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Strengthening Traditional Justice Systems as a Panacea for Conflict and Insecurity in Nigeria

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Abstract

This paper adopts a socio-legal research approach to analyse how reviving traditional justice systems in Nigeria can mitigate community conflicts and insecurity. The aim is to re-establish the role of traditional justice institutions as first-line vanguards in handling communal conflicts and crises towards the peaceful coexistence of indigenous people. At the core of this research is the recognition of the centrality of traditional justice techniques in peace building, transitional justice and reconciliation in post-conflict societies as demonstrated by the Gacaca court in Rwanda and the nahe bitti boot practices in Sierra Leone. The success of which has raised global attention to the possible role of traditional justice in promoting peace and stability. The paper finds that although there are programmes currently in place in North-eastern Nigeria in support of traditional justice mechanisms in conflict resolution and peace building, there is little or no enthusiasm for the revival of the pre-colonial decentralised system of justice which endowed the kings and chiefs with significant power to administer traditional justice at all local levels. The failure of the British imposed justice systems to reflect society's values, norms and tenets of justice, necessitates an inquest into the British denigration of traditional justice systems in Nigeria. It recommends, amongst others, that traditional justice systems across the country are strengthened and included in the justice architecture of the states in a way that preserves the truth, moral, spiritual and restorative essence of its mechanisms as a panacea for National Security.

Keywords: Traditional; Justice; Customary; Law; National; Security; Nigeria

Introduction

Nigeria has faced various conflicts and security challenges, particularly in certain regions of the country. The significant sources of conflict and insecurity include ethno religious tensions, insurgent groups, inter-communal clashes, and criminal activities such as armed robber, kidnapping and banditry. In the north-eastern part of Nigeria, the Boko Haram insurgency has been a significant security concern. Boko Haram, an Islamist extremist group, has carried out numerous attacks, resulting in the displacement of thousands of people and the loss of many lives. Additionally, there have been conflicts between herders and farmers in some parts of Nigeria, particularly in the Middle Belt region. These conflicts, often driven by competition over land and resources, have resulted in violence and loss of lives. The Nigerian government, along with international partners and international support, have made efforts to combat these conflicts and insecurity with little or no progress, which has led to the clamour to revive and strengthen the traditional justice systems [1].

It is believed that call to revive traditional justice systems in Nigeria should begin with an attempt to rationalise the imposition of British jurisdiction in Nigeria while evaluating its impact on customary law as well as on the traditional justice systems therein. This is mainly because it has been discovered that most of the discussions on the subject matter focus mainly on the impact of British rule on customary laws, leaving out its resultant impact on precolonial traditional justice systems. This demarcation becomes necessary because of the narrow yet important distinction between the legal system and the justice system and how they are impacted differently. The imposition of British jurisdiction has been argued in some quarters to have positively transformed the content and methodology of customary law as practised under the traditional justice systems in both Northern and Southern Nigeria [2].

Counter arguments are to the effect that the imposition of British jurisdiction undermined Nigerian customary law and justice systems by failing to take an unbiased cultural study of the traditional practices, including the existing legal and justice systems. This colonial antipathy towards customary law was said to have stunted the development of the customary law and justice system in Nigeria. With the recent, global recognition of the role of traditional justice techniques in peace building, transitional justice and reconciliation in post-conflict societies such as Rwanda and Sierra –Leone, one cannot help but wonder if what is left of our traditional justice systems is strong enough or has ever been strong enough to forestall conflicts and ensure national security in Nigeria.

Against this backdrop, the paper is structured into five sections. Following the introduction, the second section delineates concepts of legal system and justice system. The third section attempts to rationalise the imposition of British jurisdiction on Nigerian customary law, culminating in an impact assessment of the advancement or otherwise of the justice system. The fourth section highlights the capacity of the Traditional Justice system to ensure national security in Nigeria. This section uses a comparative analysis to glean lessons from other postcolonial conflict-prone societies in Africa [3].

Explaining the Concepts of Customary Law and Justice, Legal system and Justice System

Customary Law: Merriam Webster dictionary defines laws generally to mean a binding custom or practice of a community. Custom is, therefore one of the primal sources of law. In Owoniyin v. Omotosho5 the court described customary law as a mirror of accepted usage. Obaseki J.S.C also described it in the case of Oyewunmi v Ogunesan as the organic norm(s) of ingenious people which regulates

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their behaviour and transactions. Customary law does not owe its existence to the enactment of a sovereign or a legislature. It derives from the culture, customs, practices and traditions of the people and becomes binding upon them. For a law to qualify as customary law, it must be accepted by most of the members of the society, if not all. It is a symbol of the behaviouristic pattern of the people who are guided by the laws. The Supreme Court in the case of recognised the ability of customary law to adapt to the changing needs of the community. There is no uniform customary law in Nigeria, as even amongst communities of the same ethnic group; the laws might vary from one community to another. In Nigeria, customary law is either ethnic customary law or Moslem law. While ethnic laws pertain to indigenous people and customs, Moslem laws are religious laws based on the Moslem faith. The research focuses on ethnic customary law because, in comparison to Moslem laws, ethnic laws were heterogeneous and unwritten, making them more vulnerable to British imposition [4].

Concept of Justice: The concept of justice is multidimensional because there is no single definition that captures all of its meaning. The word justice can be used in a loose sense to suggest the fulfilment of a law and according to Oraegbulam; law is to justice what it means is to an end. There are myriads of theories of justice ranging from, justice as conformity to law, to justice as an act that promotes social good and justice as a fulfilment of a legal right. Aristotle, Thomas Aquinas and Spinoza all define justice as a habitual, firm and constant will to give each one his due. Others such as John Rawls describe justice as fairness. These philosophers had consistently linked justice to ethics and morality in their works. Hence, a more comprehensive definition of justice as given by Angilandeswari would mean a concept of moral rightness based on ethics, rationality, law, natural law, religion, equity and fairness, as well as the administration of the law, taking into account the inalienable and inborn rights of all human beings and citizens, the right of all people and individuals to equal protection before the law of their civil rights, without discrimination and is further regarded as being inclusive of social justice.

In Nigeria, specifically the south east, the concept of justice is explained using notions of straightforwardness. Words such as ikpenkuoto and akankwumoto were used to describe an accurate, unbiased, fair, equitable, honest, truthful and moral judgement. Here, justice is based on these generally accepted principles which were based on the cultural values and traditions of a community. Linking justice to social control, Obiefuna and Izuegbu stated that "prior to the coming of the white man, the people had good sense of peaceful co-existence which could only be possible through the principles and practices of justice. Ogugua affirms this position by describing justice as a ligament that holds the hob of society without which society would decay and turn dead. Therefore, a society that lacks justice but takes decision based on who is involved is near anarchy and will eventually disintegrate [5].

The foundations of justice can also be traced to the notions of social stability, interdependence, and equal dignity. As the ethicist John Rawls has pointed out, the stability of a society—or any group, for that matter depends upon the extent to which the members of that society feel that they are being treated justly. There are various types of justice but the most common types are; distributive otherwise referred to as economic justice which has to do with how resources are justly shared amongst equals and unequal, procedural which connotes fair treatment of people; retributive otherwise known as an 'eye for an eye' and restorative justice which takes into account the possibility of healing the victim and reconciling the offender with the law and the society.

Legal System and Justice System: Legal system connotes an interaction of the totality of laws within a legal order and the machinery through which these laws are enforced. The justice system is a component of the legal system and is responsible for upholding justice, resolving disputes, and punishing offenders. It ensures that the law is applied fairly and impartially. Justice system collectively describes the various agencies, establishments, institutions, mechanisms and methods employed in justice administration and delivery. From the foregoing, one can succinctly say that while the legal system oversees the interactions of laws, the justice system administers justice, through the interpretation, application and enforcement of law in accordance with morality, fairness, equality and other societal values [6].

Rationalising the Imposition of British Jurisdiction on Nigeria's Traditional Justice and Impact

Nigeria's pre-colonial era justice system was ingrained in traditional institutions centred on cultural norms, values and religion of indigenous people. Prior to colonisation, native laws and customs were applicable in the indigenous native courts under the supervision of Emirs/Chiefs or traditional rulers. With over 250 ethnic groups, embracing over 500 languages, there were different independent tribal territories, some of which were under the influence of Islamic law while indigenous customary laws governed others. The pre-colonial traditional justice systems had justice mechanisms which regulated social behaviour and dispute resolution. These mechanisms were either prohibitive or retributive, but largely restorative. The picture of traditional justice during the postcolonial era was one in which the people were in harmony with the norms of their society. Norms that reward good conduct punish abominations and misconduct and continuously guarantee stability in the society. This system of justice was in place and accessible to all whom approached it.

At the initial stage, British colonial intervention did nothing to alter the traditional justice institutions, which were at the time allowed to function freely. In fact, according to Oluwabusayo and Ojibara, the British met on ground, a well-structured traditional governance system that largely accounted for the success of their indirect rule system, especially in the Northern region, although, partially in the south-western region owing to the unsavoury imposition of warrant chiefs over the existing traditional rulers in the west. Reforms were however, gradually introduced to fulfil the need to regulate trade activities between the British and the indigenous merchants along the coastal regions of the British colony of Lagos [7].

Supreme Court Ordinance of 1914: The first reform was brought about by Section 19 of the Supreme Court Ordinance of 1914, which allowed for the enforceability of customary law on the condition of it passing through an enforceability test. The test required that for any customary law to be enforceable, it must not be repugnant to natural justice, equity and good conscience or incompatible either directly or by necessary implication with any enactment of the Colonial Legislature existing at the commencement of this Ordinance, or which came into operation afterwards. The apparent impossibility of adopting unwritten, diverse and dynamic customary laws to culturally diverse people led to the imposition of British jurisdiction as regards trade dispute regulation. Hence, several aspects of the common law of England, doctrines of equity, were transported to apply directly to the colonial territories as statutes of general application without let or hindrance.

The erection of this foreign legal structure by the colonial power led to the imposition of the English system of law on the local customary law. In effect, any rule of native law and custom which comes in conflict with the common law or statutes law must give way. In Eshugbayi Eleko V. Officer Administrating Government of Nigeria (1931) Ac 662;

Lord Atkins explains the doctrine of repugnancy to the effect that the court will not by itself transform a barbaric custom into a less barbaric one. Such barbaric customs must be, in Toto, rejected on the grounds of being repugnant to natural justice, equity and good conscience [8].

Local legislation: Similar reforms which subjected the applicability of customary law to repugnancy and incompatibility tests were introduced in section 34(1) of the High Court Cap 49, 1963, Law of Northern Region of Nigeria, Section 12(1) of the High Court Laws of Western Region of Nigeria 1959 and Section 22(1) Eastern Nigeria High Court Law Cap 61, 1963. Also, the criminal jurisdiction of native courts was restricted by the provision of section 10 of the Native Court Ordinance and later, section 36(12) of the 1999 constitution of the Federal Republic of Nigeria as amended, which states that "No person shall be convicted of a criminal offence unless that offence is defined and the penalty thereof is prescribed in a written law". The provision, in effect, excludes the operation and application of any unwritten rule of criminal law, especially considering the fact that indigenous customary laws were unwritten. Section 4 of the Criminal Code Act also gives effect to the constitutional provision cited above.

The effect was the immediate abrogation of the criminal jurisdiction of native courts. Section 210 of the same criminal code abolished the superstition surrounding the existence of witchcraft or juju. In the case of R v Nwaoke, the suspect was arraigned for the killing of his debtor. It was alleged that he pointed juju at his debtor and threatened that since he had not paid his debt, he shall die of the juju or be unable to eat. The debtor committed suicide shortly after. The court held that the juju could not have killed the deceased nor did it cause him to commit suicide. Again, the provisions of section 16 of the Evidence Act, Laws of the Federation of Nigeria 2011 states clearly that: "Provided that in case of any custom relied upon in any judicial proceeding, it shall not be enforced as law if it is contrary to public policy and is not in accordance with natural justice, equity and good conscience."

Impact Assessment: The imposition of English laws led to a conflict of laws whereby customary laws were only enforceable subject to their compatibility with the principles of the received English laws or not being repugnant to natural justice, equity and good conscience. The impact of these enforceability tests can be seen in the transformation of pre-colonial customary laws and the modification of traditional justice systems in Nigeria [9].

Transformation of Some Customary Laws

Paternity and Surrogacy Laws: In Edet V. Essien, the appellant paid the dowry in respect of a woman when she was a child. Later the respondent paid dowry in respect of the same woman and took her as wife. The appellant not the biological father, claimed custody of the children on the ground that under customary law, he was the husband of the woman until the dowry paid was refunded. The court held that any customary law which has the effect of giving the paternity of a child to a person other than his natural father is barbaric and repugnant. Similarly, in Mariyama V. Sadiku Ejo the court rejected the rules of Ebira customary law that any child born within ten months of a divorce belongs to the former husband who may not necessarily be the biological father.

Rejecting the rules, the court held that the native law and custom was repugnant. Also in Meriba V. Egwu the traditional practice in Igbo land that allowed marriage between two women to cater for well-to-do female members of the society who were unable to conceive was declared repugnant by the Supreme Court [10].

Female disinheritance and Primogeniture Succession laws: Under customary law, women are always subjected to the authority of a patriarch, moving from the control of their guardians to that of their husbands. This custom was given judicial recognition in several cases before being abrogated by section 42 of the Constitution. Some of these cases were; Ogunbowale v Layiwola, which restated the position of Yoruba customary law as regards inheritance. According to the facts of the case, the deceased was survived by three wives and three children, one from each wife. The deceased also had two houses. The second defendant, who was the mother of one of the children, sold and conveyed in fee simple, one of the two houses left by the deceased, claiming that she sold the property under the authority of a paper signed by the two daughters of the deceased and another relation of the latter. The court, setting aside the sale of the property, held that nothing by way of property devolves on the wife/wives of a Yoruba man under customary law. It held that under the customary law, a wife who had children for the deceased could continue to live in the home of the deceased with her children. A wife without any issue for the deceased, if she desires to stay on with the family of the deceased, would appear to have a right of occupation only.

The court concluded that the second defendant had sold the property involved in this case as her own property and conveyed same to the first defendant in fee simple. She inherited no estate in the real property of her husband except the right to live there as a widow. Therefore, she had no interest in the property that she could convey. Similarly, in Oloko v Giwa , it was held that on the death of the husband, the room allotted to a wife becomes part of the deceased's real estate and not vested in the wife. The wife is privileged to use the property not as a member of the family but with the acknowledgement of her husband's membership of the family if and only if she does not remarry outside her deceased husband's family after the death of her husband. Also, in Bolaji v Akapo, Sowemimo J (as he then was) held that the only person entitled to a grant of a letter of administration under Yoruba native law and custom which would be applicable by virtue of S.27 of High Court of Lagos Act, were the plaintiffs, four of the Children of the deceased, but not the wives who are regarded as part of his estate. Similar position was taken in Davies v Davies where Beckley J held that a wife was deprived of inheritance rights in her deceased husband's estate because in intestacy under native law and custom, the devolution of property follows through blood.

Therefore, a wife or widow not being of the same blood with her husband had no claim to any cause. In Suberu v Sunmonu33, Jibowu FJ reiterated it that it is a well-settled rule of native law and custom of the Yoruba 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. Thus, in Osilaja v Osilaja, the Nigerian Supreme Court held that the rule that a widow cannot inherit her deceased husband's property has become so frequently proven in courts that it has become judicially noticed. In Dawodu v Danmole the popular idea of Ori-oju-ori which means equality among the children was rejected as the customary rule of succession among the Yorubas and the principle of idi-igi (per stirpes) was upheld as the authentic customary law of distribution of estate among the children in cases of intestacy. Also in Ogiamien v Ogiamien and Idehen v Idehen the custom of primogeniture of the Benin was upheld.

Conversely, the 1997 case of Mojekwu v Mojekwu adjudged the discrimination against female inheritance to be incompatible with Section 42 of the 1999 Constitution and not enforceable. In that case, the Court of Appeal held that Oli-ekpe custom of Nnewi is repugnant to natural justice, equity and good conscience. The implication of the Oli-ekpe custom was to the effect that female children were excluded

from inheriting the property of their father, such that if a man dies leaving only a female child, he will be inherited by his brother, if he leaves a male child who inherited him, but later dies, he will also be inherited by his brother. If the brother who inherited dies leaving sons, his sons will inherit the property and not the daughters of the deceased. Consequently, the patriarchal or primogeniture customary laws which give credence to male inheritance is deemed unconstitutional or repugnant. Likewise, in the case of Nimota Sule & Ors v M.A. Ajisegin39 the Court rejected the notion that a male descendant was entitled to a larger share than a female descendant in the distribution of the estate of their ancestors.

In Ukeje v Ukeje, the Supreme Court gave a landmark judgement on women's right to inheritance. The facts of the case read that, Lazarus Ogbonnaga Ukeje, an indigene of Imo State, died intestate with real property in Lagos State. The appellants are his wife Mrs Ukeje and her son, both of whom obtained Letters of Administration over the deceased Estate. The letter of administration excluded his daughter (Plaintiff/Respondent) from partaking in the sharing of her father's estate. Conversely, the respondent filed an action in the Lagos State High Court where she claimed to be a daughter of the deceased and by virtue of that fact, had a right to partake in the sharing of her late father's estate. The trial Judge nullified the letter of administration and ordered that a new letters of administration be created with the daughter. The defendants/appellants lodged an appeal which the Court of Appeal Lagos (Division) dismissed for lacking merit. Again, not satisfied with the decision, they appealed to the Supreme Court.

To conclude on the matter, the Supreme Court unanimously dismissed the appeal on the grounds that no matter the circumstances of the birth of a female child, she is entitled to an inheritance from her late father's estate. Consequently, it was held that the Igbo customary law which disentitles a female child from participating in her deceased father's estate is incompatible with the provisions of section 42(1) and (2) of the Constitution of the Federal Republic of Nigeria, 1999, a fundamental right provision guaranteed to every Nigerian. It must however be noted that the doctrine of repugnancy was not successful in effecting changes in areas of the law of succession and distribution of estate amongst some communities in Nigeria [11].

Transformation of traditional justice system: This paper earlier defined justice system as a term that collectively describes the various agencies, establishments, and institutions tasked with administering or enforcing the law, which are organised primarily around handling either civil or criminal law. It is also noted that justice systems are retributive, procedural, restorative or distributive. Several authors have written about pre-colonial justice systems in Africa including Nigeria. The historical accounts of pre-colonial justice systems in Nigeria paints a picture of a traditional and informal justice system driven by the principles of restoration and reconciliation.

Traditional justice pays attention to the plight of the victim of crime. It tries to ensure that the crime victim is returned to the position as nearly as possible, which he was before the crime was committed. Hence, it employs the principle of restorative justice in its punishment. The penalties, therefore, usually focus on compensation or restitution in order to restore the status quo, rather than punishment. Adeyemi argues that justice is traditionally about restitution and must be seen by the people to have been done.

Imprisonment has never traditionally existed as a penalty for any offence but corporal punishment, however, has been administered by a number of traditional systems on juvenile offenders, and sometimes the traditional justice forums may order restitution of, for example, twice the number of the stolen goods to the owner or fines may be levied. Enforcement of justice, law and order lies within the complexity of relationships within the society. That is, although formal coercion is rarely resorted to, Igbokwe argues that social pressure plays a decisive role in achieving compliance. Igbokwe (1998) justified his argument when he said that the high degree of public participation in reaching a solution to a dispute in the African traditional justice means that disobeying a final ruling is tantamount to disobeying the entire community and may attract social ostracism. Robert (1979) states that such ostracism involves the withdrawal by other members of the community of both social contact and economic cooperation. So, in African societies, ostracism has more than a symbolic significance because it represents not only "social death" but a threat to an individual's livelihood, especially where food depends upon collaborative efforts and hunting and safety depend upon social efforts [12].

Criminal Justice: The impact on the traditional justice system was quite substantial in the areas of criminal justice. This was a result of the typical uncertainty of its actual content since customary law is largely unwritten and varies between the various ethnic groups. The Nigerian Criminal Code of Southern Nigeria and the Northern Penal Code were therefore introduced to account for the differences between indigenes and non-indigenes on the one hand, and Moslems and non-Moslems on the other. Another reason was the prejudicial enforcement of traditional justice, which was based on native law and custom. Also, the rules relating to evidence and proof were neither formal nor scientific.

For instance, most traditional societies recognised trials by ordeal and fetish swearing as acceptable methods of proof. These were often done in murder cases and cases with capital punishment. Beliefs in the gods were very predominant and they played a significant role in determining guilt or innocence of accused persons. In Ibo jurisprudence, grave suspicion amounted to prima facie proof. Proof in cases like murder was by trial by ordeal or by invocation and intervention of the gods in juju swearing Furthermore, traditional criminal justice systems, in some cases, failed to abide by the two fundamental principles of natural justice, namely, nemo judex in causa sua (meaning that no one shall be a judge in his own cause) and audi alteram partem (meaning that no one shall be condemned unheard). Modern concepts of presumption of innocence, the burden of proof and proof beyond reasonable doubt are equally not well grounded in traditional justice administration. Thus, most of the trials before the native courts were ultimately found to violate most of these constitutional requirements of a fair trial.

In Modibo v Adamawa Native Authority, the court allowed the appeal of the appellant, who was sentenced to terms of imprisonment by a court order by the Lamido of Adamawa (a traditional Chief) for an offence of writing an offensive letter and personal attack on the Lamido. The court rejected the plea of necessity brought forward and held that since the dispute was a personal attack on the Lamido himself, the principle that no man can be a judge in his own cause must be maintained. Similarly, in Jalo Guri & Anor v Hadejia Native Authority , a procedural rule rooted under the customary law/Muslim Maliki law that prevents or denies an accused person in a case of hiraba (highway robbery) the right to question witnesses or defend himself or make any attempt to exonerate himself was struck down and declared repugnant to natural justice, equity and good conscience.

Punishment: Under certain traditional justice systems in Nigeria, punishments such as hanging, beheading, stoning, drowning, burying alive and killing by the identical means used by the murderer had been allowed. Death is the common mode of punishment for the most severe

crimes, such as murder, sacrilege and other magico-religious offences. The death penalty has been administered as the ultimate sanction in offences other than murder: recidivist theft, gross troublemaking, witchcraft and treason. The executioners of capital offences are the accusers. To this end, various sections of the English imposed criminal jurisdiction abolished the application and enforcement of traditional criminal justice by stating that "No person shall be convicted of a criminal offence unless that offence is defined and the penalty thereof is prescribed in a written law". It also abolished the superstition surrounding the existence of witchcraft or juju in Section 210 of the same criminal code [13].

Strengthening traditional justice systems as a panacea for national security in Nigeria

Nigeria since her independence in 1960 has witnessed various violent agitations arising from socio-political and economic justice issues. These agitations have become more violent and relentless despite Nigeria's democratic status and supposedly developed legal and justice system. With the clamour for political, social and economic justice at the front burner of the agitations and civil unrests coupled with the loss of faith in the Nigerian justice system, an inquest into the capability of the justice system to mitigate the problems of conflict and insecurity has become vital.

The capacity for justice to mitigate conflict and insecurity has been noted in a number of live scenarios. For example, the world witnessed the role played by the Supreme Court of Kenya in averting the political crises that was brewing as a result of the 2017 election between Uhuru Kenyatta and Raila Odinga. In a landmark decision, the Court ruled the election null and void on the basis that the national electoral body had failed to adhere to the established practices for conducting the election. Rather than having to take to the streets, the opposition had found justice by working within the justice system. This incident serves as an example of the fact that the stability and safety of any nation depend on justice, both substantively and procedurally [14].

In addition to acting as a check on political power, efficient judicial and quasi-judicial institutions also avert or lessen conflicts that may result from social interests that are inherently at odds with one another. In farmer herder community conflicts, evidence shows that ineffective legal protections for life and property, as well as ineffective adjudication of disputes, are at the root of many of these resource-related conflicts. The limited reach of formal justice institutions in these peripheral areas coupled with the degradation of traditional justice and conflict resolution mechanisms exacerbate conflicts. This also holds true in northern Nigeria, where a younger generation of herders have ignored tradition; therefore, increasing the lethality of conflicts. Younger herders are less devoted to the antiquated customs of conflict resolution. Instead, when disputes with established communities occur, they resort to using armed force.

As noted earlier and according to Ogugua, 'justice is a ligament that holds the hob of society without which society would decay and turn dead'. Therefore, a society that lacks justice but takes decision based on who is involved is near anarchy and will eventually disintegrate. More so, the success of traditional techniques in peace building, transitional justice and reconciliation policies in post conflict societies has put a flashlight on the possible role of traditional justice in promoting National Security. The role of traditional justice in this regard gained popularity since the success of the Gacaca courts in Rwanda and the use of local dispute resolution practices such as nahe bitti boot in Sierra Leone. The Gacaca courts addressed a number of aims ranging from speeding up the trials process, bringing the truth about the genocide out into the open, punishing perpetrators and bringing about reconciliation between Rwandans. The objective of the Rwandan authorities was to enable the various actors to take ownership of the conflict resolution process through the Gacaca jurisdictions, and to prove that Rwandan society had the capacity to sort out its own problems using traditional justice.

Traditional institutions are a vital cog in the peaceful existence of communities. The success of these traditional institutions and dispute mechanisms was hinged on effective communication in conflict and post conflict settings as well as the dependency on the principles of restorative justice and reconciliation which are the foundation of traditional justice systems in Africa. Globally, traditional institutions have been recognised as the key pillars of governance, preservation of justice, customs and values 60 (Crook, 2005). They are the core moral social fabric of any society. Unfortunately, the conquest and subsequent imposition of British jurisdiction on the various ethnic nationalities in Nigeria created a great encounter with the various traditional justice institutions [15].

The practice of customary -law was brought under severe scrutiny and was accused of being bereft of equality, certainty and fairness. These encounters compelled and necessitated adjustments, modifications, adaptability, and in some cases, the outright jettisoning of traditional justice practices. In effect, the traditional authority of indigenous rulers was chiselled down and the native courts were replaced with customary and district courts, overseen by representatives of the British colonizers. The North however had a different experience considering that they were already under the influence of a more civilised and codified Islamic law regime, but however slight, there were modifications to the application of their practices. in Nigeria's traditional justice systems have been overtaken, eroded or replaced with the British concept of justice administration. However, although the imposition of British jurisdiction has recorded notable improvements in the practice and application of customary law in Nigeria, it has left yearning gaps in our system of justice, which were based on the principles of restoration and reconciliation as opposed to the British imposed individualistic, and retributively oriented system.

The call for the strengthening of Nigeria's traditional justice systems is not without due consideration of the basis and impact of British imposition on the various customary law practices and the resultant abrogation of pre-colonial justice systems. The reason is the need to assess the current status and capability of the traditional justice system to rise up to the global expectation of tackling insecurity through its restorative, peacebuilding and reconciliatory mechanism. Arguably, the most notable difference between African customary law and received English law is that while the subject of the latter is the individual, the main concern of customary law is the preservation of the cohesiveness of the community and kinship rights. Nigeria's British-styled justice system is not just individualistic but retributive as it focuses on the offender and hence does not address justice for the victim and the society. Today, it is not unusual for a man who is caught red-handed committing a criminal offence to be acquitted on technical justice arising from undiligent prosecution or for a breach of sheriff and civil procedure laws bordering on proper notice.

This is looked upon as utter folly by traditional justice systems to expect a man who was caught in the act to make a defence, as was the case of Guri v. Hadejia N.A Today in Nigeria; justice has been given as a fulfilment of a law without being seen by the people as to have been done. Formal Justice Infrastructure cannot support the evolving justice needs of the country. Poor administration of justice has been listed as the major cause of Nigeria's current conflicts and insecurity.

Traditional justice preserves social harmony because the primary objective is to reconcile parties. However, the system is patriarchal, with low or poor appreciation of human rights standards by a lower cadre of traditional rulers, in addition to the low level of rights awareness within the community. It is important to note that national security is a complex issue influenced by various factors, and relying solely on traditional justice systems may not be sufficient to address all aspects of the problem. Nonetheless, incorporating traditional justice systems into the overall security framework can have certain benefits [16].

Conclusion

Some of the characteristics of customary law, which were considered barbaric and, in some other cases, inferior, were, in fact, the characteristics of a law prone to evolution. Customary laws were not written but were based on the acceptance and recollection of the people who were bound by them. This could have been considered in the sense that it fulfilled one of the characteristics of law, which is a mirror of accepted usage. The claim that customary law is diverse and uncertain does not justify British imposition especially if that claim arose from the fact that it is unwritten. Today, not much can be said about the acceptability or certainty of our British styled laws. The research finds that a harmonisation of customary laws would have addressed these issues. This is clear from the fact that there were similarities in several indigenous laws in the south-south and north-central. Customary laws had the natural predisposition to continue to evolve to meet current societal issues due to its uncodified and flexible nature. The research finds that the imposition of British jurisdiction greatly undermined Nigerian customary law and justice systems by failing to take an unbiased cultural study of the traditional practices, including its pre-colonial legal and justice systems. While there are notable improvements to the customary laws in Nigeria, the research contends that those improvements have not contributed to the development of customary law in Nigeria; if anything, it has made it rigid and unable to evolve. This colonial antipathy towards customary law and the resulting effect on traditional justice has weakened the capacity of traditional justice to address the current realities of socio-political and economic conflict in Nigeria.

Considering the successful role of traditional justice in peace building and conflict resolution in post-conflict African societies, the research arrives at a conclusion that the traditional justice systems in Nigeria are currently too weak to address issues of national conflict and insecurity that have arisen in Nigeria, and this stems from the effect of British disinterested imposition of English laws and the repugnancy doctrine on customary law in Nigeria.

Recommendations

It is recommended that traditional justice systems across the country are strengthened and included in the justice architecture of the states and communities in a way that preserves the truth, moral, spiritual and restorative essence of its mechanisms as a panacea for conflict and insecurity in Nigeria. Sections 38 (12) of the constitution and Section 4 of the Criminal Code Act should be reviewed to accommodate the jurisdiction of traditional justice institutions in the administration of criminal justice. This is because traditional justice systems often operate at the community level and involve local leaders, elders and traditional authorities. Therefore, empowering these structures allows for increased community engagement and participation in addressing security challenges. The cultural relevance brought about by traditional justice systems helps to build trust between communities and justice providers, which is crucial for effective law enforcement and crime prevention.

Traditional justice systems often have mechanisms for resolving disputes, strengthening them, it is possible to address underlying social tensions, reduce intercommunal conflicts and prevent them from escalating into larger security threats. They can help bridge the gap by providing a locally accessible mechanism for dispute resolution and justice delivery, which can reduce grievances and the potential for conflicts that may undermine national security. Finally, they can complement and work in tandem with the formal legal systems by community-level disputes and allowing the formal courts to focus on more serious crimes. This can also help alleviate the burden already placed on the formal justice system and enhance its overall effectiveness.

While these potentials exist, the paper recognises the limitations and challenges associated with traditional justice systems, such as lack of legal safeguards, gender sensitivity and adherence to human rights standards and recommends that it should be pursued in conjunction with other approaches, such as law enforcement capacity building, effective governance, socio-economic development and protection of human rights. There is need to train traditional rulers on international best practices as regards their role in justice delivery and ensuring they uphold rule of law and human rights principles by emphasising the importance of fair trial standards, due process, non-discrimination and the prohibition of torture or cruel treatment.

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