people into indulging in different kinds of crime including human trafficking and organ theft, government should provide financial aid in form of grants and micro-credits to our youths especially graduates and those who have engaged in skills acquisition programmes which will provide them the means to remain in Nigeria and support themselves and their families. This will go a long way in alleviating poverty thus bringing victory in the fight against trafficking in Nigeria and Africa at large.

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9

**Widowhood, Justice and the Rule of Law in Africa:
Nigerian - Igbo Perspective**

Sr. Dr. Mary Winifred Gloria Eche, DMMM

Introduction

This work is intended to create awareness about one of the neglected areas in our society and to show the importance of the topic especially as it affects the lives and experiences of widows. It further illustrates the continuous struggle for gender equality and women's human rights. This topic is essential for a number of reasons.

In the first place, the study of women as a vital and autonomous social force, as well as the treatment of their wealth and woes, is an intrinsic part of the overall social dynamics of every society. The failure to focus on the conditions in which widows live in many different cultures and countries is particularly reprehensible considering the seriousness of the deprivation suffered, and how badly it affects their welfare and that of their children. (Sossou, 2002, p. 201)

Marriage is what determines widowhood, be it customary/traditional marriage or Church marriage, court or Islamic marriage. To be a widow means that there was a marriage contracted between the widow and the deceased. It further means that there was an agreement between the two, to be part of each other. Marriage is a covenant by which a man and a woman establish between themselves a partnership of the whole life (cf. CCC n.1601). by the exchange of consent, the partners willingly and mutually give and accept each other in a bond makes the two into one. This bond confers some rights to the contracting parties. The severance of this bond through death of a party is not only painful but also traumatic. It creates one into a widow or widower. Marriage is the

reason why widowhood exists. To be a widow means that there was a marriage between the widow and the deceased. It further means that there was an agreement between the two, to be part of each other. Marriage is a personal, physical, psychological, emotional and spiritual bond between a man and a woman. This bond is natural. The two publicly take vows or oaths and agree to live as one flesh for life. They agree to share everything in common in all its aspects. For example, to share in their thoughts, emotions, desires, purposes, actions, as two who should know, enjoy and seek each other, and think and do nothing without the other. It is indeed, the closest relationship human beings can ever possibly experience. This union is so close, so binding, so powerful, so comprehensive and far-reaching that, as long as both of the spouses live, it cannot be broken, that is under normal circumstance except on the ground of death. Where then lies the justice, that a woman who lived and labored with the husband, shared everything in common be inflicted with so much pain apart from the terrible pain she goes through for losing her husband. It happens that the principle in marriage in which all goods are held in common is quickly forgotten at the moment a man dies. sometimes, even before the funeral ceremony is over, the widow is dispossessed of everything she labored with her husband and be left with little or nothing. This separation of losing her husband through death brings her to the state of widowhood.

Widowhood simply means a man or woman who is traditionally married, whose husband or wife is dead and has not yet remarried. “Men who are in this condition are referred to as widowers, while female counterparts are termed widows.” (Muonwe, 2016, p.134). It simply means the state of losing one's husband or wife. It is a road that either the man or the woman must pass, which means that one of them could die before the other. It is on rare occasions that both die at the

same time or within a short period of time. The concern of this work is on the death of a husband, that is, a widow not widower. The loss of a partner is very devastating and a very difficult one to bear, no matter how wealthy or well placed the woman might be in the society. Its effects are enormous. Under normal circumstances the loneliness it brings is horrific. The widow finds herself lonely even in the midst of a crowd; she is often moody, sad, despair, exhausted, hopeless etc. Apart from these,

for many women, that loss is magnified by a long-term struggle for basic needs, their human rights and dignity. They may be denied inheritance rights to the piece of land that they relied on for livelihood or evicted from their homes, forced into unwanted marriages or traumatizing widowhood rituals. They are stigmatized for life, shunned and shamed. And, many of these abuses go unnoticed, even normalized.” (UN Women, 2018).

The experience generally changes the life of the woman. She will never be the same. The question is, why is it that men whose wives died before them are not treated likewise? Why the discrimination, or unequal treatment? Above all where is justice? This remains a problem facing the African people and particularly the Igbos. Discrimination against women has been defined by Article 1 of the United Nations Convention on the Elimination of all Forms of Discrimination Against Women as

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. (CEDAW, 1979).

By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms, including: to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt

appropriate ones prohibiting discrimination against women; to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises. Iruoma thus reported, “in May 2015, that the federal government signed into law the Violence Against Persons (Prohibition) (VAPP) Act to protect people against various forms of violence, including harmful widowhood practices. It was the first-time federal law has expressly granted widows protection from abuse, but enforcement is weak.” (Iruoma, 2018).

Discrimination against women in particular societies takes different forms, especially that of widowhood. “Right now, there are an estimated 258 million widows around the world, and nearly one in ten live in extreme poverty. As women, they have specific needs, but their voices and experiences are often absent from policies that impact their survival.” (UN Women, 2018). Thus, it requires the utilization of differential strategies in different historical epochs and societies. These will continue to be a problem until all the factors responsible for its existence, maintenance and institutionalization are understood and eradicated. Before looking into the Igbo widow's world, brief analysis of Igbo people's perception of women will be given.

Igbo People's Perception of Women

In the Igbo worldview, women are seen as second class and “subservient beings.” (Udemmadu, 2019, p. 92). They are seen as inferior to their male counterparts. This can be shown through their languages and proverbs. For example, *Mma/Ùgwù nwaànyị̀ bụ̀ di yā.* (the beauty/ prestige of a woman is derived from her husband). *Ka aka hā nwaànyị̀ kàògà-àtụkwàsà di ya* (lit. It is the extent of a woman's hand that she will place on her husband's body; which means that the

support a woman gives to the husband depends on the extent of her ability. This implies that the role of women in a marriage relationship is reduced and limited to supportive role. *Àgbòghò mejuru ò tìnye ikè n'ùsekwū*. (When a lady lives to her satisfaction, she puts her buttocks in the kitchen.' ((Mmadike, 2014, p. 100). “Umeh stated that in Igbo man's opinion, the word “nwaanyi” (woman) means *nwa nyiri nne na nna ya* (A child who is difficult for the parents to control). Myths, legends, folktales and proverbs in Igbo present women as a good for nothing better than any other property.” (Udemmadu, 2019, p. 96) As captured by Omenukor,

gender sensitivity was very high in Igboland. In virtually every sphere of life, boys and girls, men and women had their roles and knew what was expected of them. Boys were brought up to see themselves as the future heads of the family and to see themselves as superior to the girls. A boy's father would employ every means of coercion and hardship reasonable enough to ensure that he removes all traces of softness or any womanish traits from his son. According to Emeka-Nwobia men are viewed as demigods in Afikpo cultural society. A woman irrespective of her education and societal attainment is expected to silently yield to her husband's will and dictate, even when it is not convenient to her. Any woman who dares challenge her husband's authoritarian nature or insists on her own view is called, 'nwoke nwaanyi' - man woman. (Udemmadu, et al 2019).

The Igbo traditional society lay more emphasis on the male child. The prefer male off-springs to female. “The reason for emphasizing male off-springs and de-emphasizing female ones is clear; it is the male and not the female ones that would succeed their fathers (after death), inherit their property (2) and perpetuate their lineage”. (Egboh, 1979, p. 305). Generally, the Igbo see the man (husband) as the shelter, the glory and the pride of the wife. Therefore, the death shows the vanishing of the shelter, the glory and the pride of the woman. Based on this culture, the death of a woman's husband, therefore involves a very significant drop in her social regard and prestige, which somehow

makes her less deserving of respect than her married counterparts. One could therefore say that her glory has eluded her. (Muonwe, 2016, p. 115).

The Igbo Widow's World

This is an area that not so much books have been written. It is an area that is neglected “yet its reality stares people in the face.... that is why...the very little information available on the subject may be described as raw or unprocessed information” (Muonwe, 2016, pp. 116-117). Part of the reason as presented by Ahonsi is that “these authors, majority of whom are men, are both gender-biased and gender-blind. Thus, they have conceived of widowhood as constituting a serious social problem that needs an in-depth scientific examination.” (Muonwe, et al, 2016).

Widows in Igbo land face many hurdles. Widows are subjected to things like wailing, shaving of hair, kept in dark rooms for days with little or nothing to eat, sometimes they are made to sleep in the same room with the corpse of their dead husbands and the water used in bathing the dead man is given to the woman to drink. This is to prove that she is not responsible for the death of the husband. Any attempt to contest this is met with stiff resistance and name-calling. This is because the family members and relatives will start asking questions, such as: how are we sure she has no hand in the husband's death by any means? Who knows if she is not involved in any extra-marital conjugal relationship? What happens after the mourning period? Will she return to her family after the period of mourning? Will she agree to marry any of her husband's brothers or other male relatives? How much is she entitled to from her late husband's estate? If refused to be inherited by any male relatives of the deceased husband, she will then face the question of what property belongs to her. Most often, there is even no

question with regard to property inheritance. Outside her husband, she owns nothing. Sometimes if the woman is said to have good behavior, they could allow her to occupy the matrimonial home until her death, but this is not also guaranteed. She could be sent away if she was in the village. If she and her husband had lived elsewhere, his relatives could and often did come and seize the property, leaving her with nothing.

Many widows have narrated their ordeals of this kind. The most common experiences are: the demand of the deceased documents from the wife by the relatives, documents of his land properties, investments if any, bank account, shaving of hairs, wearing of black/white clothes, sleeping on the floor or mat, refrain from taking bath for a period of time, being made to take an oath with the husband's corpse or water used in bathing the corpse to prove her innocence of the husband's death or to prove that she submitted all the documents of the husband's property and lastly seclusion. Thus,

Nwanegbo... makes us to understand that, in some parts of Igbo land, when a man dies the wife will tie a wrapper over her chest without a blouse. She must not talk to anybody and will not have her bath until her husband is buried. After the burial, the 'Umuada' (daughters of the man's ancestors) will come to shave her hair, bath her in an open compound, only having the privacy of being surrounded by the Umuada. Callous in-laws conspire to apply vicious burial rites to dehumanize the embattled widow. They confront her with questions on how and when the deceased husband died, the circumstance that led to his death, what she did to save him from dying and her extent of contact with the late husband's family before his death? Where the explanations are not satisfactory, the widow must drink the water used in bathing the corpse of her husband to prove her innocence. In fact, there is no end to the humiliating punishment encountered by widow under the cover of native laws and customs. (Olukayode, 2015, p. 69).

A confidant, widowed in 1960, described her experience as follows:

When my husband died, the Umuokpu took me to the back of the house. They first of all put their left and right fingers into my mouth and stretched my two hands behind my back. They removed my earrings and necklace and changed

my wrapper for an old one which I was to use during the whole period before the burial. They gave me food in a broken calabash and fed me with their left and right hands simultaneously. For four days, they brought me out every morning and made a fire at the back of the house to warm my hands. After the fourth day one of the women who was also a widow accompanied me to the market for the final ritual. At the marketplace, I sat down and opened four different packs of green leaves that did not contain anything. As I opened each pack, I said "I have sold out evil luck and may evil and bad luck be far away from me". This was done late at night to prevent people meeting us along the way. (Korieh 1996, p.18)

In some places before the burial, and immediately after the burial, up to seven to fourteen weeks while funeral visits still take place, the widow is supposed to be secluded in a most restricted manner, while her food is also cooked in old pots rather than those normally used for cooking for other members of the family. Also, they were to sleep on old mats placed on wooden planks which would be burnt at the end of the mourning period. If a woman dies during the one-year mourning period, she is perceived as being responsible for her husband's death and therefore commits an abomination (Olukayode, 2015, p.69). There are other inhuman treatments given to a widow but just to mention this few. It is interesting to know that these burial rites are often carried out when a woman loses her husband and not when a husband loses his wife. This therefore raises concerns on how discriminatory our customs are.

Widow's Deprivation of the Husband's Property

There is need to elaborate more on the issue of inheritance after the death of the widow's husband. This is one of the most painful aspects of the maltreatment which the widow receives after her husband's death. The question is: has the woman or widow any right to inherit the husband's land or property, which they labored together to acquire, after his death?

Over the years, in most parts of Nigeria, including the Igbo cultural traditions and practices are patrilineal where men exercise dominance over women in material, sexual and moral spheres and are unwilling to relinquish such powers. In some parts of Nigeria if not all female children and widows have suffered so much neglect and exclusion due to cultural beliefs and tradition. Until the introduction of the English law, practice of writing wills that brought about the concept of testacy, intestacy was the rule and it was governed by customary law. The only customary practice of the concept of wills was at the occasional instances of a dying man indicating by a death-bed declaration how his property was to be distributed after his death. In fact, at customary law, “a widow is not entitled to share in the property of the deceased husband. In *Oloko v. Giwa*, the court held that generally, widows do not inherit their deceased husband's property. They are only allowed to remain in the house and a portion of farmland given to her” (Mordi, 2017, p. 19). This was further explained by Anyebe that in some of Nigerian customary laws “a woman is more like a chattel to be sold by her parents to her husband to whom she becomes after the payment of the purchase price, the dowry.” (Anyebe, 2018, p. 5). Paying of dowry is understood by many Igbo as selling off the female child. This could explain why some fathers in particular refuse to spend in training the female child. Some of them sometimes say, when she marries, her husband will train her. This is also the reason why upon the death of the man (husband), the woman is not only deprived of the right to inherit his estate, but she also becomes part of the estate of the dead husband. Anyebe continued with these words,

In relations to Inheritance rights under Customary Law in Nigeria, there exist as many variations as there are ethnic groups in the country. One rule of customary law that is however common to virtually all is the law of intestate succession which is to the effect that the widow has no place and can never inherit from her husband on intestacy. Among the Igbo and Bini, etc.

customary law, the primogeniture principle governs. The eldest son may at his discretion distribute to his younger brothers to the exclusion of his sister. In the eyes of most customary laws, the widow is considered a chattel and may be object of inheritance by the male members of the household particularly a full blooded brother of the deceased since customary law marriage extends beyond the life of the husband, the death of the husband does not dissolve the marriage....it is a well settled rule of native laws and custom of the Igbo people that a wife could not inherit her husband's property since she herself is, like a chattel, to be inherited by a relative of her husband". (Anyebe, 2018, p. 8)

Regina Obodoeche also voiced out her pain as presented by Rose thus, "we are destitute. I married my late husband 15 years ago when he had nothing, but now, his wealth is attracting his relatives who have disinherited my two teenage daughters and me of property I toiled with him to acquire." (Nwaebuni, 2013). She further said that

when Obodoeche returned to Lagos, after the mourning period was over, she discovered that her husband's relatives had sold off the family house, cars and other properties jointly acquired by her husband and herself. Assets including a building and other properties were confiscated. Local custom laws were used to dispossess both the widow and her daughters, without their knowledge. (Nwaebuni, et al)

Margret also narrated her ordeal after the death of her husband who had been a businessman and Margret a housewife working in their farmlands, tending their house cattle and crops. "After her husband's death her in-laws stepped in and took over all the property, leaving Margret with nothing but the clothes on her back, driving her off the land which she had tended for so many years." (Jacqueline Dorr, 1991). Richard Mordi has this to say, "the widowed woman cannot take possession of her husband's land or belongings because she herself is part of his possessions. How can property inherit another property?" (Onyemelukwe, 2015). He concludes that it is the payment of bride price that makes a woman into property that can be inherited. Another writer says, the widow becomes an "object of inheritance rather than

subject of inheritance” (Ibid.). Catherine Onyemelukwe further said that

Many writers have raised the issue of women's rights as human rights, maintaining that the practice of denying inheritance to widows, and even worse, letting widows be inherited as property, is inhumane and counter to treaties to which Nigeria is a signatory, in addition to being contrary to the Nigerian constitution. There is no doubt a conflict between all these Igbo traditional practices and the recognition of women's human rights. The tradition says the first son inherits; he may share with male siblings but not female. (Onyemelukwe, 2015.)

As far as the Igbo culture is concerned,

a woman married under the customary marriage law had no legal right to her husband's property, whereas the husband, in virtue of the bride-price he provided, had legal right to wife's property. According to this argument a wife could not inherit the property of her deceased husband; she could only do so indirectly through her son if she had one. This suggests that the marriage contract which gave the husband legal right to his wife's property failed to recognize the wife's legal right to her husband's property. (Egboh, 1973, p.307)

Even though the Supreme Court has voided the Igbo law and custom, which forbid a female from inheriting her late father's estate, on the grounds that it is discriminatory and conflicts with the provision of the constitution on the section 42(1)(a) and (2) of the 1999 Constitution. The question and problem are, would the Supreme Court decision be implemented in Igbo land?

Factors Responsible for Widowhood Practices

There is a reason behind every action responsibly taken by human beings. There are many factors responsible for the maltreatment of widows but few of them are analyzed below:

Greediness and jealousy

Outside the existing selfish traditions, human greed and jealousy exist in the world and exist more in some families and villages. Some of these obnoxious traditions are put up by some greedy ancestors for their own selfish motives and thereby brought perpetual discrimination in the society.

Superstitious beliefs

Another fundamental factor to an understanding of widowhood practices in Igboland is their attitude towards death. When a child is born, his or her birth is celebrated and is seen as an occasion to jubilate and Igbo's sees the coming of the child as a natural happening in all circumstances, while death is seen as great and unredeemed tragedy even when it happens in extreme old age. If it happens to a young person, it becomes greater tragedy. It is seen as an abomination and therefore something or somebody must have caused such death. And so certain rights must be carried out to find out the cause of the death and the widow goes through some of those rites. Some of those rites are done so that the spirit will rest, if not "his soul will be wandering around and, in some cases, the dead man's spirit will be destroying things and hurting people in the community. So, the wife has to go through all these widowhood practices to appease the dead (Olukayode, 2015).

Dependency

Many women are housewives. Majority are made housewives by their husbands by not allowing them to practice their career or handiworks. Such situations where wives depend solely on their husband for survival cause a lot of financial problems to the women after the death of their husbands as the husband's family members would want to lay claim to the deceased's property. If women are economically empowered, they would be able to stand up and refuse to compromise to these obnoxious widowhood practices.

Ignorance

Some level of ignorance may be for lack of formal education or conscientization. We hear this adage which says that ignorance is a disease. Women are the ones crying about the widowhood practices. The question is who administers these rituals? The women too. Women are doing it because their culture introduced such to them and because of the respect they have for their husbands, they become faithful to evil actions against their fellow women. They believe so much in their culture and are therefore hard to be convinced otherwise. Even as these are going on today some educated women would not succumb to be abused and be maltreated in the name of culture because they are widows. It therefore becomes very important to show the girl child a way out of ignorance, which is by educating her. Education becomes a strong tool to eradicate these widowhood practices.

Patriarchy

Patriarchy is actually the major factor that engineers these obnoxious practices. It is defined by Kate Millet as “our system of sexual relationship institutionalized in our social order whereby males rule females as a matter of birthright priority” (Ekpong, 2018). She further said that “the global patriarchal condition of women presupposes that she is victim while man is the oppressor. The image of woman as we know is an image designed by man to suit his needs” (Ibid). In Igbo culture as well as the whole Africa and beyond, the world is seen as 'a man's world'. Men are seen as the primary authority figures central to their families, social organizations, political leadership, moral authority, control of property, etc. This leads to little or no respect for the woman. Women are therefore being treated as no bodies. They are being oppressed and subordinated to men. “Ethnographic and anthropological studies have asserted that the African woman has a position and status that is in many ways definitely inferior to that of the

African man, in spite of the fact that she does most of the hard work of supporting the family.” (Sossou, 2002, p. 203)

Part of the reason is because of the bride price they pay on the women. Payment of the bride price in Igbo traditional culture “point to the fact that traditional marriage did not recognize the equality of the spouses. Indeed, Igbo wives were known to refer to their husbands as *nnam-ukwu*, translated as "my big father". (Egidike, 1999, p. 88). Payment of the bride price portrays the woman as a property sold, which the man can drop or transfer at any time. Sometimes, men use words like, 'if you misbehave, I will take you back to your father's house and collect back my money', which sometimes is the case. Or they can at any time abandon the woman for another. This belief makes the in-laws to treat the wife without respect when the husband dies. Therefore,

Widowhood practices are borne out of patriarchal ego. When a man dies, there is a widow who must not only internalize a sense of loss but also externalize the pains for others to see. However, it is regrettable that when a woman dies, the tragedy also creates a widower who simply sits down for a couple of days to entertain visitors who come to commiserate with him over the death of his wife. Shortly afterward, he takes a wife without anyone raising any righteous anger against such an act. Our culture should be an amplifier of justice and not an author of unfair criminal discrimination (Ayodele, 2014, p. 6).

When my mother died, I was seriously observing what the tradition will ask of my father. I was shocked to observe nothing except that a widow was assigned to him to be cooking his food. Apart from sitting at home to receive visitors, he was even going to the farm to take care of his yams. Why is the man free to do whatever he wants in the name of tradition and women are being tortured? Why the maltreatment of the female folk? Why such traditions?

Poverty

Apart from the patriarchal culture of the Igbo, jealousy and greediness, poverty is another root cause of the inhuman treatment to the widows.

Poverty is the cause of the insistence by the brothers of the widow's husband to be in possession of their brother's property. Because they are poor, they will want to use the opportunity to loot everything that belongs to the dead man. Thus,

Poverty is the inability to live a decent life with respect to food, shelter, health care, and other social amenities. This is seen in the attitudes of most in-laws and villagers as they cling on to customs and traditions in handling the deceased possessions. The poor relations always feel that the death of their rich relative is a golden opportunity for them in elevating themselves from abject poverty. This is seen in the show of affluence demonstrated during the burial ceremonies by some families. Some wicked relations usually force the widow and her children into emptying their deceased father's bank account, all in the pretense that the most befitting burial must be accorded their late brother. They see this as an avenue to lavish the late brother's money and to ensure that the widow does not remove any property from the dead man's house. It is therefore not surprising that the widow loses all her deceased husband's property to the male successor within the late husband's family (Adeyemo and C. Wuraola, 2016, p.383).

Attitude

Another factor responsible for the widowhood practices is the attitudes of the Igbos/Africans toward birth and death in a society. In fact, every Igbo person fundamentally hates death especially when it has to do with young people. Igbos celebrates the birth of a child. It is “an occasion for joy and as a natural phenomenon in all circumstances, while death is seen as a great and unredeemed tragedy even when it happens in extreme old age. It is still a greater tragedy when death occurs in less than extreme old age. Unlike the birth of a child, death is never seen as fully natural.” (Sossou, 2002, p. 203) This is part of the reason why they will always say that someone is responsible for the death.

Widowhood Practices as a Violation of the Fundamental Rights of Women

The tragedy of losing a loved one should attract sympathy, empathy, and support from others, but the case of the widow is different in Igbo land and some other African cultures. The challenges widows face in Africa generally and in particular among the Igbo are disturbing. These challenges are brought about by harmful cultural practices, which undermine the fundamental human rights of women. As stated by Durojaye, no matter the form widowhood practices may take, “they include various forms of inhuman, demeaning, and barbaric acts that may endanger the life of a woman. Some commentators have argued that widowhood practices are not only tools to perpetuate gender inequality but are also barbaric, atrocious, unethical, and a gross violation of women's fundamental rights and freedom.” (Durojaye, 2013, p.180)

Obviously, widowhood practices infringe among all on the right of the dignity of the widows and the right of equality and non-discrimination. The United Nations Charter and the UDHR are the foremost documents from which all other global conventions draw inspiration from. As presented by Gillian MacNaughton

Article 1 of the Universal Declaration of Human Rights then begins, “All human beings are born free and equal in dignity and rights.” This article establishes equality as a core – perhaps the core – principle in the International Bill of Human Rights. Article 2 then states, “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” This article establishes nondiscrimination – status-based equality – as a core principle in the International Bill of Human Rights. References to equality also appear in several other articles in the Declaration, such as equality before the courts (article 10), equality in marriage and its dissolution (article 16), equality in access to public service (article 21) and equal pay for equal work (article 23). (MacNaughton, 2018, p.8)

Furthermore, The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) which was adopted on 11th July 2003 in Mozambique (WACOL, 2008), clearly stressed on the rights of women as stipulated by the African Charter. Article 1 explicitly explains key issues concerning women such as “discrimination, harmful practices and violence. Article 2 is wholly on the elimination of discrimination. Sub-section 1b calls on state parties to enact and implement appropriate legislation or, better still, put regulatory measures in place to curb all forms of discrimination and harmful practices which put the health and general well-being of women in danger. Article 2(2) underlines that:

State parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or stereotyped roles of women and men.

The rights of widows are also emphasized in Article 20(a), which says that the State parties should ensure that “widows are not subject to inhuman, humiliating or degrading treatment. Article 20(c) says that a widow “shall have the right to remarry, and in that event, to marry the person of her choice”. Article 21(1) explicitly presented the rights of widow on the basis of “inheritance of the property of her deceased husband. This means that this document is another worthwhile legal instrument that clearly promotes women's rights against any harmful traditional practices. (Afolayan, 2011, p. 20)

Apart from the above-mentioned constitutions the Nigerian constitution also noted in Section 34 that 'Every individual is entitled to respect for the dignity of his person'. It goes further to say in paragraph (a) of subsection 1 that no person shall be subjected to torture or to

inhuman or degrading treatment. Following all these, it becomes unarguable that widowhood practices are seen as cruel, inhuman, and degrading treatment against women. From evidences and stories of some widows, that some are forced to sleep on the floor, starved, accused of being responsible for their husband's death, deprived of properties owned by both couples etc. testify to the dehumanizing nature of these practices. These experiences do not cause the widows only physical and psychological pains but lead many to death. It therefore becomes very important that Igbo leaders, especially traditional leaders and Nigerian and African governments should take appropriate measures to ensure that women are not subjected to inhuman, humiliating, and degrading treatment.

Solutions

Individual responsibility

Most widows suffer so much in Nigeria/Africa because they have nobody to speak for them or fight their cause. Many of them especially those in the village are ignorant of their rights, which make them more vulnerable than the educated widows or those in the city. This work therefore encourages us, those who know the law and are educated to fight for justice, defend the helpless, more so to fight against the maltreatment of the widows, because it is still very much alive in our society today, knowing quite well that it could be one's mother or sister someday. So, it calls for our individual responsibility to call a spade a spade. What is evil is evil and should be seen as such no matter who says otherwise. The Igbo and other Africans need to change their mentality, which sees woman as inferior to man. Women are human beings in the same way men are, the difference lies in their sexes, which are made to complement each other for better living.

Government and Church commitment

As mentioned above, The Universal Declaration of Human Rights (UDHR), The Convention on the Elimination of all Forms of Discrimination (CEDAW), The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) etc., these clearly condemn all forms of discrimination against human beings and urges the state parties to take appropriate measures to ensure the full implementation of these laws especially as concerns the development and advancement of women. Also, the Chapter 2, sections 15, 17 and 42 of the 1999 Nigerian Constitution prohibit discrimination and promote equality and justice. What this means is that, the citizens of Nigeria are obliged to respect, protect and fulfill these laws irrespective of gender. It is therefore important that the state parties should enact and implement appropriate legislation to curb all sorts of harmful practices and discrimination against women. The laws have been made; the problem is that of implementation.

The Church is also needed in this regard. Even though the Church has started doing something in different places, they need to do more because the church is one of the best channels through which the dignity and rights of women should be respected and protected. They should therefore endeavor to promulgate laws that protects both the image and interest of women. Most priests/pastors in Igbo land knows that women are in the majority in the Churches. They should be closer to the people, to know what happens during and after funerals, especially when a man whose wife is alive dies. So that they can help to abolish such ills.

Education and awareness

As mentioned above, many women in the villages are ignorant of their rights; therefore, there is need “for community education and public awareness. Besides, emerging women rights organizations, currently

located in urban cities... , should extend their services to grassroots and local women by embarking on mass rights awareness education, providing free legal advice and shelter for the victims.” (Afolayan, 2011, p. 51). Furthermore, there is a *laissez faire* attitude among some women over these issues, solely because, it is not or going to be their headache. They have arrived at a level where no one can subject them to such inhuman treatment. Being indifference in this case should be a thing of the past. Women should rise to condemn this evil, especially, since the same thing widows are lamenting about are usually enforced by the women themselves in the name of culture.

Emphasis should be placed on enlightenment programs to make women realize that they are fundamentally equal in personality and dignity with men. Women should see themselves as equal in human dignity with their men folk and as a result, must have free hand to plan their lives without any disabling or de- personalizing cultural practices or prejudice or taboo. Igbo women, like their men, should be free to live their lives without any cultural obstacles. (Chukwu, 2014, p.57)

What is obvious is that these cultural practices were not enacted by women against themselves because in Igbo culture, women are not part of decision making and enacting laws. So, if men make these rules and hang them on women to enforce, then, it is time to let the women know that they have been in this bondage for so long and need to be liberated. And this project can only be successful if women come together and unite. Men are the beneficiary, so you do not expect them to be in the fore front of this battle for liberation.

Education is empowerment, and knowledge is power. Since it cannot work if women come out directly to say that they want to stop such cultural rules that have existed for ages, indirect approach becomes important. Let the women be empowered, so that if every widow begins to say no to such rules, gradually, the rules will be abolished. In addition, even though many men will not agree to change the rules that

are beneficial to them, those who are not in support of the rules, for example, priests/pastors, lawyers etc. should help, “as with any great movement, the group seeking change relies heavily on the group from which they seek the change. Men are in positions of social, political and legal power” (Afolayan, 2011, p. 52), so their support is crucial, since the laws made by them are not only discriminatory to women but also oppressive.

Reformation of customary laws

According to Muonwe, “customary law has been described as a set of norms that derives informally from established way of life, mores, practices, and traditions of a particular people, seen by them as legally binding to their members.” (Muonwe, 2016, p.178). This law is orally transferred from one generation to another. They are legally recognized. As presented by Muonwe,

As regards the nature of customary law, what accounts mainly for its peculiarity is its mode of development. Unlike other pieces of legislation, it grows from the largely informal social practices and agreements of a people. It has been portrayed by Bruce Benson as a law that develops from below or from bottom up, as opposed to those emanating from above and imposed either by a sovereign, a legislature or a supreme court. In the words of Berman, they are on the ground. Because of this, Lon Fuller has described them as the tacit commitments that develop out of interaction and as a language of interaction. (Muonwe, 2016, pp.180-181)

The customary has its advantages and disadvantages. Among the advantages is the fact that customary law is a law made through people's way of life, practices etc., it therefore becomes easily adopted and “generally more acceptable.” (Muonwe, 2016, p. 181). Its unwritten nature also makes it flexible and easily accessible to people mostly in the village, which means that it can easily be changed. One of the disadvantages is that “customary laws are basically male-generated, no wonder it has been seen by many to be unfavorable to

women” (Muonwe, 2016, et al). The reality of man as a selfish being manifested itself greatly in the creation of the customary law. That is the more reason why its reformation is necessary since many have realized its weaknesses.

Conclusion

Widowhood practices and rituals dehumanize women as against the claim made by Okoro that widowhood ritual and rites are not meant to dehumanize any specie of humanity [man or woman] as both species are indispensable part of each other and as both play important but distinct roles in maintaining the ontological harmony that nature needs to operate freely and smoothly as to attain its selfhood” (Okoro, 2018). This study has shown that widowhood practices vary in Nigeria and even in Igbo land but noted the general patterns among the Igbo. The paper extrapolated that widows are subjected to the various practices, such as wailing, ritual confinement, accusation of being responsible for the death of the husband, deprivation of property etc. because of the patrilineal nature of Igbo culture, which generates the customary laws and advocates for education and awareness programs especially for the rural women and the reformation of the customary law.

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The Super Natural in Justice Delivery in Ogba, Ikwerre and Yoruba Traditions

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Introduction

Globally, an efficient administration of justice serves as prelude to the attainment of peace and security in any society. Similarly, where justice is lacking, peace will remain elusive. To ensure that justice and peace prevail, equity and fairness must be done and seem to be done. The term justice has no direct Ogba equivalent. This is therefore, rendered as fair or equitable judgement. Judgement itself is known as “*Ikpe*”. When a good judgement is given such is assumed to be just and therefore taken as justice. According to Obowu (1972), Justice in Ogba is dispensed at three level. These are (1), The household, (2) the family compound or kindred and (3), the community level. Matters settled at the household level are usually domestic in nature. Such are usually between spouses or direct members of the household. Matters attended to at the family or kindred level usually involve more than one family

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member. At such instance, if there is a feud between two parties from one family, a formal report is made to the kindred head who in company of other members of the kin group looks into the matter. Before addressing the matter, the kindred head libates to the Ancestors of the kindred seeking their support and assistance in resolving the issue before them. The third level of adjudication is the Community. Issues dealt with include matter that concern public interest, scandals, theft, sorcery and witchcraft, violation of natural law. Prior to the introduction of the British system of political administration and judicial system, justice in Ogba was administered through "Ukwu Primam or the "Ukwu Odugudu". These bodies apprehend and try offenders of criminal matters, sorcery and witchcraft, cases of murder were also reported to them.

In another respect, Newington (1931) and Stanfield (1935) both report that Justice in Ogba was usually administered by the council of elders of each community otherwise known as "Amala' they hold that these elders sit in the residence of the oldest male for their session. They however mention that *Ukwu Primam* and *Ogudugu* as other bodies that play useful role in the dispensation of justice but gave overriding power to the *Amala*. The super natural play significant part in the administration of justice in Ogba culture. Obodoegbulamand Amadi (2018) contend that in dispute resolution in Ogba and Ikwerre, oath taking is usually called up to conclude matters that appears intractable. Where parties to a dispute refuse to tell the simple truth on any matter, the adjudicators might recommend oath to resolve such issue. At such instance, the super natural which is seen as unbiased umpire, steps in and the matter is settled.

Okafor (2019) identified numerous venues where oaths are administered; this includes the front of the family compound (Etezie), shrines (Ihi Utu), the farmland (Ihi Ali), among others. These venues

are dotted with several ritual objects and if found in situations outside the ritual venues are usually ominous. Such ritual objects include manila, (awai) odno (yellow chalk), ëbba itche (Parrot feather) Eba ugo (eagle feather), Uro (phallic chalk), Ego Ogba cowry, among others. There are also some plants that can only be within the vicinities of the deity.

In Ogba, shrines serve as centres of justice. Matters which defy amicable settlement, are resolved at the vicinities of deities. among Ogba people and their neighbours like Ekpeye, Abua, Ikwerre, Engenni, Egbema and Ndoni, it is a common knowledge at the shrine despotic and greedy individuals are humbled. Even those who ordinarily would not want to tell the truth, have to do so. In Ogba land, disputes which ordinarily would have lent years is the modern court of law are settled at the shrine to the satisfaction of the feuding parties.

At the shrine, reports of over ambition greed and despotism are matters of life and death. Any individual exhibiting negative tendencies knows that his life and that of his kins are at stake. Individuals who dare to swear falsely pay with their lives, they may not be the only victim but their entire kins if no urgent effort is made to effect restitution to the aggrieved party. At their death, their property is taken to the shrine and though some may be redeemed with money, some others will not.

The Igwuruta Narratives

The administration of justice in Igwuruta-Ikwerre is a cardinal pillar in judicial and legal system which positively affects the social justice and advocate for harmony and co-existence between one another. Justice is administered in Igwuruta clan through proverbs, idioms, songs, oat taking, and so on. In Igwuruta-Ikwerre, justice is practiced in land matters, issues between brothers, communities, inheritance issues, inter-personal conflicts, and others.

The word justice in Igwuruta-Ikwerre means “*Akaigwuzorogwuzo*”. *Akai* (hand), *gwuzoro* (stand), *egwuzo* (upright). It means “keeping ones' hand upright”.

Roland (2004) opined that Igwuruta-Ikwerre sees administration of justice as “*nyeneikpeikpe de'te aka ocha*”. This means that whosoever that is involved in adjudication should keep his hands clean. On this bases, those involved in justice administration are obliged to be careful and always stand for the truth. Weke (2001) avers that “when elders' advice their younger children on matters of justice, they say “*nwom kwuta akai ogologo*” meaning “my son keep your hands straight”. This elderly advice has helped to promote the administration of justice in Igwuruta-Ikwerre ethnic nationality. Onyirinda (1999) in Igwuruta cosmology says that proverb is a grammar of value which promote customs, ethical standard, traditional wisdom and wise saying.

Among Igwuruta-Ikwerre ethnic groups, proverb constitute the spies and salt of human communication. Igwuruta-Ikwerre proverbs emphasize social philosophy “*wuru ma owuru*” means (live and lets live), this proverb has settled a lot of grievances and pains among the people of Igwuruta-Ikwerre. Another axiom that relates to 'live and lets live' is “*egbe beru ugo beru mako inke si egbe mbekwa la nkaku gia*” means let the kite perch and let the eagle perch, anyone that denies another from perching let his wings break.

According to Ikenga (2005), the concept of justice is very rich and is classified into morals, civil, criminal, cumulative, commercial, private, social, vindictive, conservative, legal, distributive and penal. With regards to this, the Igwuruta-Ikwerre traditional proverb says “*Imegbu-Inyi*” which means do not cheat, this proverb emphasizes on moral justice.

In Igwuruta-Ikwerre traditional religion, proverb asserts the need for individual right in spite of community consciousness “*ikia e nu obokoro ikia ma ko nu oro ndi*”. It means after sharing in the extended

family there is need to share in the nuclear. “*kem bu nkem kai bu kai*” means my own is my own, our own is our own. “*Nhe madu noru ta ta ndu ogologo*” means let man's occupation provide him long life. “*Nke madu zina*” let one's portion remain for him. These proverbs emphasize the respect or advocate for individual right. In Igwuruta-Ikwerre, the administration of justice has a link to the name they bear. The Igwuruta man regards his name not as mere label, but as a distinct part of his personality. In their world view, names review sentiment, aspiration and hope. They are the most accurate records of the people's belief, philosophical concept and culture. Names in Igwuruta-Ikwerre sum up the things they admire. In this regard, names express the concept of justice, it is believed that justice is symbolised with the word “*Ejiowhor*” as a suffix or prefix which has to be referred to as demonstration of justice. This name shows the importance, effectiveness, superiority of the virtue of justice as seen in the word of “*Owhor-ka*” meaning justice is greater, “*Owhor-le*” meaning justice is justice, “*Owhor-ma*” justice knows. This is also similar to the work of Ikenga on 'the principles and practice of justice in traditional Igbo jurisprudence'

The Igwuruta-Ikwerre people therefore belief in the retributive justice of God whose actions are identified with justice and equity. He is “*Chiokike-ji-owhor*” (God holds justice and equity). Igwuruta people dispense justice through deities known as “*Amadi-Oha*” (God of thunder), “*Ele da isi*” (ancestral spirit) and “*ihu-ali-ji*”.

Justice in Yoruba Tradition

The Yoruba tribe is found in the Western part of Nigeria and is one of the largest homogenous, ethno – linguistic groups found in Africa and one of the three major ethnic groups in Nigeria and likely the most urban of all Africans. An outstanding quality of the tribe is the almost similar culture and language with a slight difference from one place to

another. They are found mostly in Oyo, Ogun, Ondo, Lagos, Ekiti and some parts of Kwara and Kogi states, and in some West African countries like Benin Republic, Ghana, Cameroon, Togo and some North African countries.

A peculiarity among the Yoruba is their desire for peaceful co-existence and communal social life. This is reflected in their administration of justice in various communities whose goal is peace keeping and maintenance of social equilibrium. Right from the pre-colonial era, the Yoruba tribe has developed an organized and standard system in the adjudication of justice in both civil and criminal offences. This uniqueness is clearly displayed in their use of proverbs, folklores, myths, among others, to teach the younger ones, positive socio-ethical standard in the community through the highly revered elders who in turn respect and honour the ancestors. Therefore, the goal of administration of justice in Yoruba land is to maintain peaceful co-existence in the community between humans and super sensible.

Peace in the Traditional Yoruba

The Yoruba traditionally, embrace peace in all ramifications, not as an afterthought of war, commotion or conflict but as a cardinal belief and this is reflected in the form of friendship, peaceful agreement and fairness in which they relate to themselves and others. This is their worldview and morally as a way of life and upheld as a religious obligation to be observed. Total well-being of every individual is considered as a traditional value and relates to the spiritual, moral, material, social and political life of the people. Rweyemamu (1989) states that: Peace is good relationship well lived; health, absence of pressure and conflict, being strong and prosperous...the sum total of all that man may desire: an undisturbed harmonious life. This is complemented by Dada (2016) citing Juliet; that peace is the totality of

well-being; fullness of life here and hereafter, what the Yorubas refer to as *alafia*. He added that lack of any of the basic things like good health, balanced family relationship, financial upkeep or amiable relationship with other members of the community, may lead to lack of peace, thus “a selfish or unjust person, even when he or she is not violent, is anti-social and therefore regarded by the Yoruba as an enemy of peace.” this is one of the peculiarities of the Yoruba tribe.

In spite of challenges of peaceful relationship which maybe as a result of disagreements on issues, the Yoruba cherish resolving differences amicably among themselves or in the community to enable continuous peaceful co-existence. The elders (agba) usually play the roles of impartial arbitrators in conflicts by accommodating the views of every parties involved without compromise to the truth in order to enable justice prevail. To be considered as an elder (agba), apart from the advanced age, he must be a respected and responsible member of the community. One that can be trusted with right judgment, amicable but strict, full of wisdom and a matured personality, the elder may be a female or male member of the community. They believe that political, social and economic stability will be threatened when peace is threatened.

Features of Administration of Justice in Pre-colonial Era in Yoruba – Traditional Society

Before the colonial era, in the South – West of Nigeria, the major objective of the law and its administrative features was for peaceful co-existence and maintenance of social equilibrium (Driberg in Oladimeji 2016). where the king and his subjects are more concerned about the welfare of the community, by reconciling disputes among the people, the preservation of the community heritage and maintain peace with the ancestors for the progress of all. Traditionally, the customs of the

Yoruba people were clearly distinguished from the unwritten law of the land which is binding on all, thus a judicial concern unlike the law of the people which is not mandatory.

The laws are divided into two, the private or civil laws which concerns itself with settlement of disputes among the people on private or land issues while the public or criminal laws are offences that may cause social disorderliness like death, treason, witchcrafts, incest, rape, taboos or any act of misconduct against the society, though the case may be handled by the same set of chiefs or personalities, this is the reason the Yoruba proverbs are commonly used to settle matters or in the application of disciplinary actions on the offender. In civil matter, interpersonal reconciliation is paramount which makes the Yoruba administration of justice unique among others. Solanke cited by Oladimeji (2016) observes that some courts in the communities' adjudication of disputes were no less ceremonies and formal. Elias corroborating on this in his book 'the Nature of African Customary Law' cited by Oladimeji (122) upholds that, in the Yoruba administration of Justice: What was sought in a dispute was not strict legal rights of one party up or the other. Parties to a suit often left the court not puffed up nor cast down – for each crumb of light, for neither of them the whole loaf (sic). While Matson in support added that 'the duty of those who administer the law in settling disputes was to assuage injured feelings, to restore peace, to reach a compromise acceptable to both disputants.' Usually, at the end of such hearings, the satisfaction and forgiveness is reflected on the disputants as hardly do they leave without hugging and shaking hands as a sign of acceptance of the outcome, though this is after the guilty has tendered unreserved apology to the offended in the presence of all. However, the criminal offences are treated differently as the accused is allowed to defend himself publicly and if found guilty, a penalty is declared, depending

on the gravity of the offence committed, yet, the final judgment is not altogether free from application of peace and future “interpersonal relationship.” Efforts are always made to sustain social cohesion and equilibrium in the society.

Pre-Colonial Method of Justice Administration

Fadipe (1970) observed that during the pre-colonial era in Yoruba land, the people had reached the stage where redress for injuries suffered directly or indirectly was taken out of the hands of the individuals and his kindred. That is, not all categories of cases could be handled within the family, it depends whether it is civil or criminal case but in all adjudication, peace-making between the parties in conflict is sacrosanct. They have a well-developed system of conflict resolution mechanisms as well as principles that govern the administration of justice except for cases of murder, incest, and the violation of the secrets of secret societies”. The system is centrifugally represented starting with the head of the family, the 'Baale', selected on the basis of seniority and certain achievements. This type of arrangement synchronizes with what obtains in Ogba as earlier started in this chapter. (Taiwo 1997).

At the central tribunal, the Oba (King) is the supreme head and an absolute authority that cannot be challenged by any of his subjects, considered a representative of the Almighty God, though ruling with his council of chiefs (Igbimo) representing a quarter of the world in town whose duties include developing laws with the king when necessary. Though this is hardly done as the community is aware of the implication of disobeying the rules or departure from the norms of the society as covenanted with the deities and ancestors of the land. Next to the kings and chiefs is the Olori Adugbo (head of an area), then the Olori Ebi (head of the extended family) while the lowest unit is the individual nuclear homes headed by 'Baba' (Oladimeji 2016)

Yoruba Politics in Pre-colonial Era

The political system of government before the advent of the British in the Yoruba land was monarchical and the society was patrilineal where each nuclear family whose head is called 'Baba' and whose pronouncements is final in any nuclear family issues. A Yoruba proverb say 'Agba kin wa loja, kori omo tuntun wo' meaning the presence of the elders in the market prevents disorderliness. The nuclear family consists of the father, mother and children and other nuclear families joined together to form the extended family settings. The head of the extended family is called Baale or Olori Ebi and is selected on the basis of seniority and certain achievements who adjudicates by some laid-down rules in cases that could not be amicably resolved by a family unit (Taiwo 1997). He acts as the chief magistrate guided by principles that controls the behaviour of the extended family and outsiders (Buendia (ed.) in Taiwo).

Justice in Traditional Yoruba Society

The Yoruba has teleological concept of evolution of the world where the universe was designed by a supreme being and controlled through Orisa-nla and other deities which shows that the universe is one but with two levels, the visible world where the kings, priests and the people dwell, and the invisible domain of the supreme being, divinities, lesser spirits and the ancestors that control and influence the visible. This belief controls to a large extent the attitude of the people knowing that any offence committed in the visible domain, the terrestrial world, has a great consequence on the invisible, the ethereal world as the ancestors' act as the police to the families and individuals.

The communal lifestyle of the people is reflected in their belief in the sacredness of the community as everyone is expected to protect and preserve the community's interest like obeying the market days,

festivals, sacred places, families and individual rights and the community does same to the individuals. Mbiti (1969) referring to the African communal life as a symbiotic relationship with their people declares “I am, because we are, because we are, therefore, I am”. The Yoruba's worldview revolves around the hub of mutual and beneficial relationship among the individuals, community and various deities leading to freedom, reverence, rights and common goal. With regards to this, Onadeko (2008) posits that “there was no need to prescribe formal laws as deterrents against a social behaviour because everybody accepted implicitly that any departure from the approved behaviour was punishable” but by human nature, tendency to be disobedient and act against the norms of the society naturally resides in many. This is referred to as 'communal democracy' by Adeyemi in Taiwo (1997) where 'each person exercises his individual rights in the context of corporate rights... which itself consists of government by all, operating through negotiations and compromise in order to accommodate the view of all...!' In order to protect the individual rights against the community, and vice-versa, measures of justice are sacrosanct.

However, justice administration among the Yoruba is based on social and not legitimate method as maintaining the cordial relationship is of more priority to the community and the people than punishing the offender because the interest of the community is to maintain social harmony, cohesion and solidarity is vital therefore forgiving one another is highly recommended. Forgiveness allows the offended to consciously and voluntarily remove the pains and negative feelings, resentment and vengeance towards the offender. Often times, peace may be obtained among the feuding parties. In the case of individuals, the society approved the act of apologizing for any wrong acts, but when the gods are involved, forgiveness may be obtained through sacrifice (ebo) to appease the gods. The Yoruba socio-ethics of

forgiveness is reflected in the common saying that, *Omo ale lari inu ti koni bi, omo ale lambe ti ki gba*, meaning “to be aggrieved is normal but only a bastard refuses appeasement”. This act of forgiveness has indirectly weakened the power of law in the society. However, forgiveness does not allow for deliberate violation of the laws of the land.

Johnson (2018) in her study of the Yoruba legal system in Ogbomoso in South-West Nigeria in 1974 discovered that there were three (3) types of courts to settle legal matters and disputes in Yoruba society. Though, each operates on different methods to handle various cases like at the local level, the customary courts handle most family matters, disputes and local land matters. The local court makes decisions, administer fines, and execute judgment. Next in her research was the British based court system which handled more high level legal matters and connected to the state system to allow for appeals and thirdly, the “least used system of legal authority, the Sharia or Islamic law system”. presently, the legal systems have been modified according to the 1999 constitution as amended. Each state of the federation according to chapter VII, the Judicature, Part II, State Courts, stipulates the establishment of the State High Court, State Sharia Court of Appeal and the Customary Court of Appeal for the citizens.

Hierarchy in the Administration of Justice

In Yoruba culture the accepted rules are usually unwritten but binds the people, communities and deities together due to their shared values and communal responsibilities and these laws are rules guided towards the maintenance of a continued harmonious and peaceful relationship between the visible and invisible members of the society. Thus, rules are infused into the culture as a measure of social control to enable for social harmony and cannot be separated rather, the society operates a

socio-cultural environment influenced by moral precepts and controlled by a hierarchy of both the supernatural and natural beings.

Folklores and folk-tales among the Yoruba teach the need to temper justice with mercy and forgiveness. This is reflected in the story of the tortoise arrested for stealing in a popular man's farm in the middle of the night after several escapades; at last when caught, the tortoise was tied to a palm tree throughout the night until the following day. In the morning, those going to the market and heard about the theft condemned and rain curses on the tortoise, but in the evening as they return and still found it tied, weak and hungry, they sympathized with the tortoise and condemned the act by the farm owner as wickedness since the quantity of yams stolen were just few to feed his family.

The Yoruba folklore and proverb though does not support any vice, but attempt to appeal for leniency believing that depending wholly on punishment for disobedience or violation of any law to maintain social justice may not be totally right, though the offender should not be left to go scot-free, but provision for forgiveness should be made available.

Ti aba ni ki a wo dundun ifon, a ho ora de egun (reacting by continuous scratching of the bed bug bite may result in injury to the body)

Ti a ba ni ki a be igi nigbo, a o be eniyan mo (High demand for justice against an action may result on un-imaginable damage)

Owe l'esin oro, bi oro ba so nu, owe laa fi waa – means proverbs are the vehicles of thoughts and words; when the truth seems to hide, proverbs finds it out.

The Ifa divination may also be used to sustain human conduct. Abimbola in Laleye (2014) states that the Ifa corpus (body of writings) contains the fundamental religious and moral ideas of the Yoruba including their literacy and philosophical systems, and the information

on their world-view. The Supreme Being in Yoruba society Olodumare is believed to be the ideal and most trusted judge of the people in conflicts resolution through the Ifa oracle. In Yoruba socio-ethics, punishment for an offence provides justification for the act but forgiveness for a wrong action exhibit the humanistic nature of the Yoruba, as it plays an important role to ensuing social harmony, and reduces the strength of law in the land.

Punishment of Forgiveness in Administration of Justice

Is the punishment commensurable with the magnitude of the offence? The socio-ethical effect is reflected through stories, folk-tales, proverbs and Ifa corpus to guide the people in maintaining social orders. Justice enables individuals or group of people to be held accountable for their behaviour either punished for their wrong or rewarded for their good whereby an ideal social order is maintained for the progress of the populace. This guides the attitudinal disposition towards others in order to maintain social peace (Nielsen 1996:81) and everyone in the society demands it, as it encourages harmonies, trust, understanding and peaceful coexistence amongst the people whereas injustice leads to chaos, after all a Yoruba proverb states “Ika to base loba nge” meaning only the finger that offends, the king cut.

Settlement of dispute in Yoruba land strictly adheres to the principle of natural justice that states that:

The jurists listen to both sides in the dispute.

That a man must be heard before he is condemned whereby all parties involved in a dispute must be given equal opportunities for defence. Before the British, the traditional Yoruba has embedded in several proverbs and folklores this notion of fair hearing. One of the common Yoruba proverbs (long before the advent of the British) shows the practice of natural justice from origin.

Eti gbo ekeji ki o to dajo

The Ear, hear the other side before passing judgment. It is advisable to allow both parties in dispute to fair hearing.

Another Yoruba proverb says:

Agbo ti enika dajo, agba osika ni

It is a wicked elder the passes judgment on any issue after listening to only one of the parties.

More proverbs on the issue of natural justice says:

Toju ba kan oju, ala a to

In a land dispute, when the eyes of the parties involved meet, the form boundary can be resolved. Also the jurists disallow any of the parties involved in the disputes from being a judge in his own case. This however shows how matured and complex the Yoruba judicial system was before the advent of colonization by the British. The presence of the parties is required before judgment is delivered.

A kii ifa ori lehin olori

No one shaves a person's head in his absence. Also a needle cannot mend the hole at its own tail

Abere kole di iwo idi ara re

Yoruba juristic principles encourage fairness and impartiality in final judgments of a dispute. This is shown in the proverb.

Kini lgun se, ti obo ko se; Igun pa lori, obo pa nidi

What has the vulture is bald on the head, while the monkey is bald on the buttocks.

Another law of natural justice is that the jurists disallow any of the parties involved in the dispute preside over his own case as a judge.

The Yoruba proverbs believes that:

Fari fari kole fa ara re

The barber cannot barb his own hair, also it is a common saying that

The needle, no matter how clever cannot thread itself, in Yoruba it says

–Abere ko le gbon titi, ko ki owu wonu are re.

Conclusion

This chapter identified the place of the supernatural in administration of justice in Ogba, Yoruba and Igwuruta-Ikwerre traditions. To this people the supernatural is seen as unbiased umpire, who arbitrate on any matter and no one disputes their pronouncement, in this regard, the shrine is seen as the centre of judicial administration, regardless of the magnitude of issues before it.

Among these traditions, justice is central as an instrument for order. At any point disagreement ensues, either between individuals or groups, complaints are made to a body of arbitrator, with intention that such grievance will be addressed. Thus, individual and groups seek justice as alternative to self-vengeance which might plunge the society into chaos. On this premise therefore, the practice of judicial administration is not only to secure social harmony but to maintain order in the super sensible and visible world.

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Religion and the Rule of Law in Nigeria

Rev. Sr. Dr. Clara M. Austin Iwuoha

Introduction

Since Nigeria's independence in 1960, she has struggled fruitlessly to clearly articulate the nexus between religion and the state. The spheres of rule of law and religion have also remained problematic in view of the two major religions (Christianity and Islam) and particularly the insistence on the introduction of Sharia law in 1999 by twelve out of the nineteen states in the Islam dominated north. Their argument was based on the uniformity of laws in the northern states, particularly regarding Islamic and customary laws.

No doubt the British colonial masters ostensibly bequeathed to the nascent independent nation-state a secular regime, the internal contradictions, which, paradoxically were propagated by the colonial authority, incubated to pose a challenge to the new state soon thereafter.

On the one hand, there was the Muslim north, groomed under the English indirect rule, which accommodated the sharia legal order; on the other hand, there was the Christian/Animist south, mentored under the British-secular regime. Thus the post-independence secular state, which seemed acceptable to the Christian/animist south, was abhorred by the Muslim north. This paradox has remained the Achilles' heel of Nigeria's corporate existence, as northern Islamists have consistently

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sought the establishment of an Islamic state to replace the extant secular regime. This article therefore seeks to situate the legal and constitutional frontiers of state–religion relations in Nigeria. It is intent on delineating the conceptual boundary between religion and politics, while evaluating the impact of the current relationship on national security. The article advocates for a moderate secular regime - by whatever name - that is constitutionally defined and institutionalize

The chapter will attempt to investigate the degree to which there is significant relationship between religion and the rule. The problem between religion and the rule of law lies in the way they are enforced. Law is backed by a threat of socially organized physical coercion and sanctions. Considering divergence in religious believes, the application of certain laws seems problematic even when it is believed that all are equal before the law. In some Islamic states in the north sharia law is applied which is inconsistent with the secular nature of Nigeria. There is an argument that the validity of religious rules is based upon Divine will; but if these rules are adopted by state law, their validity derives from the (secular) legislator.

Religion

Scholars and academics have made conscious efforts over the years towards offering an appropriate definition of religion even though religion does not have a definite definition.

From the Latin *religio* (respect for what is sacred) and *religare* (to bind, in the sense of an obligation), the term religion describes various systems of belief and practice that define what people consider to be sacred or spiritual (Fasching and deChant 2001). Throughout history, and in societies across the world, leaders have used religious narratives, symbols, and traditions in an attempt to give more meaning to life and understand the universe. Some form of religion is found in

every known culture, and it is usually practiced in a public way by a group. The practice of religion can include feasts and festivals, intercession with God or gods, marriage and funeral services, music and art, meditation or initiation, sacrifice or service, and other aspects of culture.

While some people think of religion as something individual because religious beliefs can be highly personal, religion is also a social institution. Social scientists recognize that religion exists as an organized and integrated set of beliefs, behaviours, and norms centred on basic social needs and values. Moreover, religion is a cultural universal found in all social groups. For instance, in every culture, funeral rites are practiced in some way, although these customs vary between cultures and within religious affiliations. Despite differences, there are common elements in a ceremony marking a person's death, such as announcement of the death, care of the deceased, disposition, and ceremony or ritual. These universals, and the differences in the way societies and individuals experience religion, provide rich material for sociological study.

Obilor (2003:133), attempts to proffer solution to the difficulties often associated with religion. Etymologically, religion is derived from the Latin noun 'religio'. The beauty of this Latin word is that, it is most closely allied to other three verbs: 'religere' – which means to 'turn to constantly' or "to observe conscientiously", religari' – which means "to bind oneself (back)" and reeligere' meaning "to choose again". He further avers that, "a closer scrutiny shows that the three verbs point to three possible religious attitudes and thus a purely etymological probe can tell us much about religion and can also help to resolve most of the difficulties often associated with religion." Furthermore, Gilbert (1980:5) describes religion as "any system of values, beliefs, norms, and related symbols and rituals, arising from attempts by individuals

and social groups to effect certain ends, whether in this world or any further world, by means wholly or partly supernatural.” In his analysis on Gilbert's definition of religion, Obilor (2003:134) observes that, the use of the term “supernatural' is fraught with complexities in certain contexts. It has one merit, that of not limiting his definition to a belief in a God or gods and at the same time not forgetting the 'religious' dimension of man, which opens him beyond himself and towards a superior power, a supernatural reality, or merely a transcendent being.

The term religion can be broadly interpreted from functional and substantive perspectives. The former explains the mystery of religion while the latter is a clear pointer to the necessity of religion in human socio-cultural development. My concern in this essay is mainly on the functionality of religion. In this regard, Milton Yinger explains religion as a system of beliefs and practices through which a group of people struggles with problems of human existence (Van der Leew, 1963, p. 102). Emile Durkheim claims that religion is a phenomenon that unites people into a moral community, which must adhere to its ethics (Aderibigbe, 1997, p. 3). Karl Marx, however, argues that religion is a tool in the hand of the elite at oppressing the poor masses. For him, religion is often used to suppress the thinking of the masses and bring them to submission. He writes:

“Religion is the sigh of the oppressed creatures, the heart of a heartless world and the soul of soulless condition. It is the opium of the people.” (Marx, 1844, p. 85).

The submissions of the three scholars mentioned above suggest that religion is a social instrument with capacity to engender socio-economic development in a society, depending on its usage. For Yinger and Durkheim, religion could lead to positive interactions and social identifications through observance of and reliance on its ethical codes. On the contrary, Marx's arguments suggest that religion is only a

'means to an end' and which is often retrogressive as it reduces or eliminates the development of individuals and society. To the Marxists, religion is also an attempt to pacify the oppressed masses.

From a moralist point of view, Immanuel Kant explains religion as:

The belief, which sets what is essential in all adoration of God in human morality... Religion is the law in us, in so far as it obtains emphasis from lawgiver and judge over us. It is a morality directed to the recognition of God (Aderibigbe, 1997, p. 6).

The submission of Kant suggests that religion is all about the recognition of the supreme law giver (God) and obedience it engenders from those who express a belief in Him. Although Kant has been accused of equating religion with morality, the strength of his explanation lies in the interaction it implies between the moral law giver (God) and man, who is the recipient of the law. Man is expected to obey all the laws in order to be adjudged moral with some reward.

According to Black's Law Dictionary, it defines 'Religion' as a system of faith and worship involving belief in a supreme being and usually containing a moral or ethical code. From the clarifications stated above, we observe that religion has serious social dimensions and implications. These effects can only be felt positively or negatively depending on how man reacts and accepts the precepts, doctrines, principles and laws that form the bedrock of religion.

Rule of law

Law is defined as the body of rules, standards and principles that the courts of a particular jurisdiction apply in deciding controversies brought before them. Law also embodies principles of equity and good conscience, in short, the values and morals of the society. No doubt, morality plays an important role in regulating social relations that maintain social order.

The notion of 'rule of law' has two different meanings, a formal and a substantive one. Formally, every state lives under the rule of law (*Rechtsstaat*, in German). The substantive notion relates to the content of the law, its evaluation from an ethical point of view, based on (subjective) ideological and political assumptions about the requirements of justice. In the context of law and religion, the rule of law is used to establish the correct solution to the conflict between the constitutional principles of individual and collective freedom of religion, freedom from religion and public order. If religion, morality and law are to achieve their social goals and values, rule of law is an indispensable modern socio-political value.

For a clear concept of the principle of the rule of law, Akinola Aguda (1992) has given us a brief historical perspective as follows:

“Time was when the law giver, be it in Europe, Africa or elsewhere believed he was above law. The shedding of blood in England and Europe in the 17th century had the salutary effect of limiting the monarchical absolutism of that era and of directing human history towards the evolution of governments under the rule of law.”

In the light of the above, we can deduce that the historical evolution of the concept of the Rule of law is intimately connected with the history of human liberty. As at the time of the Treaty of Augsburg, which temporarily ended the religious wars in Europe in 1555, the princes and sovereigns dictated the religion of their subjects. The religious clause of that Treaty- *Cuius regio, illius et religio* (the authority of each region determines its religion) indicated as much. Not even the Peace of Westphalia which ended the Thirty Years war in Europe in 1648, acknowledged the principle or the Rule of Law and human freedoms, and as was stated by Iwe (2003):

“...centuries after the Middle Ages, religious intolerance still persisted, ...and man and his inalienable religious liberties as based on his personal dignity had not fully come into their own”.

However, a critical perusal and analysis of the relevant documents would indicate that the concept of the Rule of Law as modern human value was conceived in the English Bill of Rights of 1689 and the American Declaration of Independence of 4th July, 1776 are born in the French Revolution and Declaration of the Rights of Man and the Citizen (inspired by the maxim of the Revolution: *Liberte, Egalite et Fratemite* (Liberty, Equality and Fraternity). Iwe in his work on human rights, he commented on this stupendous historical event as follows:

Under the auspices of “L” Etre supreme (God), the French have sung the glory of human dignity, equality and security. These values will never fall to glow in the hearts and on the lips of all men of good will and humanitarians, for all generations to come (Iwe, 1986)

It was however in the United Nations Universal Declaration of Human Rights, on 8th December, 1948 and in Pope John XXIII's Encyclical Letter titled: *Pacem In Terris* (Peace on Earth) of the 11th of April 1963 that the Rule of Law attained full adulthood and maturity and became universally promulgated as a critical, crucial and indispensable human value. Accordingly, the third paragraph of the Preamble to the U.N: Declaration states:

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law (UN, 1948).

In its historical journey, the Rule of Law has become, in the words of Lord Hailsham: “...*the enemy alike of dictatorship and anarchy, the friend by whose good offices authority and liberty can alone be reconciled*” (Hailsham, 1957). It is here that Justice Oputa comes in with his pragmatic definition of and comments on the Rule of Law as follows:

If we are not ruled by Law we will have to be ruled by man and man is an extremely unpredictable animal. The Rule of Law presupposes justice according to the law and not according to the whims or caprices of any individual, be he the most benevolent of all dictators (Oputa, 1981).

It is this historic desire, aspiration and choice of modern men and women that they be governed by the collective will and wisdom and established objective norms and customs of the people as a whole, (which the law represents) that is technically known as the Rule of law. To be governed by law or the collective wisdom and established norms of the society is perceived and acknowledged more objective more stable and less susceptible to human emotions, frailties and prejudice. It is further generally accepted that under the banner of the Rule of Law, the fundamental values and freedoms of the citizens are safer and better developed. It is therefore universally acknowledged that the Rule of Law is the badge of the free people; and many modern democracies have entrenched the Rule of Law into their legal system as its substantive and operational spirit.

According to Finnis (1988),

The rule of law is the name given to the state of affairs in which the legal system is legally in good shape.

The Conflict between Rule of Law and Religion

Just societies enact laws to promote the general welfare. Some people, invariably, refuse to comply with those laws, and they face sanctions in accordance with them but that is not always the case in some countries.

The conflict between law and religion is particularly intense in states for example in United States of America and Israel. In Israel for instance, the problem is to realize the constitutional program of establishing a state that is both Jewish and democratic-liberal. The traditional Orthodox concept of a Jewish state clashes with the modern notion of a liberal, secular-national state. The solution can and must be found in adapting the religious tradition to the modern reality of a Jewish state, composed of multicultural communities, within the framework of a liberal democracy.

In the United States, however, there is an institutionalized right of noncompliance to the law, to the detriment of society as a whole. Its latest outrageous expression is the attempt by Roman Catholic businesses to avoid contraceptive coverage as part of the Affordable Care Act.

America is a religious country, no doubt, but it is also unique among democratic societies for the extent to which it grants religious believers special exemptions from complying with the laws that apply to the rest of the country. In 1990, in *Employment Division v. Smith*, the U.S. Supreme Court, in an opinion by Justice Antonin Scalia, a conservative, tried to put a stop to this legal inequity, noting that "the right of free exercise (of religion) does not relieve an individual of the obligation to comply with a "valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)." An issue was denial of unemployment benefits to Alfred Smith, an Oregon drug-rehabilitation counselor, after he was fired, but for cause: He had lost his job because he had tested positive for use of an illegal narcotic, but one required by the rituals of the Native American religion to which he subscribed. The court concluded that the state did not have to carve out exceptions to a law regulating illegal narcotics to accommodate religious believers.

The Supreme Court's decision met a massive backlash by religious believers, who, unsurprisingly, welcomed the special exemptions to general laws that applied only to them. Congress, the federal courts, and state courts and legislatures all bent over backward to make clear that those with sectarian religious beliefs did not have to comply with the laws that apply to other citizens.

According to [Brian Leiter](#) (2013), for several decades now, sectarian religious believers in the United States have sought and often received special treatment - a "free pass" for breaking laws they do not like. To

be sure, the religious objectors claim a “conscientious” objection to the laws. But conscience is not proprietary to religious believers, and most conscientious objectors to laws either bite their lip and comply or face the consequences. I have no doubt that the vast majority of religious objectors to the Affordable Care Act will, if forced to do so, “bite their lip” and comply with the law that everyone else complies with. As things stand, however, religious believers recognize that our laws may give them a free pass if they can claim a religious objection to compliance and can convince a court to recognize it. They thereby have a perverse incentive to push for exemptions. The United States is not a theocracy. Everyone, even religious believers, should be required to comply with the law.

Religion and Rule of Law: The Nigerian Example

As a socio-political necessity, the rule of law is something necessitated in the social contract and government in view of equality or inequality of men. The concept of the rule of law also stipulates that all are equal in the eyes of the law except certain officials like Presidents and Governors who may be acting in their official capacity. This does not in any way mean that they should flout court rulings or show disrespect to the constitution. But it means that if sued, they may not be compelled to appear in the court personally.

Although morality and law have different identities where morality conflicts with law, the law must prevail. Religious sentiments must also be distinguished from the law. In the celebrated case of *Thomas v. Olufosoye* (1986) 1 NSCC 326, the Supreme Court of Nigeria held that a mere church member had no locus to challenge the appointment by the College of Bishops. The court in appreciating the dichotomy between law and religious sentiments held as follows:

“What is very important in the case is the danger of bringing religion as such to the reasoning of jurisprudence. The reasoning in religion is one of God or Allah which supersedes all jurisprudential understanding.

The more so when Christian judges have to be called upon to settle Moslem disputes or Moslem judges adjudicate upon Christian issues. The unbeliever in such cases can only apply the law of the state. Judges once they are seized of a matter, have no choice but to apply the law and not religious sentiments (Ogunwumiju, 1999).

The argument here is that law is a vital tool in safeguarding freedom of religion or freedom not to believe in any religion. Protection of religion by the law is not universal. Laws of non-secular countries protect the religion of the state from perceived apostasy and not individual right to religion.

Some of the successive military government in Nigeria condoned and encouraged the illegitimate influence of religion on state matters. This was for the purposes of political legitimacy and religious sanctity. However, since 1999 and the entrenchment of democracy and the rule of law, overt religious incursions into governance has decreased considerably. The courts have also played a notable part in the entrenchment of the rule of law by deciding controversial constitutional issues relating to law and religion in a way that left everyone in no doubt as to the separation of law and religion.

Furthermore, to ensure the entrenchment of the rule of law in Nigeria, in 2009, the Court of Appeal, Ilorin division decided that the university had the right to refuse the wearing of the full ijab by female students which covered their faces and prevented examiners from seeing their faces before they entered the examination halls although a right bestowed on them by their religious belief.

Conclusion

Although Nigeria is a multi-lingual, multi ethnic and multi religious nation state, however, the Nigerian state is determined not to allow religious conflict to divide or taunt her coexistence and will continue to

maintain the cohesion and social stability of the Nigerian state. It is our fundamental right of every citizen irrespective of religious inclination to live in peace and the maintenance of these rights can only be guaranteed under the rule of law.

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12

The Challenges of Widowhood Practices in Ogbaru Local Government Area of Anambra State

Festus C. Ajeli

Introduction

Widowhood is the state or period of being a widow or widower. It is a period when a man or woman who is legally married lost his or her partner. Thus a widow is a woman who lost her husband to death. Generally, in Africa, being a widow is a daunting experience. The woman who lost her husband is meant to pass through many demeaning ordeals in the hands of the relatives, friends and family of the deceased. The widow is meant to observe most of the harmful traditional practices as obtained in her husband's community or clan. Some of the practices widows pass through on the loss of their husband are, shaving of hair on their head, drinking of remains of bath water used to wash the husband's corpses, mourn her husband's death for about three to twelve months depending on the ethnic group, right of inheritance as women do not have right to inherit land or property, widows are not allowed to bathe, clean their surrounding during mourning period, on rare cases bath once a day.

In Ogbaru local government, though widows are not that badly treated in some notable communities, yet the remnants of some of this obnoxious cultural practices on widowhood is still prevalent. These practices include shaving of hair, restraining of the widow from

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coming out from her room to see her visitors, being confined in the room for one month, denial of husband's properties by her husband relatives as well as compelling the widow to marry any of her husband's relative (nkuchi) who desires her at the detriment of the widows' choice.

Sometimes, in the case of envy, some widows are accused of killing their husbands when it was clear the husband died of a known illness. They accuse the widow for ill-treating her husband when he was sick, not taking care of him appropriately that made him to die and at other times made her to take an oath of innocence on the death of her husband. To an extent this treatment has become a major challenge that widows face after the demise of their spouse which have in many cases affected widows emotionally, physically, psychologically, culturally and socially. This paper is an x-ray on the challenges of widowhood practices on women in Ogbaru local government area of Anambra state. On many occasions, widows dies few months after the death of their husbands because of emotional break down and shock as they assume they cannot withstand the type of ill-treatment to be meted on them after their husband's burial especially when they listen to other widow's testimonies.

This study is necessary as it will bring to the knowledge of the general public the challenges that widows pass through in our environment because of some cultural practices which is due to be phased out in the present century.

Overview of Widowhood Practices in South Eastern Part of Nigeria

It is basically in the context of the social values, norms and beliefs from which they are derived that we can begin to understand how widowhood practices came into existence and what functions they

performed or still perform. In some communities in the south east such as Ogwuaniocha widowhood begin as soon as the husband of the widow dies while in some communities' widowhood begin after the burial. In Ogbaru certain ritual practices are performed to separate the woman from her husband and to purify the woman from any relationship that he had with his late husband.

Before the burial, and immediately after the burial, up to seven to fourteen weeks while funeral visits is still taking place, the widow is secluded in a most restricted manner. Ubesie (1978) described this as *ino na nso*. This is a period when a widow is shielded from public appearance for certain period. In Ogbaru communities it usually lasts for one month while mourning period (*iri uju*) lasts for six months to one year. According to Korie (1996) ritual seclusion and general isolation of the widow for a certain period from the community or village is a widespread practice in Africa, but its intensity and duration varies. In the Islamized communities of West Africa, this period was known as *iddat* or *idda* (the period of continence between being widowed and being allowed to remarry if a widow were so minded and still marriageable) (Afigbo, 1989).

In concurring with the above, Trimmingham (1959) observes that in Islamic law the widow should observe *idda* for three periods of legal purity, or four months, ten days during which she may not remarry. A slave wife observes half the period. If the widow is pregnant the period is extended till her delivery. Custom varies slightly. In some places, it is four moons; in Hausa land some five months, others 130 days while in others it is 122 days. But in Ogbaru it usually lasts for one month after which the widow begins to associate with people, goes to market and commences daily activities for the sustenance of her family.

Widowhood during and after Burial

The widow faces a lot of challenges during and after the burial of her

husband. On the news that her husband is dead and following her moment of grief, she is confined in a room where she remains until the time of burial. This method is application if the husband is to be buried immediately without the normal burial rites after which she will be allowed some freedom. During this period, the widow is accompanied by other women and friends who came to console her.

Speaking on why a widow is confined in the room for that moment of grief with some people, Nduka (2018) maintains that the aim was to rescue the widow from taking any regrettable action against herself due to shock from the news of her husband's death. According to him, a widow may decide to take her life or if she remembers that her continued stay in the family without her husband will be regrettable. She is therefore, protected from such imminent tragedy.

During the burial, the widow in some cases were not allowed to come close to her husband's grave or while some may be denied the right to bid their husband 'bond' farewell by depositing sand into his grave also known as dust-to-dust ritual. This practice has become a controversial issue in our community today especially between Christians and non-Christians alike. Okafor (2019) contends that the essence of depositing sand on the grave of the deceased husband is to renew the bond of relationship between her and her husband to the end of age. But on why the simple dust to dust ritual on the man's grave turns to be a serious problem Okoye (2017) observes that why the non-Christians oppose this religious belief of depositing sand on the grave is because it is believed that the spirit of the dead husband will hunt any man who wants to take possession of his wife and thus the consequence would be grave for the victim. Thus the non-Christians see the belief as a restriction of their freedom of association and choice.

Again, during the burial and after, till a one-month period, the woman's

hair is shaved, she cannot cook, cannot take her bath by herself and cannot appear in public places. This practice of seclusion did not only contravene the widow's right of freedom of association and movement but also proves hazardous to her health as not taking her bath for a long time may lead her to contracting an illness. This challenge has made some widows to develop high blood pressure on the news of their husband's death when they think of what will befall them from that period onwards.

Major forms of Widowhood Practices in Ogbaruland

Generally, these harmful widowhood practices as obtained in Nigeria and Ogbaruland include, shaving of hairs. This practice includes shaving even the pubic hairs. Sometimes broken bottle are used for shaving the hair on her head and razor for the pubic hair. Before the present century, the widow's hair is shaved with certain designs on her head after scrapping off the hairs. Ilozue (2007) was of the view that the significance of this design is that, since the husband is dead, there is nobody to beautify her hair for, at least for a period of time. This goes to buttress our point that some widow passes on few months after the demise of their husband as a result of their inability to cope with this obnoxious practices that will befall them soon after their husbands' dies.

Another practice that is harmful to the widow as earlier noted is the practice of the widow not taking her bath for a number of days. It is general maxim that cleanliness is next to godliness. Neglecting a personal appearance and hygiene is an invitation to ill health especially among the womenfolk. The widow will be forced to stay for a number of days without taking her bath. This practice is simply unspeakable, unimaginable and honestly cruel, for a woman that just lost a husband, who needs pity and not punishment. In an interview with Ekemma in

Ossomala, an old woman and a widow, she noted that the practice is more of a punishment than that of a cultural practice since culture are meant to help the people improve and live their lives in a way that encourage community and personal upliftment, (Ekemma, 2010).

Widows are also compelled to wear black or white clothes. This simply suggest that widow is in mourning mood and also make her un-attractive and remind everybody that her husband is dead. When the researcher sought to know why the widow is subjected to all these, as if she was the one that killed her husband. An informant Okoyeagu Udenze, says that in Igbo tradition, a widow is meant to loose every right she has since her husband was her only possession and when her husband dies, she has lost all. But in this modern time, especially in Ogbaru women are allowed to choose the type of material to wear when mourning her husband.

Sitting and sleeping on the floor or mat is yet another practice which the widows had to pass through in Ogbaru traditional setting. This is meant to inform the woman that the death of her husband meant her dethronement. Because a woman by marriage becomes absorbed into the husband's family and is recognised by her role as a wife, therefore, the loss of her position and entitlements in the family, hence, the sitting on the floor or mat, (Akinbi: 2015).

A widow is also made to swear with her husband's corpse to prove her innocence over the death of her husband. If a woman is being suspected of having a hand in the death of her husband, she is meant to swear with her corpse and prove she is innocent. But we have seen occasions where some mischievous men are behind the plan against the widow as they have something against the widow one way or the other. According to Nzewi (1981) once a man dies, the in-laws immediately accuse the wife and ask her to confess to the killing, and to prove her innocence, she must be made to drink the water used in bathing the

corpse of the late husband. If she refuses, obviously, she killed the husband. Therefore, she must be punished; or the widow crosses the husband's coffin three times, if she dies before the mourning period is over, she will be thrown into the evil forest because her death confirms her as the murderer.

Seclusion and general isolation of the widows for a certain period from the community is a widespread practice in Africa. In most parts of the Igbo society, the early parts of this period are usually rigorous. During the first 28 days, the widow is not allowed to go anywhere; certain rituals must be performed at the expiration of the 28 days before the widow can perform normal activities. Umejesie (2002) maintains that at this time, the widow is regarded as unclean. To make matters worse for the widows, every movable items are often transported homewards by the in-laws, leaving the poor widow empty handed. They believe that every asset belongs to the man.

Why Widowhood Practice is still Prevalent

One of the reasons adduced for the continued existence of the obnoxious widowhood practices is failure of men to write their will and share their properties to their families. Husbands do not see any need of writing their will so as to share their property to their families in case of death and if a woman suggest that to his husband, it would mean to the man that the woman wants to kill him and inherit his properties. That will be another trouble for the woman. Lack of any written will pertaining to inheritance of properties will place the wife at a disadvantaged position since the in-laws would want to confiscate their brother's properties, and evict her from the family house.

Again, widowhood practices is still prevalent because of high rate of illiteracy. Lack of education by most women makes them vulnerable to these widowhood practices. Moreover, there are still some part of the

country that do not strongly believe in educating girls. When a woman is educated and enlightened she would not allow herself to be abused and maltreated as a widow in such degrading and dehumanizing manner.

Another important reason for the prevalence is superstitious beliefs. There is wide-spread belief in African societies especially in the riverine area of Ogbaru that if this practices were not observed, the spirit of the dead man will not have rest, instead his soul will be wandering around and in some cases the dead man's spirit will bring misfortune on the community. Thus, the widow has to go through all these widowhood practices to appease the spirit of the dead.

Idleness is also a militating factor. In a situation where wives depend on their husband for their overall survival and death suddenly struck, a state of confusion will be created and the woman involved will be disappointed. This obviously placed them at abject poverty level after the death of their husbands as other members of the extended family would want to lay claim to the deceased husband's properties. If women are economically empowered, they would be able to stand up and refuse to compromise to these obnoxious widowhood practices and in fact if they know that the woman does not depend on her husband, they will not think of claiming everything because the woman will also have some properties among the husbands' own.

Another important factor for the prevalence of this practices is the absence of respect for the womenfolk. Like elsewhere, Ogbaru people view women as too inferior and no match for men. Hence the belief that everything belongs to the man even when that property was acquired by the woman while in the man's house. Therefore, the world belonged to the men. This belief makes the in-laws to treat the wife without respect when the husband dies.

Way forward

There is need for government to make a legislation prohibiting all the obnoxious widowhood practices. This especially will be geared towards extricating widows from all sort of sufferings associated with widowhood and help them contribute meaningfully in their husband's family since they will not assume that whatever they acquire will be confiscated by their husband's family as their brother's property.

Again, girl-child education should be made compulsory in Nigeria to empower the women with knowledge of the obnoxious practice and encourage them to work hard and break the barrier and keep her in-laws away from her even at the death of her husband in places where they are being discountenanced in Nigeria. This will go a long way to furnish women with their rights and make them to reject barbaric customs and practices which is detrimental to the growth and development of womanhood.

The women folk should be empowered economically by giving them viable jobs that will make them not to depend solely on their husbands. Women nowadays take up employment and do better than men in their area of endeavour (Sheppard: 1989). Thus, at present women are having more access to education and are becoming economically independent more than it was in the traditional societies.

Finally, husbands are encouraged to make adequate provision for their wives and children in the case of eventualities. This will take the form of will or making his kinsmen know about his intentions towards his family. If this is done, a lot of negative experiences would be averted and peace enthroned at the death of the husband.

Conclusion

This paper therefore concludes that to address the challenges emanating from widowhood practices in Nigeria especially in Ogbaru local government, communities in Ogbaru local government should

ensure that all these obnoxious practices are replaced with best practices to enhance peaceful co-existence among members of the family. Men should also note that with what measure you give; shall be the measure you will receive. When you subject another man's wife to unnecessary wickedness, tomorrow might be the turn of your wife and she will pay the price. Although in this contemporary time, factors like modernization, education, involvement in industrial and other bureaucratic jobs, Christianity and high level of exposure of the women have gone a long way in minimizing most of these harmful widowhood practices.

Therefore, the economic empowerment of the Nigerian women (widows), among other recommendations, is advocated to liberate the women folk from these harmful widowhood practices.

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The Challenges to the Rule of Law in Nigeria: A Historical and Theoretical Analysis

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Introduction

The laws that guides the Federal Republic of Nigeria; and equally contains the contents of the Human Rights as pertinent to Nigeria as well are protected under the most current amended 1999 constitution of Nigeria ratified and enacted in 10th January, 2011. With a written gazette document as this in place, it behoves that every citizen of Nigeria including those with the reins of the government authorities should abide by it.

In the content of the rule of law, it is legal and legitimate that the constitution of a given Nation should govern such a Nation, and not arbitrary decisions by individual government officials. The citizens of such a given Nation are equally expected never to act rashly nor take laws into their hands; they should always allow justice to take its full sway in the court of law and through the disciplinary panel and authorities set in place for that through basic channel of legal process. As it is, a close survey in the Nigerian situation posits that the reverse is more often than not the case experienced.

Cases of flagrant abuse and disrespect of the rule of law by certain government officials in Nigeria are paramount. The majority of the Nigerian citizens appears to be lawless. Jungle justice, unpatriotism,

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violence that often extends to terrorism, inability to follow due process in official activities and acts that tantamount to treasonable felony depicts the contemporary scenario in the Nigerian society. The governmental and socio-political terrain of Nigeria is characterized by political corruption, abuse of power, judicial ineptitude and poor leadership. All these equally makes the nation Nigeria looks like a failed state. This was actually why Anuye, Akombo and Abdsulsalami (2017), maintained that "... democracy, the rule of law and good governance are the key elements that are imperative for the existence of what Plato in his "The Republic", described as an "Ideal State" (p.1).

This work attempts to posit to the surface that which challenge the Rule of Law in Nigeria. It attempts to equally trace the given atmosphere that results in flagrant disrespect and abuse of the Rule of Law by the citizens and government officials in Nigeria. This work equally posits practical solutions to effect and ensure that the Rule of Law is employed in Nigeria in practice and not just in principle. This work focuses on the socio-political terrain of Nigerian between 1999 and 2019.

Qualitative method of data presentation is employed in this work as the gathered data via the primary sources (Literatures pertinent to the topic being studied) and secondary sources (personal communication in particular), were analysed phenomenologically. Furthermore, this work will posit a concise historical indices of the challenges to the rule of law in Nigeria in concrete situations by the government officials and citizens in Nigerian within the years under the scope of study.

Since this work is theoretical in nature, the theory of Authoritarianism was adopted by this work in order to exposit the political premise that most Nigerian governmental officials employ which foster their gross abuse of the Rule of Law. The Elite theory was adopted to portray

vividly the class struggle in Nigeria that foster the abuse of the Rule of Law by some politicians and tribes that are under the peculiar conception that they are “born to rule” and so are equally “above the law”. In order to describe the state of affairs that bad governance and gross abuse of the Rule of Law by the governing class creates in Nigeria which equally perpetrates corollary abuse of the Rule of Law on the long run by some citizens of Nigeria (as they take the laws into their hands often times); the theory of Anomie was employed. Sequel to that, the Neo-Welfarism theory was employed as that which can create the atmosphere in the Nigerian society that will enforce total submission to the Rule of Law by all and sundry. Finally, it is pertinent to however underscore that this work does not claim to be exhaustive in nature; foom for further research on the relevant topics to this still abounds.

The Content of the Rule of Law

The Rule of Law in general terms implies “Equality Before The Law Of Any Given State”. This notion expresses that no one is above the basic laws or constitution of any given state: And irrespective of one's status in the society, such a one should be treated equally before the law of the state. This equally assures equal opportunity for all and sundry in any given state. The rule of Law according to Daniel (2014), implies that every person is subject to the law, including the lawmakers, law enforcement officials, and judges. In this sense then, it stands in contrast to a monarchy or oligarchy where the rulers are held above the law.

Dicey (cited by Gianluigi, 2009), was the one that propounded the rule of law in the Modern time. Although Ranjan (2011), registered that the concept backs to the time of Aristotle. Aristotle then on his part, ruled out the concept of rule under discretion by all means and tried to convey his followers that given the choice it is always Rule of Law that scores

over the Rule of discretion. Dicey (cited by Gianluigi), gave three postulates of Rule of Law which includes:

- (i) Everyone is equal before the law.
- (ii) Sanctions have to be backed by law
- (iii) Courts are the ultimate body and supremacy of court is ambivalent in civilised society. He was firm in his proposals and equally influential in his times. However, the third principle was protested by many of the Jurists of his time, whereas the first two are still in almost every legal system of the world today.

In lieu with the foregoings, John (2009), stated that from Dicey's analysis, it is obvious that the concept of the Rule of Law clearly answers the query: Does the state exist on its own right over and above the citizens' right? It is then obvious from the afore-stated that the rule of law is an accepted common phenomenon both in view of natural and positive laws. Thus, for justice to gain ascendancy in any given society, the Rule of Law must be upheld in high esteem by every citizen of a given state irrespective of status. John (2011), in line with the already established stressed that the Rule of Law involves the sovereignty of the law over the personal ideologies and ambitions either of the individual or state. This rule thus, will aid the leaders to be well tutored on the need to condescend to the law. The citizens on the other hand will take example from those at the helm of authorities. This will greatly influence the overall ideal of a given state in the socio-political, socio-economic and governmental administrative stance.

Two principal conceptions of the Rule of Law is upheld by Modern Legal theorists, according to Brian (2002), they are; the “formalist” or “thin” definition – this does not make a judgement about “how just” a peculiar law is itself; it however defines specific procedural attributes that a legal framework must have in order to be in compliance with the

Rule of Law. The other principle is the “Substantive” or “thick” definition – this goes beyond and deeper to include certain substantive rights that are said to be based on or derived from the Rule of Law. Graham and Stroup (2016), added that most legal theorists believe that the Rule of Law has purely formal characteristics. Thus requires the following:

- General regulations that is applicable to all persons and behaviours in the society irrespective of ones status as opposed to individuals.
- Law should be published and not sensitive.
- There should only be minor or no retroactive laws in existence.
- Laws should not be contradictory but rather consistent.
- All in the society must be subject to the law; thus ensuring equality before the law.
- There should be certainty of the application of the law for a given situation.

Formalists contend that there are no requirements with respect to the content of the Law. Others, including a few legal theorists, believe that the Rule of Law necessarily entails protection of individual rights. At the legal theory platform, these two approaches to the rule of law are seen as the two basic alternatives, clearly identified as the formal and substantive approaches. Other views equally abounds. Mathew (2008) noted that some believe that democracy is part of the Rule of Law as already noted in this work.

The phrase “The Rule of Law” is all embracing. It refers to both a political situation and precepts to ensure and enforce the maintenance of law and order in any given setting. Little wonder Ranjan (2011), maintains that the Rule of Law is a classical principle of administrative law. Simply put, without the “Rule of Law”, every administrative

organ of human endeavour will collapse. No administrative entity will stand the test of time because the scenario will always end up in chaos and catastrophe; for no one will ever submit to another. There will always remain a perpetual state of anarchy.

Nevertheless, it is worthy of noting that laws of a land can be manipulated to suit the whims and caprices of some opportuned persons within the reins of the government. A situation as this may end up in revolution. Thus Solum (2017), pointed out that in a thoroughly evil society, the rule of law will be extremely problematic. Even an evil society may benefit from regularity in the reinforcement of ordinary laws; but when it comes to horrendously evil laws, anarchy or revolution is likely to be preferable to the rule of law. One thing then should be upheld, the rule of law assures predictability and certainty of the laws. When this is in place, it will create a sphere of autonomy within which individuals can act without fear of government interference. The case of enacting laws to meet the whims and caprices of those within the reins of the government can be addressed by the citizens making sure that incorruptible politicians and candidates are voted into power especially in the law making body of any given state.

Theoretical Framework

The theories already outlined to be employed by this work will be expatiated here in details. Efforts will be made in relating them to how it infuses the violations and abuse of the Rule of Law in Nigeria, which equally forms part of the endemic and paramount challenges to the Rule of Law in Nigeria.

The Theory of Authoritarianism

Authoritarianism is the employment of a political ideology wherein those at the helm of affairs lord it over their subjects regardless of the

masses consensual desires, demands and expectations. According to Mbah (2013), “It is a style of government in which the rulers demand unquestioning obedience from the ruled” (p.154-155). In an authoritarian regime, the claims and demands of authority is upheld over those of individual liberty.

In recent times as Tomsy (2019), intimated, authoritarianism is more often than not referred to as “despotism” in its meaning. Halevy (2013), maintained that this is so as authoritarianism points to arrogant and intolerant governments, irrespective of the justification or absence of it. Authoritarianism is a theory that promotes a form of government that depicts strong central power and limited political freedom. Masashi (2010) pointed out that in an authoritarian regime, individual freedoms are subordinate to the state, and there is no constitutional accountability. He went ahead to include that an Authoritarian regime can be autocratic, with power concentrated in one person, or can be a committee, with power shared among officials and government institutions.

The Political Scientists, Juan Linz (cited by Shorten, 2012), and (Heinrich and Pleines, 2018), identified authoritarianism as characterized by the following:

- Limited political pluralism, actualized with repressions on the legislature, political parties and interest groups.
- Political legality hinging on adjurations to emotions, and identification of the regime as an inescapable ill to tackle “simply identifiable societal/social problems, like unemployment, underdevelopment mutiny and militancy”.
- Political mobilization, subjugation and repression of anti-regime activities.
- Squeamish-defined executive powers, mainly inexplicit and winding, which extends the power of the executive.

Nothing can forestall gross abuse and disrespect to the rule of law by those in government authorities operating with an authoritarian theory. It makes them “The Law” themselves. Little wonder Fredrick The Great (cited by Mbah, 2013), stated “I have an agreement with my people: They can say what they like and I can do what I like” (p.155). This typifies the contemporary federal governmental regimes stance in Nigeria.

Elite Theory

The Elite Theory elucidates that every society or milieu anchors a ruling class; a minority group that controls, determines and disputes the most important power sources. According to Lopez (2013), these Elites not only reaches different levels of conflict and violence in their quest for wielding power, but new elites also enter the game through different mechanisms of elite recruitment.

Elite theory is deep-rooted in classical sociology; Lopez (2013), and Efebeh (2015), indicated that the Elite theory was upheld by such scholars as Vilfredo Pareto, Gaetano Mosca, and Robert Mitchell: Contemporary scholars of elite theory includes, Mills (1956); Lerner, Nagai, and Rothman (1956); Burnham, (1960); Dohoff, (1967); Putnam, (1976); Schwartz, (1987); Bottomore, (1993); and Dye, (2000).

In political science and sociology, Elite Theory is a theory of the state that attempts to determine and expatiate power affinity in the contemporary milieu. This theory projects that a small minority, according to Amsden (2012), consisting of members of the economic and wealthy class elites and policy-planning networks, wields the highest power-and that this power is completely not dependent on public opinion, thus it is basically independent of democratic elections. Elite theory stands against pluralism. It projects that either Democracy

is a “Pipe dream” or “Utopian Folly”, or that democracy is not achievable within capitalism.

Scholars of elitism according to Efebeh (2015), believes that all societies are divided into two sects consisting of the governing minority and the governed majority. The elite class are ever on the edge to maintain certain perceived whimsical and capricious interests. They exert significant and dominant political influence in the society. Mazi (cited by Efebeh), maintains that a good number of human being (Africans mostly, and Nigerians in particular) are impassive, over bearing and docile. They are perpetually incapable of self-government, most of them derive joy from being led and unduly dominated. Due to the fact that the elites perform most political endeavours, they monopolise and dominate political power, they equally make public policies that tend to suit their common egocentric goals and interest. Little wonder Donald Trumps alleged derogatory statements on Africa (cited by Cillizza, 2019), as living in shit holes and unable to vote out government they tag tyrannical when the opportunity sets in. he maintained that African countries ought to be recolonised again for another century because they are basically ignorant of all that leadership and self-governance entails.

Addressing the issue of sectionalism which is the bane of Elite theory in the Nigerian politics, Mbalisi (2017), intimated that politics by identity and prebendal politics are directly responsible for disintegration, heightened state of insecurity and social instability in Nigeria. All these fosters the abuse of the rule of law which is one of the major challenges to the Rule of Law in Nigeria. In elucidating this the more, the Elite theory makes the so called “Elites group” in politics to perceive democracy as that which can easily be manipulated by the “few opportuned ones” to serve their interests and purposes. This then creates problems pertinent to its ability to actually posit or portray the

general will and mandate of the citizens; as seldom play by the rule of law. This state of affairs only ensures high level of desperation that enforces politics by bribery, violence, rigging and the manipulation of the electoral processes. All these plays down on the Rule of Law.

The Theory of Anomie

Anomie is a state that makes peculiar people living in a given society to feel alienated and not connected to their society because they seldom perceive the norms and core values for which the society stands and is known for and that which makes up the entire good image of such given society; of which the individuals in such society hold very dear. Smith (2008), pointed out that such state as this makes some persons in the society perceive it that the role they play (or played) and their identity is no longer valued by the society. Thus Crossman (2019), maintained that this scenario of Anomie can foster the feeling that one lacks purpose, engender hopelessness, promote and encourage deviance, violence and crime in general.

The Theory of Anomie according to Messner, Thome and Rosenfeld (2008) stipulates that Anomie is a social condition in which there is a decomposition or disappearance of the norms and values that were initially acceptable and familiar to the society. The concept, thought of as “normlessness”, was developed by the founding sociologist, Emile Durkheim. This typically occurs during a period of profound social change chaos, and disorder; such as a time of economic collapse. People become more aggressive or depressed: loss of direction now set in, in such a society because social control of individual behaviour has become ineffective. Deflem (2015), stipulated that in an Anomie stance, the society provides little moral guidance to individuals. Deflem (2019), also went ahead to expatiate that this develops from clash or discordance of belief systems and results in disintegration of

social bonds between a person and his society. In an individual according to Gerber and Macionis (2010), this can progress into a dysfunctional ability to assimilate into or within the laid down ethical rules of their social world; for instance, a rude personal stance that results in fragmentation of social identity and rejection of values.

A situation whereby election is rigged on continuous basis in a country; Anomie condition will definitely set in. in Nigeria for instance, the citizens had actually lost hope in the government as they see everything in her governance as manipulative and corrupt. Recently, some citizens of Nigeria take laws into their hand as they get involved in dispensing jungle justice; at times they go to the extent of attempting to lynch, embarrass and taunt persons in the reigns of government and exalted public offices even beyond the shores of Nigeria.

Neo-Welfarism Theory

Neo-Welfarism as a political theory was propounded by the foremost African Nationalist Late Dr. Nnamdi Azikiwe as Madubuko (2008), recorded. Azikiwe defined Neo-Welfarism as:

An economic system which blends the essential elements of capitalism, socialism and welfarism in a socio-economic matrix, influenced by Indigenous Nigerian mores, to enable the state and the private sector to own and control the means of production, distribution and exchange, whilst simultaneously enabling the state to assume responsibility for the social services, in order to benefit the citizens according to their needs and officially-specified minimum standards, without prejudice to manipulation in any aspect of the social services by voluntary agencies. (pp. 591-592).

With this practice in the Nigerian political sphere, it will ensure the employment of basic democratic principles in the Nigerian politics and fizzle out elements of the ills of Elite theory which includes god fatherism, political party domination and all forms of election rigging as all these equally constitutes the major challenges to the Rule of Law

in Nigeria. This will blend well with the Nigerian African cultural heritage and understanding, and as well keep the average Nigerian irrespective of the tribe happy while giving all the sense of belonging. The government and the citizens in the country will be working hand in glove and not leasing every aspect of the economic activities entirely on the hands of the government or the public nor the private sectors: This will definitely leave no room for tribalistic agitations in Nigeria and individualistic bikerings that leads to violent agitations and the abuse of the Rule of Law: As well as serving as a restriction on the government excesses pertinent to being intoxicated with power and authority.

According to Azikiwe (cited by Madubuko, 2008), Neo-Welfarism as a suitable political system for Nigeria should be based on two schools of thought: eclecticism and pragmatism which themselves are rooted on rationalism and empiricism. Its eclectic foundation is in the fact that it incorporates in its system the most utilitarian and practicable elements in capitalism, socialism and welfarism that can be adapted to the Nigerian situation and experience. Neo-Welfarism founded on eclecticism and pragmatism therefore sifts and synchronizes into a social matrix the best elements from capitalism, socialism and welfarism. It permits private enterprises, but invites the state to participate and collaborate in their management, control and sponsorship in order to achieve the best welfare for the people. It will produce a planned, mixed and indigenously nationalized economy.

In concrete terms, according to Madubuko (2008), the main objective of Neo-Welfarism is to restore democracy in Nigeria with political freedom, economic security and social equality. Stated clearly, it follows:

- The reform and renewal of instruments of power according to Nigerian political experiences.
- The insistence on the Rule of Law.
- The total restoration and reinforcement of the fundamental Rights of all citizens according to the constitution.
- The dedication of the universally accepted principles of the separation of powers between the Executive, Legislative, and the Judiciary.
- The renewal of confidence in the integrity of government.
- The good organization and administration of public utilities, welfare services, education, agriculture, recreational facilities and entertainment,
- The open door policy in importation and exportation of products.
- The taxation policy according to reasonable scale.

Bedrock of the Abuse of the Rule of Law in Nigeria

Irrespective of the fact that this work is focused on the socio-political parlance of Nigeria between 1999 and 2019. Attempt will be embarked on here to trace the circumstances that fostered the seeming prevailing abuse and violations of the Rule of Law in Nigeria. In this regards, it can be traced to the military regime in Nigeria. Military administration in Nigeria is necessarily a regime of autocracy and force field. Their mode of inception to the reins of governance is usually forceful and usurpation of the existing political and constitutional order in a manner not contemplated by the constitution as Akanbi and Shehu (2012), pointed out.

Military rule was experienced in Nigeria mainly between 1966 and 1998 with only periodic or recurrent civilian administration. The irony of the military rule scenario is that after gaining ascendancy into power via coup de tat, they more often than not preach total submission to the Rule of Law. The truth is that gaining power through the barrel of the gun as against casting of votes in elections proper, does not follow the contents and principles of the Rule of Law by any standard. One can rightly declare that the origin of the violations of the Rule of Law can simple be directed to the mode through which the military men assume leadership positioning in government in African countries especially Nigeria as A.I. Okuodu (personal communication, July 31 2019), maintained. Forceful mode of gaining power in Africa especially by the military makes one begins to wonder the kind of training they receive in their barracks. The western work military and marine are far more refined than that of Africans.

The manner of violence, bloodshed and vandalisation of properties that the military coup de tat features in African countries especially Nigeria can best be described as “barbaric and demonic massacres”. In so doing, lives are wasted, peoples acquired properties destroyed, persons or groups seen as opposition are imprisoned without trials. Some are even court-martialed and killed straight on. All these does not flow with the stipulations of the rule of law. Little wonder in most African countries, citizens often take to unleashing jungle justice on fellow humans whether as punishment for crimes committed as experienced more often than not in the Nigerian situation; and as jealousy for foreigners great strives and achievements in a land that is not their own as currently happening in South African's Xenophobic attacks on foreigners.

O, Izuogu (personal communication, June 29 2019), pointed out that the worst form of man's inhuman treatment to fellow man and indiscipline in governance was at its peak during the military regime in

Nigeria. The military thus only preach the Rule of Law in principle. They are actually the law in themselves and ought to be obeyed. They are God amongst men and thereby are infallible. This actually formed the bedrock of the violations of the Rule of Law in Nigeria which is actually the major challenge it faces. The gross violations of the Rule of Law by the military is purely depicted by the Assertion by Akanbi and Shehu (2012), thus:

Wherever a military government came to power, certain provisions of the existing constitution are suspended through the usual constitution suspension and modification Decree. This process was usually an attempt to maintain power, gain legitimacy for the government and to ensure that popular discontent with the military was killed without minding the considerable erosion of the Rule of Law.... Basically, the military is characterized with suspension of certain provisions of the constitution, abuses of human rights, dismissal of democratic institutions (executive and legislature) though leaving the judiciary that cannot just be washed away under any disguise, but not without some bruises; restriction of jurisdiction of the courts by decrees. With this there was a running battle between the courts and the military, with the courts flying to jealously guided their jurisdiction on the one hand, its actions go unchallenged on the other hand. But as usual, the courts have the judgement, but no enforcement machinery (p.3).

Little wonder Chief Obagfemi Awolowo (cited by Ogerie, 2002), declared that under the military rule, the rule of law is not absolutely or totally suppressed, but largely in abeyance. Thus totally inactive for the moment they are in power. One can now understand vividly what fanned the embers of the track records of gross abuse and violations of the Rule of Law in Nigeria especially within the years under study in this work.

Challenges to the Rule of Law: The Nigerian Core Situation between 1999 and 2019

Irrespective of the fact that Nigeria as a state has laid down constitution expected to be supreme and strictly adhered to by all and sundry. It is however quite unfortunate that the reverse is the case at certain given

circumstances and spheres. Instances in concrete situations where the Rule of Law is grossly challenged via its violations in Nigeria abounds viz:

The Nigeria Political Terrain:

The present democratic dispensation in Nigeria ensued on the 29th of May, 1999. In principle, Nigeria operates a democratic form of government, both in choosing the leaders and in administration proper. In practice however, it is seldom implemented. This then is contrary to the assertion of Plato (cited by Efebeh, 2015), that Democracy, the Rule of Law and good governance are the basic elements that are expedient for the existence of an “ideal state”. Employing the Democratic form of governments implies that the Rule of Law ought to be in practice and realized in such a given state. Submitting to the Rule of Law as well will definitely effect genuine democracy and good governance in the actual sense in any state. The truth still remains that cases of election rigging especially by governments in power at certain periods remains obvious. In lieu with that Ogundiya (2010), once asserted that irrespective of the fact that Nigeria commenced the employment of democratic form of government since May 1999, yet little or no significant impact had been made by that on the socio-economic, socio-political, socio-Religious and the general well-being of the country and her citizens at large. This of course is so owing to the manipulative nature and character of the Ruling Elite. Thus from the postulation of the Elite theory, it is obvious that the “so called”, Ruling Elites or Each government in power and its political party keeps infringing on the elections results to see that their candidates emerge the winner against the public mandate.

Describing the April 14th and 21st elections of 2007, Spio-Garbrah (2007) pointed out then that the irregularities that marred it in favouring

the People's Democratic Party (PDP), showed that the party effectively controls almost all institutions of the state, save the judiciary, and is willing to use it against political enemies. In like manner, Ayo Adebajo (cited by Erezi, 2019), Omokri (cited by Olowolagba, 2019), and Atiku Abubakar (cited by Adenekan, 2019), all lamented that the 2019 presidential election in Nigeria was rigged. These allegations are still hanging in the air as one cannot substantiate how factual they are, neither had they been disproved. In lieu of the foregoing, the question once asked by Spio-Garbrah, is yet to be answered and it still runs thus:

If the very basic definition of a democracy is a government that exists by the consent of the governed, then the just-ended general elections in Nigeria, which brought the country a new government, also produced a highly questionable democracy. (p.1)

Government in Power Violations:

It is quite obvious that most times the peculiar government in power in Nigeria at each given epoch assumes the position of God. There exists several cases of unlawful detentions orchestrated by the government; gross abuse on fundamental human rights backed up by the constitution especially as related to the freedom of expression; government disregard and disrespect for court orders, and the list goes on.

The administration of Chief Olusegun Obasanjo between 1999 and 2007 had been described by John (2011) as the worst when it comes to compliance with the Rule of Law. In his words he declared that "Obasanjo's regime was also an embodiment of executive lawlessness in Nigeria" (p. 212). He cited the instances of how despite the judgement of the supreme court on the feuds between the Lagos state government and the Federal Government over the failure to remit funds allocation meant for local government councils in Lagos; the defaulting party, which happens to be the federal government defied the court orders and went ahead in pursuing the case which was

basically improper as if they are placing the judiciary in a tight corner to submit to their disobedience and rule in their favour: whereas, the constitution of the federal republic of Nigeria as amended (2011), stipulates that the reason for the constitution to be uphold is for:

... the purpose of promoting the good government and welfare of all persons in our country on the principles of freedom, equality and justice, and for the purpose of consolidating the unity of our people. (p.19) pressing to reverse a court judgement as this can in no way enhance peace in the country.

Again, when Former President Obasanjo embarked on his 93rd trip abroad on June 10,2002, this Day newspaper (cited by John, 2011), described the trip as frivolous, capricious and whimsical; when other papers like the MID-Day news attempted an exposition on those trips geared towards actualizing personal goals, the former president Obasanjo quickly embarked on a witch-hunting campaign against journalists. More often than not the press in Nigeria is often subject to scare tactics and intimidation as Egede (2007), asserted. Journalists were subjected to chats with the state security service that involved threatening and possible imprisonment. Recently, under the present President Buhari's regime, African Independent Television (AIT), was shut down. Elebeke (2019), recorded that the National Broadcasting Commission (NBC) suspended the operating license of the Daar Communications Plc, operator of AIT and Ray Power. The Director General of the NBC, Dr. Modibbo Kawu said that the decision was based on the violation of the broadcasting code by the stations which is backed by provisions of section 10 of the third schedule of the NBC Act Cap VII Laws of the federation of Nigeria, 2004. The decision was equally effected as a result of the failure of the broadcast stations to pay their license fees as when due; despite the persistent warning to the company to toe the line of cautions. However, Ogbolu (2019), alleged that it was shut down because they attempted an exposition on the

stance that the 2019 Presidential election is basically surrounded with profound irregularities.

This was probably why Amnesty International and Former Minister of Education, Mrs Oby Ezekwesili (cited by Akinkuotu, 2019); jointly slammed the federal government for such action; while describing it as an attempt to stifle free press, a ploy to undermine independent media and freedom of the press; a serious blow to freedom of expression and Nigerian right to information about critical developments in the country; and finally as dictatorial, arbitrarily and blatantly illegal. A good number of human rights groups including socio-economic rights and accountability project called for the bann to be lifted. It is however worthy of registering as Ejike (2019), recorded that the bann was later lifted, following a restraining order issued against the National Broadcasting Commission (NBC) by a federal High Court in Abuja.

It is quite unfortunate that the peculiar government in power in Nigeria more often than not are so scared of criticisms even if they are constructive. They go to the extent of shutting individual persons down via threats or unjustified incarceration even without trials out of fear of being exposed: This they do regardless of the fact that under the fundamental human rights in the Nigerian constitution section 39; every citizen is entitled to the right to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference. Moreover, section 34(1) and 35 (1 and a) in th the same fundamental human rights of the Nigerian constitution stipulates respectively that: every individual is entitled to respect for the dignity of his person, and accordingly ... no persons shall be subjected to torture or to inhuman or degrading treatment ... no person shall be held in slavery or servitude. As well as, that every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in accordance with a procedure permitted

by law ... especially in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty; or that there are clear cut indications of such a persons readiness to commit a crime. Quintessence of the abuse of this afore-stipulated constitution is the arrest of Sowore. Wahab (2019), registered the arrest of the publisher of the news websites, Sahara Reporters and Presidential Candidate of the African Action Congress (AAC) in the 2019 presidential election, Omoyele Sowore, by the operatives of the Department of state services. This arrest is basically unlawful as it was alleged that the persons that arrested him used hoods in covering their faces. The reasons related to his arrest is still being speculated upon. However, according to Adetayo, Akinkuotu, Ogundele, Adepegba, Adesomoju et al (2019), he is being investigated for treason-related allegations. He was equally to be detained according to court order for 45 days. In spite of all these, many organizations including the European Union, Afenifere Committee for the Defence of Human Rights, Socio-Economic rights and Accountability Project, free Nigeria Movement and Senior Lawyers including Mr Femi Falana (SAN) who is Sowore's Lawyer and Mike Ozekhome (SAN); jointly faulted the order; while calling for Sowore's unconditional release. In this vein, one can simply understand why Nigeria was described as "partly free" in the freedom of the press consistently since 2011 till date according to the report published annually by Freedom House.

Jungle Justice Mostly Dispensed by the Citizens:

In lieu with the theoretical framework, pertinent to the theory of Anomie. One reckons that citizens of this country more often than not inflict pains and unleash undue reflex violence on each other especially when they perceive that someone had committed a crime or expressed any form of wild immoral, abnormal and indecent or criminal act. By this, they take laws into their hands without being rational enough to take such cases or report it to the law enforcement agencies already in

place in the country. This kind of massive open violence unleashed on those perceived as criminals or breaking the law without being tried and found guilty is referred to as jungle justice.

Describing the rate at which jungle justice is dispensed in Nigeria Ayomide (2016), declared in his words:

Our society is barbaric, it kills the poor and praises the corrupt. Tyres and a keg of petrol are quick to surface when someone yells “thief” in a neighbourhood. Within few minutes, a crowd gathers and descends on the “suspected thief”. His skull is cracked and his ribs are broken before his almost lifeless body is tossed into the flames ... it is very rare to find a Nigerian who has not seen the charred corpse of a suspected thief killed by a mob. (p.1.).

This they do with total disregard to the federal constitution of Nigeria that stipulates under the fundamental human rights section 33; that every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria. However, the reason for actions as this is mainly that the masses have lost confidence on the police and the government. They upheld that bad governance, bribery and corruption and the law enforcement agencies irregularities pushes them to such actions. In Ayomide's view, this jungle justice equally depicts the Nigerian citizens double standard in dealing with poor people who commit crimes and rich people who commit crimes. The most painful part of this jungle justice is that penalties undeserving a peculiar crime is passed on such crimes, thereby resulting in minor crimes receiving grave and barbaric sentences. There is no standard in dispensing justice and most times, innocent people fall victims of circumstances.

In an attempt to trace the history of jungle justice in Nigeria, Tinibu (2019), asserted that jungle justice or mob justice is a form of public non official killings in Sub-Saharan Africa, and most notably in Nigeria and Cameroon. He maintained that the reason for such dastardly acts is the dysfunctional and corrupt judiciary system and law

enforcement in these states. Implying that most government units and officials have lost all credibility in such states. Tinibu equally defined jungle justice as that which occurs when a crowd of individual vigilantes humiliate, beat, punish or summarily execute criminals in front of people. He ended up tracing the popularity of jungle justice (as its core origin in Nigeria is not certain) in Nigeria to the creation of the non-governmental armed group that was established in 1999 popularly known as the Bakassi Boys. This Bakassi Boys went into a killing spree in the name of seeking justice especially in the eastern parts of Nigeria. They end up leaving piles of burnt up and charred human corpses in the streets.

Cases of individuals that were killed in jungle justice abound: The story of Aluu four, wherein four students of the university of Port Harcourt were horribly killed after hours of tortures. The bitter part of this story was that these boys were falsely accused as Ezea (2017), recorded. The story of a boy that allegedly stole garri while some maintained that he stole a phone and was later burnt alive by the mob in Lagos state as recorded by Tinibu (2019). Some people painfully lamented and declared that the boy was even seven years old. Killing of a soldier, Lance CPI. AYUBA Ali in mob action. Ali, as recorded by Tinibu was in mufti while passing Agwan Affi area of Akwanga in Nasarawa state on a motorbike from Maiduguri when he hit a hawker unknowingly. As he stopped to pacify the hawker, altercation ensued between him and some irate youth in the area, who pounced on him and beat him into coma. He died later in the hospital. Killing of several suspected ritualists in different parts of Lagos state in mob actions between 2000 and 2013. Reported cases of mob actions across Edo State as Tinibu recorded: Even the police have been accused severally of killing suspected criminals without passing them through the judicial process. The list goes on and on. All these are challenges to the Rule of Law in Nigeria. Jungle justice does not follow due process.

These irregularities hampers the development of Nigeria greatly.

In all, the Rule of Law is simply projected mainly in principle in line with the instances afore-sampled. Even those that it lies in their jurisdiction to see to it that the Rule of Law is upheld equally abuse the legalistic stipulations of the Rule of Law. The law enforcement agencies especially the police most times go on arresting and detaining individual persons in an unlawful mode. This was exactly what once propelled the House of Representatives Committee on Human Rights in 2018 according to Agency Report (2018), to mandate the National Human Rights Commission (NHRC) to furnish it with the list of Nigerians unlawfully detained by the police. The House insisted on their forwarding these names owing to the fact that there are crime records in all the police stations in Nigeria: Especially of people who were arrested and kept beyond the constitutional timeline. This will keep the police on their toes and make them wary of the fact that they are being watched closely.

In the same vein, the judicial system itself passes judgement at times to buy the favour of the peculiar government in power. Recently the judgment passed on the 2019 presidential elections tribunal had been described by the opposition party (cited by Oladesu, Salaudeen, Odoshimokhe, Ehikoioya, Ogunnwale, Okodili, et al, 2019), as a perversion of justice, and a direct assault on the integrity of the nation's justice system. One begins to wonder what the implication will entail for Nigeria where a court will rule that one only has to swear to an affidavit, detailing his personal information's, including academic qualifications in order to contest for a political position in Nigeria. What happens to the simple arithmetic of presenting original certificates of those academic qualifications as a proof of concrete reality. Thus, irrespective of the fact that the party in power and some person's at the reins of government, who are benefitting from the

government are applauding the judgement not minding its associated irregularities; one keeps wondering if this is actually the heartbeat of the citizens of Nigeria. According to Sahara Reporters, the Human Rights Association of Nigeria on their own condemned the judgement, stating that the Nigerian judicial system:

As it is currently constituted is dysfunctional, is compromise is tainted politically, is populated and driven physically by people with the wrong mindset who are not patriotic, who are not committed to the real essence of justice as it should be. (p.1.).

Others who vehemently condemned the tribunal's judgement includes; Ologbondiyan, Galadima, Babatope, Odion, Akhaine and Obaze. According to Oladesu, Salaudeen, Odoshiomokhe, Ehikioya, Ogunwale, Okodili et al (2019), they advised Atiku to appeal the judgement at the Supreme Court, adding that the case should be pursued to the logical conclusion.

The Effects of the Abuse of the Rule of Law in Nigeria

Having analysed the Nigerian situation via historical and theoretical approach in respect of the challenges to the Rule of Law. The major challenge to the Rule of Law from the findings of this work is simply the gross abuse and neglect to that rational stance that ought to keep a nation functioning. The Nigerians situation vis a vis respect to the Rule of Law can be likened to the case “between the lion and the animals in the jungle”. The lion does not respect laws, the privacy nor the sanctity of the life of any animal in the jungle as anything it can defeat is not only its prey, but its food. The Nigerian situation even appears to be more delirious in the sense that almost everyone perceives oneself in one way or the other as “the Lion; and therefore is the king wielding absolute power all in oneself and by such a one”. The resultant effects of there gross violations of the Rule of Law are as follows:

- It facilitates and fosters a failed state: A country were the Rule

of Law is abused with max impunity; corruption, negligence, indifference, falsehood, unpatriotism, hatred, bigotry, violence, terrorism, vandalism, murder, lawlessness, and jungle justice will gain ascendancy. The government cannot resolve such set situations. Such a state is a failed state. This is presently the case in Nigeria.

- It produces a weak administration: Abuse of the Rule of Law creates a state of Anomie. The citizens will no longer have confidence on the government and all within the corridors of power in such a nation. Lawlessness will abound while those within the reins of government will be striving towards enriching themselves and pursuing their whimsical and capacious goals. There is no way in the world such a government will bring stability to such a chaotic scenario. Cry for secession will be on the increase while various insurgent groups will arise. The citizens of Nigeria presently are embarrassing most political appointees and government officials in Nigeria whenever they travel outside the country. They even go to the extent of unleashing violence on them.
- It hampers growth and development: Foreign investors may find it difficult to come in and invest in such a country while the citizens of such a country will always be on the move to travel beyond the shores and borders of such a country on the quest for greener pastures. This will definitely affect the economy of such a given state as is currently witnessed in Nigeria.
- It breeds insecurity: One cannot boast of being safe in the hands of the police nor the masses in Nigeria. Violence has graduated to terrorism and the country is in perpetual state of insecurity. The Fulani herdsmen barbaric killings, kidnaping

and indiscriminate killing of the citizens by the law enforcement order personalities and so on typifies the level of insecurity in Nigeria.

Solutions to the challenges of the Rule of Law in Nigeria

The solutions to the challenges of the Rule of Law in Nigeria is not far-fetched. Irrespective of Nigerian's high level of religiosity and claims to be core traditional in perspective; the average Nigerian seldom projects the simple virtues of integrity, patriotism, sincerity, gravity, good legacy, humility, truthfulness, selflessness and charity. These simple virtues will do more than the magic or miracle (as one chooses) that is required to put to stop the gross abuse of The Rule of Law in Nigeria and restore sanity to the land that God has endowed with innumerable mineral and human resource that had never been properly harassed.

This work strongly projects that when those at the reins of government in Nigeria learn to abide completely to the contents of the Rule of Law, the rest of the citizens will ordinarily and naturally follow suit. The gleg observation of Achebe (1984), is worthy of stipulating at this point thus:

The trouble with Nigeria is simply and squarely a failure of leadership. There is nothing wrong with the Nigerian character. There is nothing wrong with the Nigerian land or climate or water or air or anything else. The Nigerian problem is the unwillingness or inability of its leaders to rise to the responsibility, to the challenge of personal example which are the hallmarks of true leadership. On the morning after Murtala Muhammed seized power in July 1975; public servants in Lagos were found "on seat" at seven-thirty in the morning. Even the "go-slow" traffic that had defeated every solution and defied every regime vanished overnight from the streets! why? The new ruler's reputation for ruthlessness was sufficient to transform in the course of only one night the style and habit of Nigeria's unruly capital. That the character of one man could establish that quantum change in a people's social behavior was nothing less than miraculous. But it shows that social miracles can happen. (p.1.).

Leadership can only effect changes in the lives of the led via being exemplary. Actions speaks louder, and much louder at that than volumes of theories and empty political rhetorics. Good legacy plants an indelible print in the sand of times.

Finally, the contents of the theory of Neo-Welfarism is equally being submitted by this work as that which when employed in Nigeria, will aid in putting the leaders in check and as well stand as a formidable bedrock of true democracy in Nigeria.

This theory gives every citizen a measure of access and franchise in deciding who emerges the leader and as well as how each peculiar government administration will function; pertinent to the good will of every one in the country. It will break the arbitrary strongholds of authoritarianism, elitism and Anomie: While upholding and securing a down to earth, pragmatic and result oriented democracy in Nigeria devoid of every trace of tribalism, favouritism, nepotism, election rigging, bribery, corruption, revolutions and insurgencies that often propels the abuse of the Rule of Law.

Conclusion

The Rule of Law is a principle that is put in place to ensure that human greed, insatiable excesses for dominance, power and lawlessness is controlled. It is a tool for maintaining sanity and peace in the society. The Rule of Law is there to enforce the respect for the basic fundamental human rights by all and sundry. This implies that a society where the contents of the Rule of Law is constantly challenged by gross abuse of its precepts will simply become ungovernable, barbaric, uncivilized, parochial, unprogressive and lending leadership opportunities in the hands of a “dominance sect”: Nigeria is tilting towards the extreme end in featuring all these afore-mentioned ill-traits and misfortunes in her society.

Every society in the cosmos possesses the innate ability to harness their God given resources in a selfless, stance for the benefit of all in order to ensure growth and wellbeing of the society and her inhabitants. In maximizing the use of these resources and God given potentials; there is a need to ensure equitable allocations and usage. This is where governance comes in. In order to ensure good governance, peace, sanity and stability in the society, the Rule of Law should be upheld in principle and core practice. The challenges to the Rule of Law in the human society and Nigeria in particular is simply the result of materialism narrow mindedness, selfishness, greed, addiction for power, pride and other related vices. The historical and theoretical analysis proffered in this work combined with the corollary solutions will go a long way in effecting the respect and application of the Rule of Law in Nigeria.

Recommendation

The in-depth research carried in the course of this work is spurring the recommendation for every citizen of Nigeria to learn to have confidence in God and God given abilities in their lives to survive as humans. They should learn to bring their rationality into focus in handling issues bothering on politics (choosing her leaders), national welfare, justice, law and order, economic activities, constitutions, policy making and in proper implementation.

This work strongly recommends that the citizens of Nigeria should learn to uphold dignity, good image and name, patriotism as against whims and caprices, and good legacy: They should internalize the fact that side talks, false accusations, character assassination, unlawful detention, and ingratitude can never write off good works. Good works is positive result oriented and beneficial to all and sundry.

Core democracy should be practiced in Nigeria: Not an indigenized or

homemade democracy that features election rigging, unjust disenfranchisement of certain citizens, lies, irregularities and indecencies of the highest. Rather a democracy that upholds and promotes the basic tenets of democracy which includes amongst others: popular sovereignty, political equality of all citizens; free fair and frequent elections (frequent in the sense that it must be held often enough to enable the people to exercise their control of government); alternative sources of information (... will enforce freedom of the press); liberalism constitutionalism (the use of constitutions to limit government by Law).

Military-Atavism, a situation wherein a military man after resignation or retirement will come up to context in a democratic government election should be discouraged completely. Military men should face their core duty and responsibilities as military men and allow the smooth running of the government for civilians. It is obvious from the findings of this work that some of the democratic president of Nigeria so far were once military men before being elected into office. Little wonder they employ mostly authoritarian form of leadership. This in turn leads to their gross abuse of the Rule of Law in various circumstances.

At best, such a government as afore-mentioned can only employ the form of government directly contrary to democracy which is according to Adeniran (cited by Odey, 2003), referred to as Demofascism. Adeniran (cited by Odey), defined this as:

A totalitarian philosophy of government which glorifies state, promotes its control by a powerful few and over all aspects of national life without regard to the rights and capacity of the people to determine their own fate... The institutional framework is democratic, the practice is fascistic ... Opportunism reigns and the individual is subordinated to the wishes of an opportunistic clique ... Moreover, the survival of the fittest doctrine is practiced within the context of institutional brutality. Dissent amounts to crime and each person is

expected to function within the enslaving confines delimited by the controllers of state power. (pp. 8-7).

This at best characterizes what Nigeria have in place as democracy. There is no way on the mother earth can the Rule of Law be upheld in the face of such a government.

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The Role of Religions and Justice in Africa

Anselm Ikenna Odo

Introduction

In Africa, there are many religious beliefs depending on one society to another. These religion organization ranges from traditional African religion, Christian, and Islamic. In every society, justice and religious practices work hand in hand. A good religions adherent must be a morally just and a person with unquestionable character. A religious man is a just man, justice is part and parcel of his principles. This write up, is dedicated to the roles of religion and justice in African. It will however, outline the various roles, effects, and the implications of religions and justice system in Africa. justice is fairness and equity to all irrespective of race, socio-economic or political affiliations.

Meaning and Nature of Religion

It is a difficult task to define the concept of religion, this is because of its abstract nature. Notwithstanding, some enthusiastic scholars has defined religion in various perspectives. Since the concept is vast and complex in nature; it is worthy to look at it in multidimensional viewpoint. However, Ekwunife (1990) assert that religion is "man's awareness and recognition of his dependent relationship on a Transcendent Being, the Wholly Other, namable, personalized or impersonalized, expressible in human society through beliefs, worship and ethical or moral behaviour" (p.1)

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On the other hand, Geertz (cited in Scharf, 1971), opines that religion is:

A system of symbols which act to establish powerful, pervasion and long lasting moods and motivations in men by formulating concepts of general order of existence, and clothing these conceptions with such an aura of factuality that the moods and motivations seem uniquely realistic (p.33).

Furthermore, Omoregbe (1993) defines religion as essentially a relationship, a link established between two persons, namely, the human person and the divine person to exist. Carpenter (1913) holds that religion denotes the whole group of rites performed in the honors of the divine being. These make up a particular cult or worship ordained and sanctioned by authority or tradition. It means a body of religious duties, the entire series of sacred acts in which the primitive act is expressed.

However, the researcher is on the view that religion is a fundamental set of beliefs and practices generally agreed upon by a group of people which gear towards promoting the welfare of the society at large. In another way, religion can be regarded as one's belief. Going through the litany of the definitions; Idowu (1973) cited by Kanu (2015) reports that Leuba tried to assemble forty-eight definitions of religion as advanced by scholars, at the end, he added two of his definitions. Thus he defined religion as belief in a psychic, superhuman power. Religion is the propitiation. The aim of this assemblage was to arrive at a definition that everyone would accept. However, Leuba ended up giving a definition that was so broad that no one accepted it. As a result of the complexity of the concept 'religion', it is one thing to the anthropologist, another to the psychologist, another to the sociologist, another to the historian, another to the economist, another to the mystic and another to the Christian etc. However, three elements have been constant in the definitions of religion: belief, cult/worship and morals.

The Concept of God/gods

The concept of God/gods is regarded as that which exist on his own and is able to create other things. Although, the concept of God varies from various scholars. That is why when you posed a questions like who is God or gods? And who are you? People always end up describing the character attributes of themselves or what they have accomplished. Thus: I am tall, dark, handsome, kind, gentle, strong, and so on. But who are we really and if we don't know that answer, how would we know the answer to "Who is God"? For people who do not believe in a Divine Presence, God is just a three-letter word, a word that is spoken as derogatory slang, in fits of rage or casual conversation. There is no meaning other than to fill up a sentence. In their search for meaning in their lives, they look to what they can visualize, touch, and feel. The word 'god' is given to the satisfaction of their desires.

However, in the religious perspectives, especially in Christian religion, God is the ever-living Presence who desires so much to be a part of our freedom in Him that He became Life to us. Therefore, God can be classified as:

Life. He gives us promises in the Bible that were true centuries ago, are true today, and will be true tomorrow. He has promised us 'life and life abundantly.' So if His Word is true, He is Truth.

Grace and Mercy, for He has forgiven us for our past mistakes and sins. He is longsuffering, wanting no one to perish.

The Creator of all of the universe and beyond. His divine plan has placed us in the exact place to support our life and that of our world (All About Philosophy, 2019).

Types of Religions

There are various types of religious practices in Africa. However, the researcher outlines some of it as follows:

1. *Christian religion:* it is a monotheistic system of beliefs and practices based on the Old Testament and the teachings of Jesus as embodied in the New Testament and emphasizing the role of Jesus as savior

2. *Islam:* Islam is the name of the religion that Muslims follow. People who practice Islam are called Muslims, just like those who practice Christianity are called Christians. The literal and lexical meaning of Islam means submission. Islam comes from the Arabic letters "s-l-m" which are the same letters of the word peace (salam) comes from. The term Islam itself does not mean peace, but it implies that one finds peace (salam) through submission (Islam). The term Arab is often used interchangeably with Muslim, but this is incorrect. Arab is a race while Islam is a religion. Not all Arabs are Muslim and most Muslims are actually not Arab. Arabs make up about 13% of the Muslim population (Annemarie Schimmel, Fazlur Rahman and Muhsin S. Mahdi, 2019).

Islam is named after the action of submitting to God's commands and 'will' and not a person. Other religions are often named after the founders or the founder. For instance, Christianity Annemarie Schimmel, Fazlur Rahman and Muhsin S. Mahdi, (2019) is named after Christ, Judaism is named after the tribe of Juda, and Buddhism is named after Buddha. Islam is not name after Muhammad because Islam existed before him. The message of previous Prophets, such as Adam, Abraham, Noah, and Moses was to submit (Islam) to God. Hence, the message of Islam did not start with the Prophet Muhammad (peace be upon him). It started with Adam and continued until today. With the passing of time, God would send new Prophets and Messengers to remind mankind of His message, to worship Him alone. Muhammad (peace be upon him) is the last of these Prophets.

3. *Traditional African Religion:* it is a belief and practices which is transmitted from one generation to another. It is a religion of an

indigenous people of Africans transmitted from their ancestors. The religion is neither Christianity nor Islamic. However, Ekwunife cited by Kanu (2015) opined that traditional African religion are those institutionalized beliefs, and practices of indigenous religion of Africa which are the result of traditional Africans' response to their believed revealing superhuman ultimate and which are rooted from time immemorial in the past African religious culture, beliefs and practices that were transmitted to the present votaries by successive African forebears (p.29)

In the same vein, Awolalu (1979) writes

when we speak of African traditional religion we mean the indigenous religion of the Africans. It is the religion that has been handed down from generation to generation by the forebears of the religion (a thing of the past) but a religion that Africans today have made theirs by living it and practicing it. this is a religion that has no written literature yet it is "written" everywhere for those who care to see and read (p.26)

4. *Hinduism*: it is a religion that describe a collection of practices and beliefs in Europe or Asia. The term "Hindu" was coined in position to other religions and used to describe those that were not of the other religions. Before the British began to categorize communities strictly by religion, Indians generally did not define themselves exclusively through their religious beliefs; identities were segmented on the basis of locality, language, caste, occupation and sect.

Hinduism has traditionally been considered polytheistic-the worship of many gods-but may better be described as henotheistic-the worship of one particular god without disbelieving in the existence of others. Hinduism recognizes up to 333 million gods, but many Hindus believe this vast number represents the infinite forms of god-god is in everyone, god is in everything.

Merryman (2018) opined that many Hindus believe in and worship three gods that make up the Hindu "trinity": Brahma the creator of the

universe, Vishnu the preserver of the universe, and Shiva the destroyer of the universe. These gods, along with the other millions of deities, are considered manifestations of either one supreme god or a single, transcendent power called Brahman (not to be confused with Brahmins, the priestly social class). Many Hindus would even say Jesus was a manifestation of one of their gods. No matter what form of Hinduism they follow, most Hindus are also active animists. They attempt to appease good and bad spirits by worshiping at auspicious times, studying horoscopes, and wearing amulets to guard against diseases and evil.

However, the basic doctrines and belief of Hindus are:

a. *Vedas texts of sacred truth:* Many Hindu practices on the spiritual literature and authority being revealed from an absolute power to the inhabitants of northern India. The Sanskrit texts that make up the Vedas were composed and orally transmitted by ancient poets and sages as early as 1700 BC. As a result of ignorance, many people neither read, adhere to, nor know how to interpret these holy texts. High-caste Brahmins-members of the priestly social class by birth-have closely guarded knowledge of the Vedas to preserve their dominant position in society. Therefore, many Hindus instead choose to follow family traditions and guidance provided by their spiritual teachers, called gurus.

b. *Doctrine of salvation:* Hindus believe in the soul, or true self, called atman. According to Hindus, the soul goes through reincarnation-a rebirth of the soul into a new body after death. Life, birth, death, and rebirth is an endless cycle called samsara. Rebirth is affected by karma-the result of deeds or actions-in the present life. There is no concept of sin in Hinduism as it is perceived in Western thought. Instead, there is the law of karma that says every good thought, word, or deed affects the next life favorably while every bad thought, word, or deed leads to suffering in the next life.

The law of karma does not allow for the possibility of forgiveness but only the accumulation of inescapable consequences-good or bad, according to right or wrong action. Karma does not affect a Hindu's relationship with the universal power, Brahman. Whether a person's karma is good or bad has no impact on their intrinsic oneness with Brahman. Individuals are born into a particular caste depending on their actions in the previous life. Good karma leads to rebirth in a higher caste and bad karma to a lower caste. One can only become a member of a different caste through death and rebirth. Eventually, the soul will attain moksha-alternately called salvation, enlightenment, or liberation from rebirth-and become one with the universal power, Brahman (Britannica, 2019).

5. *Bahá'í Faith*: The Bahá'í Faith is a world religion based on the teachings of Bahá'u'lláh. Bahá'u'lláh taught that there is one God and one human family, and that the great religions of the world represent successive stages in the spiritual evolution of human society.

Bahá'ís recognize the coming of Bahá'u'lláh as the latest expression of God's guidance, opening the way for the establishment of peace and reconciliation, when, as anticipated in the sacred scriptures of the past, all humanity will achieve its spiritual and social maturity, and live in harmony and in accordance with justice. The more than five million Bahá'ís around the world are learning how to translate Bahá'u'lláh's teachings into new patterns of individual and community life. Though they come from diverse ethnic and cultural backgrounds, they are united by their belief in the essential spiritual nature of our existence and by their desire for a just and peaceful future for all peoples (Shoghi Effendi, 1997).

The most distinctive features of Bahá'u'lláh's doctrine centers on love and unity, which are exemplified by the Golden rule, and the many social principles.

Shoghi Effendi (1997), the appointed head of the religion from

1921–1957, wrote the following summary of what he considered to be the distinguishing principles of Bahá'u'lláh's teachings, which, he said, together with the laws and ordinances of the Kitáb-i-Aqdas constitute the bed-rock of the Bahá'í Faith. Among them are:

- a. The independent search after truth, unfettered by superstition or tradition; the oneness of the entire human race, the pivotal principle and fundamental doctrine of the Faith.
- b. the basic unity of all religions; the condemnation of all forms of prejudice, whether religious, racial, class or national.
- c. the harmony which must exist between religion and science;
- d. the equality of men and women, the two wings on which the bird of human kind is able to soar.
- e. the introduction of compulsory education; the adoption of a universal auxiliary language.
- f. the abolition of the extremes of wealth and poverty.
- g. the institution of a world tribunal for the adjudication of disputes between nations.
- h. the exaltation of work, performed in the spirit of service, to the rank of worship.
- i. the glorification of justice as the ruling principle in human society, and of religion as a bulwark for the protection of all peoples and nations; and the establishment of a permanent and universal peace as the supreme goal of all mankind-these stand out as the essential elements.

6. *Buddhists:* Buddhism is a religion that was founded by Siddhartha Gautama (“The Buddha”) more than 2,500 years ago in India. With about 470 million followers, scholars consider Buddhism one of the major world religions. The religion has historically been most prominent in East and Southeast Asia, but its influence is growing in the West. However, followers of Buddhism do not acknowledge a supreme god or deity. They instead focus on achieving enlightenment -

a state of inner peace and wisdom. When followers reach this spiritual echelon (level), they are said to have experienced nirvana (paradise).

The religion's founder, Buddha, is considered an extraordinary man, but not a god. The word Buddha means “enlightened.” The path to enlightenment is attained by utilizing morality, meditation and wisdom. Buddhists often meditate because they believe it helps awaken truth.

There are many philosophies and interpretations within Buddhism, making it a tolerant and evolving religion. Some scholars don't recognize Buddhism as an organized religion, but rather, a “way of life” or a “spiritual tradition.” Buddhism encourages its people to avoid self-indulgence but also self-denial. Buddha's most important teachings, known as The Four Noble Truths, are essential to understanding the religion.

Buddhists embrace the concepts of karma (the law of cause and effect) and reincarnation (the continuous cycle of rebirth). Followers of Buddhism can worship in temples or in their own homes.

Buddhist monks, or bhikkhus, follow a strict code of conduct, which includes celibacy.

Siddhartha Gautama, who later became known as “The Buddha,” lived during the 5th century B.C. Gautama was born into a wealthy family as a prince in present-day Nepal.

Although he had an easy life, Gautama was moved by suffering in the world. He decided to give up his lavish lifestyle and endure poverty. When this didn't fulfill him, he promoted the idea of the “Middle Way,” which means existing between two extremes. Thus, he sought a life without social indulgences but also without deprivation. After six years of searching, Buddhists believe Gautama found enlightenment while

meditating under a Bodhi tree. He spent the rest of his life teaching others about how to achieve this spiritual state. (History, 2017).

7. *Judaism*: It is a monotheistic religion developed among the ancient Hebrews. Judaism is characterized by a belief in one transcendent God who revealed himself to Abraham, Moses, and the Hebrew prophets and by a religious life in accordance with Scriptures and rabbinic traditions. Judaism is the complex phenomenon of a total way of life for the Jewish people, comprising theology, law, and innumerable cultural traditions (Britannica, 2019).

8. *Chinese Folk Religions*: Chinese folk religion or Chinese popular religion, traditional Chinese religion or Han folk religion, is the most widespread form of religion in China. It is the religious tradition of the Han Chinese, including veneration of forces of nature and ancestors, exorcism of harmful forces, and a belief in the rational order of nature which can be influenced by human beings and their rulers as well as spirits and gods. Worship is devoted to a multiplicity of gods and immortals (神 *shén*), who can be deities of phenomena, of human behaviour, or progenitors of lineages. Stories regarding some of these gods are collected into the body of Chinese mythology.

Chinese religions have a variety of sources, local forms, founder backgrounds, and ritual and philosophical traditions. Despite this diversity, there is a common core that can be summarized as four theological, cosmological, and moral concepts: *Tian* (天), Heaven, the transcendent source of moral meaning; *qi* (氣), the breath or energy that animates the universe; *Jingzu* (敬祖), the veneration of ancestors; and *Bao ying* (報應), moral reciprocity; together with two traditional concepts of fate and meaning: *Ming yun* (命運), the personal destiny or burgeoning; and *Yuan fen* (緣分), "fateful *Coincidence*" good and bad chances and potential relationships.

Yin and yang (陰陽) is the polarity that describes the order of the universe, held in balance by the interaction of principles of growth (*shen*) and principles of waning (*gui*), with *yang* ("act") usually preferred over *yin* ("receptiveness") in common religion. *Ling* (靈), "Numen" or "Sacred", is the "medium" of the two states and the inchoate order of creation (Wikipedia, 2019).

9. *Jains*: It is an ancient religion from Indian that teaches that the way to liberation and bliss is to live a life of harmlessness and renunciation. The aim of Jain life is to achieve liberation of the soul. Jainism, traditionally known as Jain Dharma or Arahant Dharma, is an ancient Indian religion. Followers of Jainism are called "Jains", a word derived from the Sanskrit word jina (victor) and connoting the path of victory in crossing over life's stream of rebirths through an ethical and spiritual life. Jainism is a trans theistic religion (Wikipedia, 2019).

Meaning of Justice

Justice originated from justise, justice (Modern justice), from iustitia 'righteousness, equity', from iustus 'just', from ius 'right', from ious, perhaps literally "sacred formula", a word peculiar to Latin (not general Italic) that originated in the religious cults, from yewes-. Replaced native rightwished, rightwisnes "justice" (from rihtwīsnēs "justice, righteousness", compare ġerihte "justice").

It is the quality of being just; conformity to the principles of righteousness and rectitude in all things; strict performance of moral obligations; practical conformity to human or divine law; integrity in the dealings of men with each other; rectitude; equity; uprightness.

It can also be seen as the conformity to truth and reality in expressing opinions and in conduct; fair representation of facts respecting merit or demerit; honesty; fidelity; impartiality. Justice according to Aquinas is

the rendering to everyone his due or right; just treatment; requital of desert; merited reward or punishment; that which is due to one's conduct or motives

Religions' view on Justice

The essence of this is to ascertain various religious practice on their perception towards the concept of justice. To know if they have the same meaning, if they don't have, if any of their perception negates the African socio-economic development. Below is some of their views.

Christian religion and justice

In the Christian tradition, the classical conception of justice as *sum cique* (to each what is due) is redefined by the Christ-event, God's activity in and for the world. For Christians, all moral, political, and philosophical concepts are revealed and sustained in their fullness by Jesus Christ. Through his incarnation, life, death, resurrection, and ascension, Jesus is literally God's revealing of Godself – God's will, God's love, God's justice – to the cosmos. While Aristotelian and Jewish conceptions precede the Christian account, Christians believe that justice is only intelligible as justice because of whom Jesus is – God's justice for the world. Justice for Christians has a double operation: It exposes the character of God and requires humanity to be like God. Through its development and embodiment, the peculiar concept of Christian justice has had a transformative impact on both the religion and globe (Springer, 2019).

However, Justice in Hebrew is *mishpat*. (Uh oh, stay with me.) It occurs hundreds of times in the Old Testament. It's most basic meaning is something like to give people their due or to treat people fairly. Justice is about giving one's due in fairness; which is a good attribute of a

religion. Thus, most of us recognized this at our earlier age 2-4years old. But what do we mean by fairness? The idea is rooted in humanity's status as image bearers of God, sharing in equal value and dignity. Does that just mean treating all people the same? Yes, sometimes. For example, the justice system of Israel is to have the same mishpat for the foreigner as the native (Lev 24:22). They are to be under the same rules and laws. If they are to be just, cases and judgments must be evaluated based on its merits and evidence, not on the race, status, or wealth of the persons involved. It means keeping your oaths, refusing bribes, and not giving preferential treatment to some and not others.

But justice in the Bible is not simply treating all people the same. Sometimes—many times in the Old Testament—justice is actually about preferential treatment in the name of fairness. How can this be? Is not that unfair to give special treatment to one person or group over another? Yes, sometimes. But in other cases, no.

Perhaps an example will help. The “quartet of the vulnerable” in the Old Testament include the widow, the orphan, the immigrant, and the poor. These groups of people are disproportionately disadvantaged. They are vulnerable, at least more so and more often than other groups. They have little social power or influence. They live a subsistence life. Over and over the Law, wisdom, and the prophets offer and command special protection and treatment for these groups because of their inherent disadvantages.

Deuteronomy 27:19 'Cursed be anyone who perverts the justice due to the sojourner, the fatherless, and the widow.' And all the people shall say, 'Amen.'

Keller stated “the mishpat, or justness, of a society, according to the Bible, is evaluated by how it treats these groups. Any neglect shown to the needs of the members of this quartet is not called merely a lack of

mercy or charity, but a violation of justice, of mishpat. God loves and defends those with the least economic and social power, and so should we. That is what it means to 'do justice'" (Oliver Creek, 2018).

Islamic religion and justice

In the Islamic worldview, justice denotes placing things in their rightful place. It also means giving others equal treatment. In Islam, justice is also a moral virtue and an attribute of human personality, as it is in the Western tradition. Justice is close to equality in the sense that it creates a state of equilibrium in the distribution of rights and duties, but they are not identical. Sometimes, justice is achieved through inequality, like in unequal distribution of wealth. The Prophet of Islam declared:

“There are seven categories of people whom God will shelter under His shade on the Day when there will be no shade except His. (One is) the just leader.” (Saheeh Muslim)

God spoke to His Messenger in this manner:

“O My slaves, I have forbidden injustice for Myself and forbade it also for you. So avoid being unjust to one another.” (Saheeh Muslim)

Thus, justice represents moral rectitude and fairness, since it means things should be where they belong (Islam religion, 2008).

African Traditional Religion and Justice

Justice in traditional Africa is intricately connected with morality, religion and culture, both combined to defined the law of the traditional African society. In other words, judicial administration in traditional Africa has religion, morals and ways of life which mystically intertwines. The universe is consequently perceived by the Africans as one universe with two levels viz: the visible and the invisible levels. The invisible level is the supersensible world; the domain of the

Supreme being, the ancestors, divinities and other spirits (Magesa, L 1997) but whose interests and sphere of influence extend to the visible world. The visible level is the physical world of appearances, it is co-habited by humans (Kings, Priests and People) and other animate and inanimate objects. The two worlds are closely knitted together. Thus, offence committed in the terrestrial world has negative effects also on the ethereal world, and is consequently frowned at by the ancestors, the gods and the Supreme-being whose interest is to ensure social peace in the world. The punishment for offence that impinges on the interest of the inhabitants of the invisible world was often decreed through divination. In the course of interpersonal relation in the visible world, conflict of interests could occur between the inhabitants of this world, as well as between individuals and the community.

In traditional African society, the interest of the community is sacred; all members of the community have to nurture, protect and preserve the community's interests, which may include the protection of some animals, some designated places, as well as the rights of the individuals. Encroachment on any of the catalogue of interests is frowned at as a case of abuse or injustice. The individuals' existence is tied to the apron string of the community, so much so that, as individuals think of the self, consciously or unconsciously thinks of the community. By much the same token, the continuous existence of the community was also predicated on the wellbeing of the individual members. In the words of John Mbiti (1969), "I am because we are, because we are therefore, I am" expresses the communitarian nature of the traditional Africans. Justice, therefore, to the traditional Africans centered on the existence and the co-existence of individuals, community and the primordial deities, each and jointly having unhindered access to freedom, rights and deserts (120).

The administration of justice in traditional African society is through

unbiased adjudicatory mechanism that protects and promotes human rights and needs of both individuals and society on the one hand, and those of the gods on the other hand. Unlike in western society where laws are designed to enforce behaviours that promote and protect the interests, dignity and rights of members from encroachment by other individual members within or without, so as to remove perversion, decay and the retrogression of the society into the fabled Hobbesian state of nature. In the case of traditional Africa, “there was no need to prescribe formal laws as deterrents against a social behavior, because everybody accepted implicitly that any departure from the approved behaviour was punishable.”

The imposition of punishment on an offender starts from the family level, through the ward or quarter and to the community level depending on the nature of the offence committed and the traditional institution that has the jurisdiction to adjudicate on such matter. For instance, offence that has to do with death can only be handled at the community level not at the family level. The gradation of the institutions charged with justice dispensation is similar to that of the west but the objective of such institutions differs. Specifically, one of the objectives that defined justice administration in traditional African society is the need to reconcile the conflicting parties, heal the wound occasioned by the disagreement and not necessarily to decide who is right or wrong and to apportion blame. It is against this backdrop that one can appreciate the time, the involvement of relevant stakeholders in a dispute, the unhindered freedom of expression and the thoroughness that pervades the justice dispensation space of the traditional Africans. In a bid to ensure justice, appropriate punishments are imposed on offenders, however, genuine reconciliation that which fosters social justice is often complemented with forgiveness so as to facilitate social peace. In other words, it is the combination of

punishment and forgiveness that enhanced peaceful social coexistence in traditional African society (Kofi Quashigah, 2016).

Hindus Religion and Justice

Hindu scriptures reflect a deep fascination with the commitment to justice, both as a social reality and as a cosmic principle. The earliest narratives identify justice with the work of a god, such as Yama, who weighs the actions of the dead on his scale or Varuna, who binds sinners with the fetters of illness. By the end of the Vedic period (Sixth Century BCE), justice was equated with a cosmological principle, called Rita, which governed nature as well as human ethical conduct. To follow Rita was to act in accordance with justice, or natural law.

However, it was not until the concept of karma emerged, in the early Upanishads, that justice became a logical consequence of action. Karma stipulated that good actions are rewarded and bad actions are punished, if not in this life then the next. This became part of intellectual foundation for social inequality and a corresponding explanation for social evil. In later centuries, justice, defined as dharma, played a major role in the social and political order. Ideally embodied in the person of king, justice became a leveling tool, and a means of protecting the weak from the strong (Berkeley Center, 2019).

Buddhism on Justice

The Buddhist approach to justice begins with individual behavior. The moral law of karma, in which good actions generate positive consequences and bad actions negative ones, is at its core. Buddhism has proved historically compatible with any number of different political forms. Because it has traditionally been centered on the monastery, Buddhism has limited itself to general social prescriptions—the five precepts of good conduct (not to kill, steal, lie, commit sexual

wrong, or partake of intoxicants)-and tended to acknowledge the existing political regime (Berkeley center, 2019).

Judaism and justice

A tradition organized around the idea of God's law for humankind, Judaism has a long history of reflection on justice in social and political affairs. The Hebrew scriptures emphasize again and again that God seeks justice and is himself just. Rulers are to be held to a high standard, as when Nathan the prophet rebukes King David for a glaring ethical lapse (2 Samuel 12). The 613 mitzvot (commandments) given in the Torah encompass both religious rituals and binding ethical norms for a just society. After the destruction of the Second Temple (70 CE), rabbinic reflection in the Diaspora on the law as a guide to human affairs continued in the Talmudic tradition. Maimonides (1135-1204 CE) acknowledged established teachings about limits on state power but posited greater discretion for rulers (Berkeley Center, 2019).

Religion and Justice: any nexus?

Religion is the set of belief and practices to the reverence of the supernatural being. However, in the aforementioned all religions ternate gear towards peace and justice. Since the religion is existed between people and the supreme being. It is worthy to say without doubt that religion and justice has a relationship. In the act of propounding a religion is majorly for the welfare of humans.

The Roles of Religion and Justice in Africa

Despite the shortcomings of individual practices of their doctrine, religion and justice fosters development. Thus:

Peace and security: Religion and Justice will foster peace and security in Africa. From the discussion so far on the various religious doctrines, belief, practices and the concept of justice; it shows that they advocate

for peace and security. All their effort gears towards the welfare of humans and the world at large. This is because none of their religious doctrine were a threat to human life.

Fairness and equity: It also promotes fairness and equity. Fairness and equity in this sense means being just. Giving one his due. Treating people for who they are not as a means to an end.

It will also encourage Economic stability and growth.

Social stability, crime reduction: Religion and justice in Africa will foster Social stability, crime reduction.

Political stability: It will also encourage Political stability in Africa. Since the ugly experience of politics in Africa is not something to write home about. A leader will be in a seat for more than 20years and still yet he is not yet ready to step down for his opponent. With the help of religion and justice, our leaders should be able to know that nobody is born to rule; that anybody who is capable can rule. And it should be turn by turn.

Challenges of Injustice in African Socio-economic Development

A lot of bedeviled issues in African socio-economic development can be traced under the followings:

Religious Bigotry

Although each organized religious groups claims that its doctrine is from god, the various religious groups and their varied sects (it is estimated that there are now about 100 000 religious sects in the world) do not agree with each other as to which one is the true doctrine. Each religious group claims and declares that its religion is the true and revealed one, and so should be accepted by all. Where others are not prepared to conform to its beliefs and practices, it uses force.

Intolerance

From the dawn of time religious convictions have never been a matter of personal choice. At Mecca Mohammed, in the course of founding Muslim, issued a text: 'use no violence in religion'. At Medina he published his gospel of the sword. That was the beginning of the countless jihad (Holy wars') that has been fought by man. Man has count chronicled many religious conflicts. For example, the most terrible of all Europe's religious conflicts was the thirty years' war (1618-48). There were, also, the two centuries-long. Crusades pitting Christianity against Islam. Twentieth century had its quota of religious crisis. The eighth-year war between Iran and Iraq. The war in Lebanon, and the conflict between the silk and the government of India were all began in the name of religion. Today it is the el-Kadar and the united states of America. In fact, more wars have been fought in the name of religion than any other cause.

Fanaticism

Memories of the Roman Catholic inquisition are still very much alive. The inquisition was set up by the Judeo-Greco-Roman Catholic Church to try cases of heresy (holding of a belief or opinion contrary to the church's teachings). Obstinate heretics stake. During the Roman Catholic inquisition in Europe, 68 million people were tortured, maimed and nurtured by the church. Indeed, the inquisition was a chamber of horrors invented by the Roman Catholic Church for butchering and burning humans.

The quagmires of religious doctrine

We are in a world of religious confusion, in a world where conflicting and competing beliefs are rife. In Islam and Judaism, pain, disease, suffering, grief, and death are regarded as affliction sent from God. In Zoroastrianism, they are regarded as a visitation of Satan for the sins of the person afflicted. In Christianity, all sort of ill-fortune can be seen as affliction either from God or from Satan. In African traditional religion,

most ill fortunes are regarded in most cases as the work of witches and sometimes as affliction from angry ancestors. But in Hinduism, the Hindu regards diseases, pain, suffering, grief and death as the result of man's evil actions in his previous existence (s).

While the doctrine of reincarnation or rebirth to life on earth is a feature of most regions, Christianity does not share the belief in reincarnation. All religions preach life after death. With the exception of the African traditional religion, all religions believe and teach that there are rewards and punishments in future state. They preach the doctrine of the bliss and punishment.

Recommendations

To subscribed to the role of religions and justice in Africa, the following recommendation are therefore made. Thus:

1. Religious leaders should remove bigotry among their members by encouraging them that God is one.
2. Religious leader should encourage tolerance among their members by telling them the important of relating to other religious group that is not theirs.
3. Religious leaders should avoid fanatic members by teaching them the truth rather than indoctrinating them.
4. Government should act as a watchdog to the various religious practices and beliefs so that if any of their practices gears towards threat to human life; they will avoid such religion and sanction them.
5. Various religious leaders should be having frequent meeting so that they will be discussing the issues of religion in African and to offer solutions.

Conclusion

It is noticed that religion and justice in Africa can promote socio economic development. This is based on different religions opinions on justice gears towards treating people fairly. Thus, we should be able to remove the religious bigotry, fanatic, extremist and so on. And abide in the rule of law. Which implies that nobody is above a law. Moreover, to promote the socio-economic development in Africa, focus on achieving enlightenment-a state of inner peace and wisdom. Should be a paramount than being religious biased.

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The State, Justice and the Common Good: An African (Nigerian) Perspective

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Introduction

It is a fundamental error to think separating African philosophy from Western philosophy is a futile engagement. In fact, African philosophy as an enterprise is contestable and debatable and as such the need to make it a viable field of study because one of the characteristics of philosophy is the problem of definition. The definition as to what philosophy is has no universal acceptability and this is even more an unfortunate situation in defining who an African is or what it means to be an African. African philosophers are yet to come to a universal conclusion as to who an African should be and this constitutes a problem in philosophy. Hence, the enterprise call African philosophy is still a search for a rational inquiry into what makes philosophy African and what constitutes African philosophy. The acceptability of African philosophy resides not in its existence as a field of study, but of conceptualizing it clearly as well as distinguishing it from other areas of study such as African studies, anthropology, religion and even Western philosophy (Odhiambo, 2009:273). To undermine philosophy and relegate it to an activity of Western thought alone due to the believe

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Africans have no rationality, no thinking and no philosophy sets the stage to deconstruct the phenomenon call 'philosophy' so as to reconstruct a new dimensions of new realities that has made this enterprise call 'African philosophy' an area of discourse in philosophy. In as much this issue is still in contention, it is not the onus of this paper to extensively discuss the Western derogatory statements regarding Africans, but the fact that these derogatory statements has prompted African philosophers of Western influences through Western philosophical thought to now look inwardly for its own progress and prosperity despite the argument of some Western philosophers who argue that the African mentality or mind is primitive and therefore non-philosophical (2009:274). Despite these mentality of the West and even some African scholars (E.g. Kwesi Wiredu) there is a need to critically look at the current problems faced in Africa and evaluate the argument of those who disvalue the African thought. This could lead to a temptation of reconsidering the opinions of the West in relation to our African (Nigerian) condition. Nonetheless, it is these African conditions we are faced with that have brought about the realization for the study in African philosophy which distinct from Western Philosophy. Anyanwu expresses this insight adequately:

There is no doubt all men in all cultures and at all times are faced with certain basic problems, especially those of life and death, good and evil, man and nature, man and God. Even if all men are faced by the same experience, cultural and historical realities show that all men in different cultures do not formulate, interpret or give the same meaning to those problems of experience. Differences in assumptions, interpretative models, logics and conclusions give rise to different philosophies (1989:128).

It is the onus of this paper to argue that philosophy is a human activity; and as a human activity it shares in a common humanity with a common problem; but yet these problems have their own peculiarities and uniqueness which might not be addressed in the same way. There are

problems that are peculiar to Africans which is different from how the philosophers in Asia, Europe and America will address or view such problems. In so doing, after we have established the need to see African philosophy not as a reaction to Western philosophy but as an academic enterprise to help interrogate the African past as presented to us by the British colonialist using the analytical mind of human thinking and reflection as Africans. This will help to validate or invalidate what is said of Africans and in so doing address the issues of the State, Justice and the Common Good Vis-a-Viz the African (Nigerian) experience.

African Philosophy and Its Separation from Western Philosophy

African philosophy did not separate from Western philosophy; but its separation from Western philosophy as it is often misunderstood and misconstrued gives an erroneous understanding and interpretation of what philosophy in general means. Philosophy is a human activity and been a human activity is not the prerogative of the West alone but it is the activity of the human mind in rationality. It is understandably and partly correct that Africa philosophy came into the academia very late (2009:273) but its lateness does not deny the fact that Africans do not think, rationalize or philosophize as human beings. It is very natural for people or human beings to claim monopoly of what they think should be their sole right considering there are no evidences of who did what and when. Hence, the late entry of African philosophy as different from Western philosophy came as a result from the African to reinterpret the realities that confronts them after colonialism. The realities as presented to us in the interpretation of our past does not necessary reflect the realities as we see them today in Africa. In his book *Witness to Justice: An Insider Account of Nigeria's Truth Commission* Matthew Hassan Kukah in his narrative of how colonialist perceived Africa different from Africans has this to say:

The British advertised the assertion that their brave men crossed the deepest seas, swam the widest oceans, braved dysentery and malaria to come over to Africa on *civilizing missions*. They came to help take the darkness out of the soul of the poor, uncultured savage African. What is more, British historiography posits, Africa was ravaged by war, the savages were killing themselves and then, like the knights in shining armour, they came and stopped the march of the wicked or the unrighteous over the righteous (2011:11).

This narrative as given above in the words of Matthew Hassan Kukah arguably calls for serious interrogation of the African condition before colonialism, during colonialism and after colonialism. How do Africans agree to these British accounts about Africans? What empirical evidence do we have as Africans to rationalize the validity or invalidity of the British account about Africans? How did the British colonialist come to such interpretation of the African state without first interrogating the cause of the wars and killings carried out in Africa? How uncultured was the African culture? Who judges the superiority of cultures over another culture? These are the questions African philosophers devote their time, energy and attention to examining more closely the nature of the contested memories that have become part and parcel of our African history. This is exactly what we mean when African philosophers argue they are doing African philosophy in order to clarify the past so as to evaluate (analyse) the present, so as to confront the future. To deny Africans a philosophical tradition also puts the Western philosophical enterprise in a dilemma. This is because ancient Egyptian thought systems and culture have played an important role in Western thought and civilization. They believe that, in truth, the basis of Western thought is rooted in ancient Africa when looked at objectively without any ideological attachment (Odhiambo, 2009:288). This enough makes the African philosophical enterprise viable for fruitful engagement. This means that African philosophy as a rational activity of the human mind never separated itself from Western

philosophical enterprise but that African philosophy as a discipline becomes very pertinent in an atmosphere in dire need of answering questions on its own existence as a race considering its condition as Africans descendants' struggle to survive in the politically and culturally inhospitable environment of the post-slavery New World (Asuk, 2019:54). In doing African social and political philosophy it is important to note that Africa cannot afford to continue to remain at the “fringes of development” (Oyebode 2001:53). In so doing, African philosophers must not go the Western-type of philosophical import type of integration but pool capacities and it must evolve a radical political economy as the erection and fortification of trading blocks and barriers are being intensified globally. An African philosopher needs to transcend orthodox approaches and adopt strategies capable of addressing its peculiar conditions (Asuk, 2019:58). This is what it means to do African philosophy as it relates to social and political philosophy and this is what separates it from Western philosophy. According to Kanu,

This makes African philosophy one of the resilient and fastest growing areas of human inquiry. It is resilient because it has survived the systematic and ruthless attempt to deny Africa the fundamental human right of self-determination and self-identity. A cursory glance at the historical evolution of philosophy reveals that no 'regional philosophy' has suffered the bruises that African philosophy suffered on her way to survival, neither English, German, Indian nor Oriental philosophy... the question of whether there is an African philosophy or not has been overtaken, captured and conquered by African philosophers as seen in the works of Makinde (2010) in *African Philosophy: The Demise of a Controversy* (2015).

Despite this closure of the debate, this paper does not in any way become impervious to current questions regarding the nature of African philosophy. This is why this paper has made the question of the existence of African philosophy a philosophical question and this brings about the viability of the academic discourse.

Politics and Philosophy: Its Emergence

Philosophy as we are officially told began in Greece in the City of Athens notwithstanding the dynamics of its cultural influence. In the very beginning of philosophy which shifted from a cosmological interpretation of the universe in which philosophers questioned the ultimate reality and its fundamental principles in the universe, there was a shift from the cosmological questions to asking anthropological questions; which at the long run brought “man” or the “human person” at the center of social and political philosophy. According to Cicero, Socrates was the first to bring philosophy down from heaven, locating it in cities and even in people's kitchens and that is why Socrates seems to have been the first philosopher to treat ethics as opposed to cosmology and physics as a distinct area of inquiry. Philosophy might have to address the political but its highest calling soared above it; hence, Aristotle would try to separate the two as: the life of “politics and the life of philosophy”. It is this part of philosophy that became prominent in the distinctive understanding of “politics” forged in Greece and was marked by the historical emergence of the independent city state (Melissa 2018). Political theorizing and the question of “who to rule?” was the bane of argument about what politics was good for; who could participate in politics, and why, arguments which were tools in civic battles for ideological and material control (2018) and this brought about the whole idea of how conflicts can be resolved in defining justice and the concept “justice” became a very central point of discourse as it emerged from ancient times into the classical period. Justice has become an important tool that has dominated social and political philosophy in which the purpose and its distribution is yet to satisfy even contemporary debate; for it is only through justice the human person can live in happiness (*eudaimonia*) or the good life; this is because justice defined the basis for equal citizenship and the foundation of political life.

The desire for happiness is a natural desire for the human being to live a happy life and this cannot be obtainable if there is tension between ethics (morality) and politics. It is the reconciliation of treating these ethical and political questions as interrelated, and then going on to depict both an ideal political regime (“Kallipolis”, the fine or beautiful city) in which these issues in politics can lead to an impediment to a happy life could be solved, and the imperfect regimes into which such an ideal regime will decay. This is the very reason Plato made recommendation for a philosopher king as the perfect leader to dispense justice for the common good in the society; as he view happiness as a consequence of justice in his *Republic*. The well-being of human beings is the product of the common good and the practical application of justice; the human being is both the product and recipient of what constitutes a happy life through the instrumentality of the state and this is the very reason why the state emerged.

The Origin and Purpose of the State

The origin and purpose of the state cannot be undermined. Human beings had to live at least temporarily in some society to be able to survive as a race. A mere chimera lifestyle replete with predators or carefree attitude is completely unrealistic and impossible for human beings, for no one can supply his or her needs unaided (Adidi 2019:106); and this is why the state exist. Despite the ambiguity in defining what the state is, one basic fact is that the state cannot be without the human being and the human being cannot realize its potentials without the state. Yet, the origin of the state and its development is highly controversial but nonetheless Aristotle makes an attempt to clarify the issues regarding the origin and emergence of the state thus:

... the state is by nature clearly prior to the family and to the individual, since the whole of necessity prior to the part... The proof that the state is a creation of nature and prior to individual, when isolated, is not self-sufficient; and therefore he is like a part in relation to the whole. But he who is unable to live in society, or who has no need because he is self-sufficient for himself, must either be a beast or a god; he is no part of the state. A social instinct is implanted in all men by nature, and yet he who first founded the state was the greatest of benefactors. For man, when perfected, is the best of animals, but when separated from law and justice he is the worst of all. (BK 1 Ch.2:362).

For Aristotle, the state has so many function and purpose and this includes the function of law and justice. Yet, despite the various theories associated with the origin and emergence of the state, it is very obvious that the various interpretations of what the state is and its function, it is knittingly embedded in the African structure of its own traditional government. According to Kanu Ikechukwu, he asserts that thus:

In the political administrations of the Yoruba and Igbo traditional political systems, there were very strong systems of checks and balances, and this is consistent with most socio-political structures of ancient Africa. Although, the Alaafins and the Igbo heads wielded much power, they were not absolute leaders. There was elaborate organization of palace officials or chiefs especially the *Oyomesis* to regulate their power, the *Oyomesis* were regulated by the *Ogboni* council who were backed by the authority of religion (2015:323).

This definitely reflects how the African state evolved with the emergence of Western import to what we have now as a state. Despite this emergence, there is a very strong romance between the African traditional political system and the current interpretation of the state; this is the very reason with the practice of democracy Africans still uphold the traditional rulers as very relevant in the development of a state and it is in view of this development that Africans and African nationalist supported the move that development would quickly come to Africa through the instrumentality of indigenous framework of

development in which the state will help in ameliorating the African condition. According to Makinde;

Before the declaration of independence by their colonial masters, some politically minded African intellectuals seemed to have had their own ideas about the system of government they considered most suited to the African situation, based on the traditional beliefs of the African people. The word 'socialism' is a foreign word, and may therefore have different meanings to different linguistic communities. In the African context, socialism could mean living together in a spirit of love and brotherhood. It could also mean, as Nyerere puts it, Ujamaa i.e. "familyhood" or "community spirit"; the "foundation" and "objective" of extended family (Makinde 2010: 186).

It is this familyhood that constitutes citizenry and community spirit in which the state emerged. The purpose of which the state exist is because 'man is a 'political' or 'gregarious animal', one of the human instincts is social (Awolowo: 1966:276). Since the individual person is an agent of social, political, economic and scientific changes, the overall achievement of a society and the state depends on the achievements of its citizens, individually and collectively (Makinde 2010:174). The state exist for its citizens and the citizens in turn has its own responsibilities towards the state; since the state cannot do without the citizens and in turn the citizens cannot realize their potentials without the state. As such, the human being is of very utmost importance to exist within a state and function in a state.

The African Perspective of the "Human Person"

In African culture, religion and philosophical thought, the human person is anthropocentric (Kanu 2015: 101) and at the same time theocentric. A discourse in addressing the human person in Africa, two extremes ought to be avoided. It is difficult to talk about God and not to talk about man; and to talk about man and not to talk about God. In fact, Man is at the center of the universe, more central than God. According to Mbiti, "Man is at the very center of existence and African people see

everything else in its relation to this central position of man ... it is as if God exists for the sake of man (1969:92). In *African Religions in Western Conceptual Schemes*, Metuh agrees that “everything else in African worldview seems to get its bearing and significance from the position, meaning and end of man” (1991:109); the idea of God, divinities, ancestors, rituals, sacrifices etc., are only useful to the extent that they serve the needs of man (Kanu 2015:101). According to Kanu,

The analysis of the Yoruba idea of the human person as *eniyán*, reveals the African concept of man as a being having its origin and finality in the Supreme Being. This implies that the human being in the African universe is best understood in his/her relationship with God his/her creator, whom from the Igbo perspective, he/she is ontological linked with through his/her *chi* (*destiny*), the spark or emanation of God in each person (2015:110).

It is within this context of the ontological relationship between God and man in Africa that makes the human person have a mission and destiny. Therefore, this ontological relationship is expressed in a relational dimension where human beings ought to strive to establish a cordial relationship with another in contrast to the Hobbesian state of nature where human beings are in war against every human being. Hence, the need for justice and equal dignity in the society is to maintain such cordial relationship with man/woman (human beings) as C.B. Okolo remarks reflectively that the human person is “not just a human being but essentially a 'being-with'. It is the basis of this claim that he is an African (1993:5). Placide Tempels stresses the unique features of the African human person thus:

Just as Bantu (black Africa) ontology is opposed to the European concept of individuated things existing in themselves, isolated from others, so Bantu psychology cannot conceive of man as an individual, as a force existing by itself and apart from its ontological relationship with other living beings and from its connection with animals or inanimate forces around it (1959:103).

Hence, this relationship of humans in relations to others is ontological drawing from the anthropological and theological intricacies of the human person as conceived and perceived in Africa. Yet, despite this

connectedness of human beings as they relate to one another, it is only through justice that this relationship can be maintained and sustained so that the human person's aspiration does not override or outweigh the common good of the society; this substantiates the Ubuntu philosophy of “I am because you are” which also can be vice versa “you are because I am”.

The African understanding of human society in relation to the human person is different from the western understanding of human society. African societies tend to be organized around the requirements of duty; while western societies tend to be organized around the postulation of individual rights (Menkiti 2003:180). In the African understanding, priority is given to the duties which individuals owe to the collectivity, and their rights, whatever these may be, are seen as secondary to their exercise of their duties. It therefore means that the notion of justice is centered around the community and in the interest of the community rather than an individual. For justice to be measured in the African society, it must not be detrimental to the common good because according to Menkiti:

Personhood is the sort of thing which has to be attained, and is attained in direct proportion as one participates in communal life through the discharge of the various obligations defined by one's stations. It is the carrying out of these obligations that transforms one from the it-status of early childhood, marked by an absence of moral function, into the person-status of later years, marked by a widened maturity of ethical sense—an ethical maturity without which personhood is conceived as eluding one. (2003:176).

It is this duty to the community every individual owes the community that could be translated to what Plato identifies in his own interpretation of justice as “everyone doing his own job”.

Justice has always been a very problematic area of discourse from ancient times up to contemporary times. In African philosophy, this area of discourse cannot be avoided most especially in the discourse of

African social and political philosophy. In this paper, the researcher will not explore justice as perceived in western thought, because it has been dealt with especially by the western scholars (Oladipupo 2016:361); but nonetheless, this research paper will be limited to the African understanding of justice as the basis for an African philosophical approach to the issues raised in this topic. No doubt, most African sources in dealing with the nature of justice have no documented or written conceptualization of what justice is; but its pragmatic application is drawn from experience. For example, according to Oladipupo,

In the Yoruba traditional society, justice, is one of the fundamental pillars of legal system. The Yoruba have a strong sense of justice profoundly found in their cultural norms and values. Thus their notion of justice could be adjudged to have some dint of pragmatic values. The pragmatic values and senses of their justice is enshrined in their adoption of proverbs, idioms, folklores, folk songs, symbols and interpretation of myths with practical values to bring justice to bear (2016:365).

It is important to note that there is no human group without its own history, language, custom, tradition, culture, political organization, religion, literature, mythology, law and philosophy; Godwin E. Azenabor puts it succinctly, thus:

... African philosophy cannot adequately be fashioned without considering history, traditions, culture and experience as the appropriate soil which it is to grow... After all, the traditional thinking about the foundation of morality is refreshingly non-supernatural... it is instructive to note Oluwole's position... Indeed, many would see it as the apex of human thought, the inevitable end of rational endeavours to understand man (2010:120).

Therefore, we might be having proliferations of various idea of justice in Africa but we shall limit it to the Yoruba culture and if need be add again another tribe for the sake of this paper. Hence, in the cause or an attempt to speak or act for the cause of justice, the Yoruba, according to Adegbindin (2012:175), use words like *otito* (truth), *ododo* (honesty),

eto (right) to depict concepts that are closely related to justice. Just like any other tribe in Nigeria, there is no single word that could be used to mean justice (2016:365). Thus, the concept justice among the Yoruba could be better understood if located within the matrix of the underlying moral philosophy of a people whose religion doubled as a way of life (Alao 2009:30). This is very important for the study of African social and political philosophy because some of these concepts cannot be explain without religious undertones as seen even in western philosophy.

The main expectation of the Yoruba idea of justice is to secure peace in the human society where everyone will be happy; and this is the whole essence of social and political philosophy in which the purpose for the study of African social and political philosophy is for the happy life and this could be achieved through the various vehicles of justice; be it reconciliatory, retributive, restorative etc. The purpose of justice for the Yoruba land is a peace-centered justice, because it focuses on restoring peace, mending relationship without compromising the truth (Oladipupo 2016:374); for the well-being and prosperity of the entire community (Oke 2011:414).

The Condition of the African (Nigerian) State

The condition of the African (Nigerian) State is one that will definitely keep the African philosophers on their toes. The problem that characterizes Africa is such that the entire African states have almost completely lost sense of this human dignity as is relates to the human person. In other to apply the words of Gabriel Marcel in relation to the African condition were the human person has been depersonalized and human dignity ignored (1991:76). Despite the increase in globalization as the world keeps moving towards each other, Africans have not learnt from modernization so as to add value to the human person but rather

human beings have become more functionaries without vitality to make them live a happy life as human beings. In fact, the African (Nigerian) condition reflects the Hobbesian state of nature the level of inhumanity to man is on the increase. The idea of blaming our colonizers for our present condition in Africa no longer hold water in academic thought because ever since we craved and clamored for independence thinking and expecting that we have what it takes to make Africa great can be considered an illusion. We cannot continue to blame Europe and America for our woes because we created our problems and we must be the ones to solve it. In the words of Matthew Hassan Kukah in his book *Witness to Justice* he opines “We created most of our mess ourselves and we are the ones who have to clean it up; those who might wish to help us are welcome, but in my view, they should come and find our hands duly soiled from labour” (2011).

In other for our hands to be soiled, it is now the duty of African social and political philosophers to capture the Africannes of his thought system and experience so as to restore that human dignity that is frustrated by religious fanaticism, tribalism, ethnicism, corruption, gross violation of human right, poverty of leadership as it leads to other forms of poverty, civil wars, xenophobia, terrorism, insecurity etc.

Africa is an irony of plenty and wants; a land suffering from underdevelopment when it has all it takes to be part of the developed world. The questions one will ask, what led to the independence in the first place? For what purpose did we gain this independence? Did we really warrant the independence? Those who called for the independence what were their motives? Can we really say we are independent as African? Where do we go from here? This current state of affairs hinders development and calls for serious attention from social and political philosophers if we must have something to offer Africa and African philosophy as an enterprise. How can African

philosophers go beyond the classroom and engage the leaders of Africa? These questions indeed are very fundamental associated with socio-economic development in Africa as it is associated with bad leadership. African is synonymously always identified with an almost failed government due to political instability and as Asouzu opined as depicted in the work of Ejikemeuwa Ndubuisi and Augustine Onyemaobi thus: “one thing that is very clear is that African leaders usurp power through questionable and upon ascension to office, they turn themselves into demigods” (2016: 140). Hence, according to Chinua Achebe “the trouble with Nigeria is simply and squarely a failure in leadership” (1984:1). This does not in any way make Africa (Nigeria) the worst continent in the world. This is indeed a human problem in a human society that is inhabited by human beings, and every human being is infected by the virus of self-centeredness (Akinwale 2019:7). This is exactly the problem of Africa as it is today in our contemporary Africa which equals the common good question.

The Problem of the Common Good and African Socialism

The basic reason why the problem of the common good though difficult to realize but not impossible is the fact that the game of politics has been transformed into the game of bitter politics in most African countries, both spectators and players in the political stadium and have become victims of circumstances and as such an average political leader in Africa display all forms of individualistic tendencies with a high superlative degree of greed. At the inception of independence in most African countries, African leaders and African philosophers as well made frantic effort to solve the problem of these individualistic tendencies that have affected the hygiene of our politics and polity through the vehicle of African Socialism. Socialism is not new to Africans and as such, despite its own weakness, it is an antidote to the self-centeredness of an African who is a human being.

African leaders and philosophers made several attempts to use African socialism to get rid of neo colonialism, to institute self-rule and all the vestiges of foreign rule in the efforts to formulate a pragmatic socio-economic and political theory for the African people. This led Julius Nyerere to formulate his *Ujamaa Philosophy* which means *Familyhood* which was intended to show that socialism is not alien to Africans. According to Samuel Jegede:

This type of socialism is not the scientific, atheistic, class struggle induced socialism of the West; rather it is a humanistic, egalitarian, communalistic socialism which enabled all Africans not only to be workers, but also to be their brother's keepers before the Europeans came (2012:146).

This kind of socialism solves the poverty and attitude of the mind. According to Julius Nyerere:

Socialism like democracy is an attitude of mind. In a socialist society, it is the socialist attitude of mind, and not the rigid adherence to standard political pattern, which is needed to ensure that the people care for each other's welfare (1987:512).

There is no doubt that Julius Nyerere is not left out in the pursuit of African Socialism as Leopold Sedar Senghor's Negritude which is a variant of African socialism also known as *Senegalese Socialism* rejected capitalism as a vehicle for development (Jegede 2012:148). He opts for *Senegalese Socialism* which in his view serves as a catalyst for the implementation of the Senegalese development plan. However, this type of socialism must be built on the ideology of *Negritude* (2012:148). According to Senghor "Negritude is the whole complex of civilized values- cultural, economic, social and political-which characterize the black peoples or more precisely, the Negro-African world" (1987:83). This, negritude is in response and reaction to the French Policy of Assimilation considering the circumstances and realities of his time.

More so, another African voice was Kwame Nkrumah; in his work *Consciencism: The Philosophy of Decolonization* much emphasis is laid on *Positive Action* which is a philosophical foundation known as *Philosophical Consciencism*. According to Nkrumah:

The philosophy that must stand behind this social revolution is that which I have once referred to as philosophical Consciencism; Consciencism is the map in intellectual terms of the disposition of forces which will enable African society to digest the Western and the Islamic and the Euro-Christian elements in Africa, and develop them in such a way that they fit into the African personality (1974:78).

Nkrumah sees the African personality as the cluster of humanist principles which underlie the traditional African society; hence, the need for a United States of Africa to push through an integrated African society which Obafemi Awolowo prescribed in his *Democratic Socialism* as he identifies the contemporary problems of the African states as the problem of underdevelopment; the problem of individual freedom, the problem of constitution making and the problem of African Unity. Although, Obafemi Awolowo was not the originator of *Democratic Socialism* but he adopted as a remedy to the African situation. Democratic socialism for Awolowo is one that is universal and scientifically verifiable and it should rest on social justice, equality, respectable standard of living, employment for all citizens, social amenities such as free education, free health services etc. As against the violent struggle of Consciencism, Obafemi Awolowo advocated for non-violence administration of force and hence he was against Karl Marx view that the only way society can change from capitalism to socialism is by force.

Despite these prescriptions by various African philosophers and leaders, it is important to note they all have their weaknesses but at the same time in their attempt to solve the problem of Africa, African is yet to become politically stable, economically it is depressed, morally it is bereaved, and socially it is bankrupt.

Conclusion

The African (Nigerian) situation is one that will constantly make African philosophers reflect more critically if we must be very useful to the present Africa. African philosophers must constantly engage its citizenry and leaders so as to make the society a better place so that everyone can live a happy life. African problems are peculiar to Africans and it must be able to use its own pragmatic steps to solve its own problems and not to depend on Europe and America. Despite the controversies as to whether African philosophy is a dead end or not, this paper has made an attempt to establish that as long as there is a controversy as to the independence of African philosophy as a discipline, then it is this controversy that makes the African philosophical enterprise realistic and obtainable for academic engagement.

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Igbo Culture, its Ethical Stratum and Justice in the Face of Modern Criminality and Violence

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Introduction

The World generally is faced with so many levels and kinds of criminalities and violence. In the years back within African environment, crimes and violence are rarely heard or seen. There were very little or low level of crimes or violence when compared with what is seen in the continent today. It was perceived among the Igbo as an abomination - 'Alu' in Igbo language. This proves historically, that Africa, as a carved out of the globe had less or nothing to do with criminality and violence. The violence or criminal acts that were heard were their misconceived beliefs, which were harmful to humanity. Such beliefs Include: human sacrifice, killing of albino, unprecedented inter and intra-ethnic and communal wars. For the Igbo, it was a similar case.

In Igboland, the society was confronted with a lot crimes and violent issues unlike before. The influx of crimes and violence became observable with the coming of the Western culture and religion. Arabian culture and religion cannot be disconnected in this catastrophic experience, though Christianity and Western culture contributed greatly. Achebe (1958) summaries the effects of the advent of Christianity and Western culture when he states that the central

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cannot hold, that the white man has used a sharp knife and cut the things that held the black people together, and things started to fall apart. He continued that the centre can no longer hold, there was mere anarchy, and falcon could not hear the falconer.

Disregard to Igbo ethical values, stratum and administration or discharge of justice increase crimes and violence. Okafor (1999) identifies 'Ofo' and 'Ogu' as intermingled symbols of justice. In Igbo culture, between the 18th and 19th centuries justice was administered or discharged without fear or favour. Any partiality was believed to attract the wrath of the gods and other human teams or cults responsible for execution of offences. They are: the earth goddesses, the ancestral cult, the masquerade cult, age- grade system, the council of elders, the title-holders, other secret societies etc. Okafor (2019) has stated that Africans pledge and vow to deities for several reasons. All the deities where worships, pledges, and vows are made have their independent 'Ofo' which assists the deities in administration of justice. It is at the course of oath-taking that both 'Ofo' and 'Ogu' intermingle to discharge justice. The family, kinsmen and even peers play vital roles in enhancing the ethical and moral standards of the traditional Igbo society. Today, Christianity, Western culture advanced technical know-how that begot science and technology, globalization, civilization, urbanization, industrialization have jeopardized the existing system of livelihood, and this has adversely affected the ethical layers of Igbo culture. Some abominations have become normal actions; the monetary economic system has become the focus of all and sundry. There is serious quest for how to make money fast and easy. Moreover, justice could be bought over, or stage managed with money. Nowadays, it is commonly believed that with money all things are possible. People therefore struggle to make money first, and use the money to protect themselves against whatever criminal or violent

offences they must have committed. In every nook and cranny we commonly hear about money laundry, kidnapping, cyber crimes, Yahoo boys/girls, assassinations, man-slaughter, domestic violence robbery, thugs' actions and so. On these modern changes we can say that they are good, but many of their offspring are dangerous to human existence. In face of all these challenges, Igbo culture with its several ethical codes and order is severely affected in the area of administration of justice. It is only in extreme occasions mainly, the people's culture displays justice very effectively.

This research adopts historical and descriptive research methodology. Data were also analysed with historical and comparative styles of data analyses. Data were gotten from secondary source. It is recommended amongst other things that some traditional measures of administering justice, execution of crimes and violence will be incorporated in the state law, and local government bye-laws. It is found in this study that if these measures are applied, Igbo society will experience crime and violence reduced, if not a crime and violence free environment.

Clarification of Key Words

Culture has been defined by many scholars. But common sense will always conceive culture as a way of livelihood. In line with such conception, Nwosu and Kalu (1982) have defined culture as the totality of a people's ways of living or life. Akulue (2013:28) tows the same line when she defines culture as: "the totality of a people's ways of life". Culture has to do with every aspect of a people's ways of living. Tylor in Ikeyi (2004:148) defines culture as: "that complex whole which includes knowledge, belief, art, morals, law, custom, and any other capabilities acquired by man as a member of society". The interest of this chapter is on that aspect of culture that deals with the knowledge of morals, laws, and customs of a people. The Igbo people historically

have moral ethics infused in their culture which form the laws, morals and customs of the traditional Igbo society. These laws, custom, are maintained in morality and justice from time immemorial.

Ethics is gotten from the Greek word 'ethos' which means wisdom, conduct, culture or way of life (Okwueze, 2003:1). Okwueze (2003, 11) further defines ethics as: "the science that directs the acts of the will according to the principles of natural reason." Ethics has to do with directing individuals or members of a given society on the dos and don'ts. What they should or should not do. Agha (2003:1) defines it as: "a normative science, which sees man as a normal agent and considers his actions, habits, and character with a view to their rightness or wrongness". From the on-going, ethics could be viewed as a means of maintaining morality and social order in a particular society.

Justice on the other hand is defined by Summers (2001) as fairness in the way people are treated, the system by which people are judged in courts of law and criminals are punished. Justice has to do the ability to be fair and impartial. In maintenance of laws, it is only when justice is prevailing that the law becomes very effective and there will be stability.

Criminality and violence are other concepts that deserve clarification; crime according to Summers (2001) is illegal activities in general. Violence is also defined by Summers (2001) as behavior that is intended to physically hurt others. With these explanations it is clear and explicit that every culture has its ethical order. Ethics as an entity in a culture moderates or directs human actions. Human actions in some occasions can be criminal or violent. When it becomes violent and criminal, there arises the need for penalties under the execution of the law. The problem now lies on how is justice being discharged in this present Igbo society when compared with how fair judgments are passed in the years past, in line with the ethical values of the Igbo

cultural exegesis against criminalities and violence.

Brief Emphasis on Some Crimes and Violence in Igboland

In discussing some social problems in Nigeria, Igbo and Anugwom (2002) identify the following as typical social problems in Nigeria: crime and criminality, armed robbery, ethnic conflict/violence, religious conflict/violence, child abuse, police brutality, illegal arrest, 419 (cheating with false pretense), fake drugs, vandalization of public utilities (NEPA and NITEL cables), NNPC at Pipe lines, ritual killings etc. Let us take some of these social problems as they constitute criminality and violence as it affects Igbo people. Odekunle (1977) in Igbo and Anugwom asserts that today, it is generally accepted that Nigeria has a serious crime problems. In fact taking Nigeria generally crimes and violence are struggling to become a culture in the lives of the populace. Taking armed robbery with Igbo of the South-East for instance, armed robbery became rampant as early as in 1970s. Igbo and Anugwom (2002: 109) throw light to it when they buttress thus:

From the general and pervasive feeling of insecurity of lives and property among the Nigerians. For example, before the arrival of the dreaded Bakassi boys at the commercial city of Onitsha in Anambra State barely two years ago... Onitsha was no go area for non residents and travelers. It was more or less, the headquarters of the criminal underworld in the East of the River Niger where such crimes as armed robbery; pick-pocketing, car theft, hired killing, cheating with false pretense and burglary flourished like big-time business.

Onitsha is one, if not the most developed commercial city in Igboland. Crimes and violence became too much at Onitsha before Governor Chris Ngige assumed office as the Governor of Anambra State. In his regime, he introduced the Bakassi boys as a security body peculiar to Anambra State alone. These boys killed a lot of criminals with their mysterious security technology including Prophet Eddy of Nawgu.

Before the advent of Bakassi boys, the Ochanja, Out Nkwo-Main

Market at Onitsha had been set ablaze by unknown men of the underworld. Chief Stephen Osita Osadebe, a renowned Igbo high life music artist lamented against the conflagration. At Aba, Abia State similar fire out breaks happened at Ariaria market and other places. This destroyed Billions of Naira in Banks and around the market. It also destroyed lives and structures that worth Billions. In various Local Governments in Igboland at the end of the tenure of some Local Government Chairmen, some offices in the secretariat will be set on fire. In the just concluded 2019 elections, Radio Nigeria, Nigerian Television Authority (NTA), and other news agencies covered fire outbreaks at INEC – Independent National Electoral Commissions' offices in Anambra State, and other places. In Ebonyi State we hear about steady inter-community wars. In Imo State, the Otokoto gang were tormenting people. In Enugu State, the indomitable Ngwu-egele omu robbery gang was terrorizing the State and environs amidst other notorious and dubious gangs everywhere in these States of the South East. Coal City F.M 92.9 on Wednesday 6th November, 2019 announced a rape case between teens of 14 and 15 years old in Delta State. At the University of Nigeria, Nsukka, most recently a boy at his final year studies in the Department of English Language committed suicide. Between March and September, 2019, there were kidnappings and killings in Enugu State. People or persons e-mails and hand phones are filled with messages obviously sent by those who cheat with false pretence. In about four years ago, the South Easterners were duped by an international deceit trick called MMM and the like. There are numerous crimes and violence even at family level.

We discover increase in the occurrence and existence of broken homes caused by criminal actions, either from the wife or from the husband. Around Enugu metropolis, the Post Primary School Management Board has her schools with so many warnings on cultism, drugs

trafficking and abuse bad peers etc. All these are as a result of high level of crimes and violence in the state. Between October and November 2019, a Rev. Fr. serving at Obinofia Ndi-uno was murdered, and a native of Udi Local Government Area, Rev. Fr. Paul Offuh was also killed at Awgu. Another Rev. Fr. Serving at Imeze-Owa was kidnapped. On 15th of November, 2019, Rev. Fr. Theophilus Ndulue, was kidnapped on his way to his new Parish at Amanshi-Odo, Oghe Ezeagu L.G.A of Enugu State. Within Awgu area a traditional ruler and his wife were also kidnapped.

In fact, crimes and violence of different categories are seen and heard in Igboland. Today, more than what was seen by our fore- fathers happens. The increase is so unbecoming, and seems uncontrollable. We shall look at the comparative study of justice against criminality and violence in this modern era as it affects justice in traditional Igbo culture. It could be known from the next sub-heading if the state of justice discharged affects the rate of criminality and violence in Igboland. In this sub-heading, we shall look at the custodians of Igbo ethical order, their challenges, weakness and restrictions. The aboriginals contacts with the British agents are taken to be a contributive factor, as recorded by Onwubiko (1991:122) when he points that:

What was at state was not city life in use, but the exchange of the African values for European values even when and where the former were better and more humane. This exchange in no time became a serious problem for the African. He was outside his town-tribe but not beyond the influence of his town. When he came home and wished to participate in his community's life and affairs, he was to be first re-made a member of the community, that he must be de-urbanized but not beyond the urban influence.

These crimes and violence are much more considered as outputs of African/ Igbo people's contact with the foreign bodies. Crimes and violence were very minimal until the upsurge of urbanization,

civilization, industrialization, money economy, western legal system, western education and foreign religions. This chapter suggests that these summarily are among the factors responsible for the immense increase in crimes and violence among the Igbo. We move further to see how they come in the comparative study of justice against crime and violence in the modern time and what it was in years as far back as when these contacts had not taken place or effect in the region or zone.

A Comparative Survey of Justice in this Modern Era against Crimes and Violence and in the Traditional Igbo Culture

The Igbo cultural ethics are sum total of the 'Omenani' that is culture in Igbo language. This cultural contact of both Local and Foreign Interaction has affected to a very large extent the way judgment is fairly or unfairly passed on issues relating to crimes and violence. Hutcheon in Adibe (2009:59) states that biculturalism proclaims the policy of merging multicultural values into one for Onwubiko (1993) he insists that biculturalism should be incorporated with bilingualism for it to be effective. In Nigeria generally speaking, could be said to back up her multi-culturalism with multi-linguisticism, in the sense that four languages seem to assume much importance than others. There are always emphases on the three major local languages which are: Igbo, Hausa and Yoruba. In addition to this, the Lingua Franca – English language comes in. In the legal system, the court will only ask both the complaint and the defendant (accused) the language options of Igbo, Hausa, Yoruba or English. But the lingual term which Onwubiko meant is the sensitivities in managing a foreign lingua culture to suit in a Local lingual-culture for effective cultural integration. This is because some natives would learn the foreign lingual-culture in isolation of the local and both the government and the aboriginal would not mind. Therefore, the biculturalism becomes a problem. Biculturalism

is an identification of two cultures of the Western and all the cultures of the local people. This introduces a serious confusion in maintaining justice against criminality and violence in Nigeria generally, and the Igbo in particular. Some matters will come to the Police or court, and the parties will be advised to settle it customarily. One side will insist on continuing with the court. Such persistence might be because the opposing party feels they have enough money for litigation, or wants the justice to be delayed, and invariably be denied.

Some will claim that they are Christians and will never be part to cultural system of tackling crimes and violence in their various communities. Ekwunife (1993) discovers that in Igbo traditional society leaders are steadily monitored and controlled not just by physical force but with more of the combination of religious training and political scheming of the entire community. With the involvement of the religion and the whole community, justice is very much obtained in the Igbo cultural system against different and varieties of crimes and violence. The ethical stratum defines individual groups of crimes and violence and their respective penalties. In monitoring and controlling the laws of the land, religion must be involved to handle whatever human can or cannot perceive or see, or understand. The community itself is part of the panel of judges. On this ground, when cheating comes in, opposition against partiality would arise. For this reason, the leaders of every community are very careful in the actions and reactions to cases. The Igbo believe that false judgment attracts treatment by the gods of the land.

In traditional Igbo culture, people report criminals who are even their relatives. Instant judgments are passed on certain violence and crimes. For example, when a man or a boy beats his parents or an elder, his age set, masquerading cult, kinsmen, execute the act, and give instant punishment. Domestic violence or crimes between couple, involves the

women folks of 'Umuada' and 'Ndi Nwunyedi'. In a larger sense, community criminality and violence involves the judgement and execution that will be decided by the elders, title holders, and other community leaders. The gods are also feared to discharging justice with thunder, plague or inflict illness on the culprits. All these agencies and forces work together in making justice prevail in the Igbo culture. Today, we hardly hear of such Igbo words as 'Alu' and 'Nso' – that is abomination and forbidden action. People commit whatever crimes or violence and go free, maybe to hurt someone or people and make money or for mere wickedness. More so, it encourages uncontrollable increase in criminality and violence. In the contemporary Igbo society people commit crimes and violence and go free. Justice is witnessed in the modern Igbo world on very rare occasions. Unfortunately, presently, one who alleges that a neighbour is showing offensive curiosity against him could find no remedy in the law (Chukwu, 2016: 96).

When there are inter-communities wars, there are measures culturally used in settling them. An example is the 'Ikomee' covenant used in settling Aguleri, Umuoba and Umuleri war (Okwueze and Kalu, 2003). After calling of the dread war off, the parties were called, without fear or favour, fair judgement was passed on disputes relating to land and otherwise. And peace had returned there till today. The government today settles such conflict that are based on land issues by confiscating that land without looking into other matters relating to the land dispute, and the communities involved keep having secret wars. Adibe (2009) advances for symbolical law of Igbo cultural values through Ohaneze Ndigbo. A forum of this Igbo origin can be useful in inculcating at least symbolic law values. The Igbo in diaspora are complained of involving themselves in divergent crimes and violence. The latest xenophobia attack in South Africa affected many Igbo people probably because they were suspect unlike what the Igbo were known for before. Money

and I know you buy and pay over justice.

Cases are kept in the courts for decades. Wicked people use money and influence to push the less privileged into prison yard. People are kept at the Police custody without trial. Confirmed bandits, high way robbers are set free either by the Police or the law court because the only way to win in the court case is the ability to argue very well with superior argument or logics. All these modern trends of character have degenerated justice among the Igbo.

Recommendations

1. The cultural agencies of law enforcement should be revived, for example, age grade system, the women folk, kinship institution, etc.
2. A forum like Ohaneze Ndi Igbo should strategize to disseminate information round Igbo communities at home and outside the country on the need to fall back to Igbo law values.
3. Government should make traditional legal system to be culture effective by introducing and legalizing some of them as alternative measures of fighting crime in Nigeria.
4. The customary laws should pragmatically be strengthened in the conscience of the aboriginal.
5. Igbo customary leadership order should be upgraded with the help of the local or traditional law enforcement agencies like the Igwe in Council, the Cabinet, and the Town Union
6. Families should inculcate cultural norms, values to their offspring.

Conclusion

Igbo people were historically organized in terms of maintenance of law

and order. When Christianity and even Islam came, they seem to be a hiding refugee camps for people with evil minds. Christianity and Islam never preach or encourage crime and violence. But the natives took the advantage of the grace they provided to pervert the cultural and ethical order. Western and Azabian civilization on the other hand gave space for gradual processes of actualizing justice which in reverse, in most cases, encourage injustice. Crimes and violence therefore, keep increasing.

Currently, a lot of criminal and violent acts are seen among the Igbo. Lives and properties are lost on daily basis. The Police the law courts etc are no longer the hope of the common man. The Igbo combine physical and spiritual or religious forces in maintaining justice against crimes and violence. This strength of Igbo cultural ethics can return to its justice administration against criminality and violence if all hands are placed on desk.

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Justice in Yoruba Culture

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Abstract

*The issue of justice in Yoruba culture is as old as Yoruba race herself. This paper recognized the fact that without justice, no culture will survive because it will be dominated by those powerful ones who will forcefully deal with the less privileged. Issue of justice as very important in African culture was established. Understanding of Yoruba culture was explained to drive home the fact that they have a system that is just in itself where kings, chiefs and **baales**- family heads are in charge of settling disputes to bring about justice and harmony on regular basis. However, in case there are stubborn ones who want to prove difficult or in situation of doubt, Yoruba culture down the history has been exercising justice through their laid down laws or traditions and taboos that they teach from generation to generation without questioning. Nevertheless, covenant/ oath taking and intervention of the gods are used to bring about justice when the laws and taboos have failed them.*

Key words- Justice and Yoruba Culture

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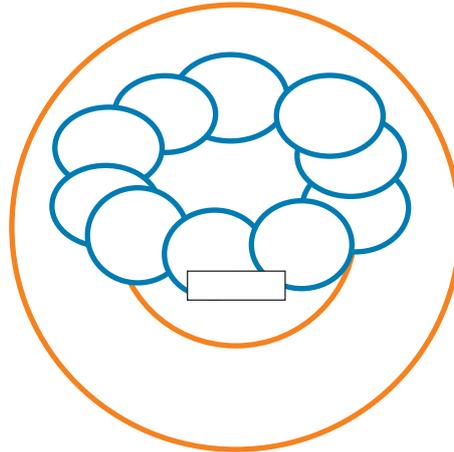
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Introduction

Justice is the quality of being impartial. It deals with right action, conformity with law, and principles and must be in agreement with the truth, fact or reason. The life of every group must involve law and justice. If these two values are missing, there will be lawlessness and chaos. African people believe that God is just, in relation to this, Mbiti (1969) asserts that “the justice of God is felt or invoked often in judicial situations, taking oaths, and pronouncing formal causes, all of which are taken seriously by African peoples. He is the ultimate judge, and He executes judgement with justice and without penalty” Mbiti states further while paying attention to concept of justice in African culture that “... there exist therefore many given community or society. Some of these are held sacred, and are believed to have been constituted by God and National leaders.” In the opinion of Atanda (1980) however, any breach of this code of behavior is considered evil, wrong or bad, for it is an injury or destruction to the accepted social order of peace. It must be punished by the corporate community of both the living and the dead, and God may also inflict punishment and bring about justice.

Yoruba people according to Atanda (1989) constitute one of the major ethnic groups in modern Nigeria and they effectively occupy the whole of Ogun, Ondo, Oyo and Lagos State and a substantial part of Kwara State. A considerable number of Yoruba people also inhabit the South-Eastern part of Republic of Benin (formal Dahomey). Justice in Yoruba culture may not be well understood without understanding Yoruba Culture itself. Yoruba culture has been divided into twelve branches or departments as Ilesanmi (2004) explained. To him, “Governance serves as the nucleus, the life wire of the culture.” This by implication means that governance takes care of all other departments to make sure they function properly to maintain law and order in the land and to obtain Justice at all cost. Ilesanmi has presented the culture of the Yorubas in form of a chart as we find over leaf.

Chart of Yoruba Culture

Source: Ilesanmi T.M. (2004)

In his explanation of the chart, the Yoruba language is thus a mark of Yoruba culture uniting all who speak the language under one banner, sharing many things in common and pursuing the same cultural goals. Language sharing imposes a mutual confidence in the speakers of the language. Governance entails the power, the ruler and the mode of governance. The Yoruba community has a mode of government with the Oba and the Chiefs at the top; the *baale* takes charge of small settlements while the *Olori Adugbo*-Street heads look after some compounds and the *baales* take care of the extended family. Myth according to the explanation of Ilesanmi solves problems from the roots. By making supernatural contentions which would not be subjected to any empirical data. Mythical statements are fundamental principles which should be accepted in faith.

Religion mold the conscience of the people much more than law or any other moral instruction can do. It gives promises of reward and or punishment here on earth and here-after, making man hope for a perpetual better or ordinary life beyond the grave. It unites the ancestors with the progenitors creating an atmosphere of interaction

between heaven and earth. Art works are expected to perform certain functions in Yoruba culture, they should not be seen as object merely to be admired; their functional relevance have to be considered along with their beauty. Professional artists are highly cultured keeping the secrets of their know-how with only the members of their profession. Yoruba literature includes poetry, prose, and drama. Orature and literature render virtually the same service within the Yoruba culture as the same minds informed their creation; they both pass judgement on the same culture. Law is the disciplinary tool fashioned to make all the members of the community live together pleasantly. Its goal is peace and orderliness in a cultural setting. Under defense, he explained that every community needs internal and external security. Internal enemies are put under control through the vigilance of the law enforcement agency. External enemies are attacked as soon as they rear their heads. Technologically, Yorubas weave beautiful clothes; build mansions which could cope with natural weathers of their environments. They cultured plants and animals for their livelihood and they develop the talking drum, a complicated system of musical instruments which can mimic the human mode of speech by simply manipulating the leather straps that control the tension of the membrane of the drum. They have developed several systems of preserving food by drying and grinding grains and tubers into powder; they smoke fish to be used in the future.

In their agriculture, they comfortably feed themselves. Warmly, they clothe themselves from the cotton materials they grow and weave for their own use. Out of all they produce, they use what they need and trade with the rest. With economics, Yoruba improved their standard of living, show signs of mature development, become relatively civilized, regulate their population by prudent spacing of child birth.

The above describe the culture of Yoruba people and analyse what they mainly do with their time and space. All these values are inculcated into them from one generation to the next and they teach their morals

through these values. Cases may occur when stubborn ones will like to disorganize the arrangement or bring disorder into the system. Issues like having the wife of another man as concubine, claiming another man's land, becoming lazy and unproductive, conniving with outsiders to create wars, disobeying the legitimate authority, committing adultery, stealing, killing another person through poison, and many other regular offences. All these have their penalties.

Justice in Yoruba Culture

There are various ways with which Yoruba people address the issue of justice. Attention will be paid to laws, taboo, covenant/ oath taking and intervention of the gods among others in this paper. Yoruba law is the legal system of Yorubaland. It is quite intricate, each group and subgroup having a system that varies, but in general, government begins within the immediate family. The next level is the clan, or extended family, with its own head known as a Baálé. This chief will be subject to town chiefs, and these chiefs are usually themselves subject to their Oba, who may not be subject to another Oba himself since he has the final say among his followers. Most of what survived of this legal code has been assimilated into the customary laws of the sovereign nations that the Yoruba inhabit. Balogun (2009) asserts that the "popular consensus of the Yoruba to the mechanism of the rule of law suggests that any affront to it was seriously frowned at and penalized. Thus, a wrongdoing or would amount to "the violation of a rule. Whenever this is done, the societal moral and laws have been breached with some consequential effects (punishment)."

Some of the taboos in Yoruba culture are generated to create fear into the minds of the people and to keep them in checks and balances. For example a tripped baby must not fall from his/her mother's back. This is done to make mothers pay huge attention to their children and to cherish them. If punishment and fear are not attached, mothers especially younger ones may be disobedient. Hence the Yorubas would

say that a male child that falls from its mother's back will always lose his wife at adulthood, and a female will always have a lover die atop her when she grows up. And where a baby eventually falls from its mother's back, the mother is expected to carry out some rituals to prevent evil from happening to the child when it grows.

Suicide is a taboo and an abomination. This is important so that people will cherish life and see it as sacred. Hence they teach that a dangling body must not be lowered down until some sacrifices are performed to appease the gods. Even at that, the body of such individual will be buried in the evil forest and outside town to avoid the anger of the gods. The family of an individual that commits suicide will be tainted forever in the community. It is equally a taboo that pregnant women must not walk in the streets between the hours of 1pm and 3pm. During these hours, evil spirit move round the land and they have ability to deform the babies in the womb. The lesson behind this is to keep pregnant women from danger of walking under the high sun that can result in them fallen sick suddenly.

Whistling at night is also a taboo in Yoruba culture. Men and women are not allowed to whistle at nights in Yorubaland. Whistling at nights is believed to invite demons and evil spirits into the house to torment people. It has its lessons in avoidance of disturbing others and keeping the environment conducive for those who may sleep early so that everybody would be quite, rest and prepare better for tomorrow's work. Night sleep in Yoruba culture is before 7pm. Also, a king must never prostrate for anyone again in his entire life. a royal king is considered a demi-god in Yorubaland and he must never prostrate to greet anyone in his entire life. this is a sign of supremacy and appreciation of the throne.

Another regular taboo is that, no sex before marriage, this was created to curb fornication and because of the belief that sex is good only in marriage. In line with this, Ilesanmi (2013) claims that "the arrival at puberty or at sexual maturity is not a license to have sex, since sexual

relationships outside marriage have thousands of implications and problems.” Adultery is also a taboo in Yoruba culture. It is forbidden for married women to commit adultery with another man who is not their husbands. This taboo is more critical against women than against men, so it is highly frowned upon for a wife to cheat on her husband. A man that suspects that his wife is cheating could be tempted to lace her with *magun*, and this would lead to the death of her adulterous lover. Mbiti (1969) opines that when adultery is discovered in some societies in Africa, it is severely dealt with and the guilty person is dealt with, especially a man would be whipped, stoned to death, made to pay compensation or have his head or other part of his body mutilates. He went further to identify common offences that may attract penalty like-“fornication, incest, rape, homosexual, sleeping with a forbidden relative, or domestic animals, intimacy between relatives, children watching the genitals of their parents, (in the widest usage of the term) all constitute sexual offences.”

Balogun (2009) identified types of punishment in traditional Yoruba society. To him, it is not far from general mode of thought. There are many types of punishment which are meted out to offenders in Yoruba culture. The nature of the offence depends on the type of punishment meted to it. The weightier the offence the severest the punishment it will carry. "Obviously, no offender escapes punishment in Yoruba culture while this is true, no one was made a scapegoat for the offence he has not committed; doing so amounts to incurring the wrath of the ancestors. He went further to identify types of crime to be social and spiritual crimes. Social crimes are directed against individuals who ultimately upset the societal harmony. Notable among such crimes are adultery, fighting, lying, stealing, egocentricism, and a host of others. Spiritual crimes have spiritual undertones which made them affect the gods and goddesses with consequences visited upon the entire community. Spiritual crimes are not directly against individual as such, but essentially an invitation to the wrath of both the gods and goddesses.

In administering justice properly, covenant and oath taking feature regularly in the life of the Yoruba people. This done to maintain law and order and who ever betrays the order is left to the gods for penalty. The research of Ogunleye (2013) on Covenant-Keeping among the Yoruba People: A Critique of Socio-Political Transformation in Nigeria revealed that “Covenant prevents unfaithfulness in the Yoruba traditional society. A covenant made in form of oath, taking either in front of divinity or religious emblems makes Yoruba people to comport themselves well in the society. A newly enthroned king who swears to deliver justice without fear or favor is duty bound to keep it. Anything contrary to the oath leads to disaster. Covenant therefore gives meaning and cohesion to society and enhances the sense of seeking for the good of others and the community in which he lives in its totality.”

In many critical cases however, Yoruba people will seek the help of the gods for justice. The Yorubas may find it difficult to separate the roles or intervention of some the gods in Yoruba land from their daily experiences especially in relation to Justice. In typical Yoruba culture, when there was misunderstanding and disputes, the elders do quickly invite the gods to intervene. The first in the list of these gods is *Ogun-God of iron*. Idowu (1969) is of the opinion that *Ogun* is ubiquitous and has his hand in every pie; he is regarded as presiding divinity over oaths and covenant –making or the cementing of pacts. The pact or covenants made before *Ogun* is considered most binding. It is believed that anyone who swears falsely by *Ogun* or breaks an oath made before *Ogun* will die or be deformed by through any instrument made of iron, for example, cutlass or matching. This type of oath is done using cutlass or any metal and the use of Kola nut which is believed to be serious and have implications. On this, Ogunleye states that “...Covenant between friends can be in form of an ordinary spoken agreement between them. This type of covenant is often sealed with sharing of kola nut. Among the Yoruba, it is a taboo to share kola nut with a person and then speak ill of him or her. Kola nut is an important fruit in the Yoruba spiritual

life. It is believed to be capable of warding off death, diseases and even pestilence. If two or more friends shared a piece of kola nut, the act becomes a covenant. Anybody therefore, who betrays the term of covenant is surely attracting evil on his/her head.”

Another god is *Sango- the wrath of Olodumare (God)*. Sango was a strong man according to Idowu. He was a powerful hunter that was vested in magical arts. It was believed that the wrath was ever present to manifest itself upon the children of disobedience. In reality however and still holding till today according to oral traditions, whenever there is a case of stealing and Sango is invoked, almost immediately heavy rain will commence to accompany by thunder that will be so heavy to bring the culprit to the open although dead with the stolen items. Sango worshipers claim the dead body of whoever is struck by the “axe” of Sango to be accompanied by numerous rituals from the family members of the culprit.

Conclusion

This paper emphasized the fact that justice in Yoruba culture is as old as man where laws and taboos are used to guide the minds of the people and helps in conscience formation. Apart from the fact that culturally, they are busy people. It is important to state that social, moral, religious and economic activities of the Yoruba are guided by various laws and taboos. Anybody who is guilty in any form or violates these laws and taboos has always being punished by the society. The families of those who bring chaos to the society do share in the shame of their family members. Their worship of the various gods is a sign that they are united both with the living and the dead in the ancestral world. Any offence committed here affect both levels therefore, the gods are called upon in times of confusion as the final end. Any covenant or oaths administered in the presence of the gods are considered binding forever. Whoever jokes with this is considered not only worthless but

also accursed. A person who is given to oath breaking or falsehood is believed not to be prospering in life. It is strongly believed among the Yoruba that, anybody who swears falsely or breaks an oath to which Ogun - god of iron witnessed through touching of any iron with the mouth or using kola nut either in the shrine or outside the shrine cannot escape being injured or killed by a similar object. It is therefore not surprising that these practices are still in place till date, to put checks and balances in the life of Yoruba people.

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