
OMETARA BURU, THE IGBO PEOPLE OF NIGERIA CONCEPT OF RETRIBUTIVE JUSTICE

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ABSTRACT

In Igboland the Knowledge of justice could be traced down through the early stages of early societal formation. According to Norah Latham 'when Villages and then Towns developed, they needed laws, wise men to keep order and to organize defense'. In addition, the Knowledge of law could have emerged when the society began to develop the concept of moral etiquette to checkmate moral behaviour of the people. It could also be assumed that the observation of moral rules and regulations contributed to the development of sanctions. In other words, the observation of moral etiquette contributed to the development of societal acceptable patterns of rules observations that too, enhanced judicial development among the Igbo People. In Igboland, people believe in 'whatever you sow is what you reap' (Nkpuru Onye kuru ka oga aghoro). In other word, in the traditional legal system the place or the application of logic in Igboland legal framework is very minimal in administration of justice since evidence is made clearer when witnesses are available. The reliance on logic in Judgement to some extent is viewed with suspicion in Igbo legal system. Except on a very serious case, adjournment of a case is often frowned at, as people usually want judgment passed immediately. Adjournment could only happen in Igboland on serious cases like murder, incest, adultery etc. Quite often people respond to delayed judgement application with such accusation like 'ha anala aka azu or Oriela Ngari' (they have taken bribe) this is related to English version of justice delayed, is justice denied. The adoption and substitution of traditional legal framework with that of foreign legal system in spite of the existence of the customary courts have continued to create apathy in the minds of the People. Often time matters are usually settled out of courts because people still do not have confidence in the Procedural of the new legal system. The article attempted to constructively examine the importance of traditional legal approach in the settlement of disputes in Igboland. It further highlighted the effect of over reliance on logic inherent in the Modern legal system, which has diminished the confidence of people seeking redress in the new courts. The research concluded by observing that the lacunae noticed in the adopted alien legal system should be adjusted to reflect the norms of the people, and traditional legal system revived so as to restore people's confidence to the customary legal system.

Keywords: Customary Law, Morality, Law Enforcement and Legal Framework

INTRODUCTION

Societies of people strive in accustomed traditions bestowed on them through several years of interaction with his environment; the Igbo People of Nigeria are not exception. Although the world is dynamic, but some notable indigenous legal framework has continued to serve as moral guide to the Igbo people. In the traditional Igbo society, the legal framework is represented by the rules and regulations which are hidden under the societal ethics, norms and belief system. The existence and functionality of these bodies of law depends to some reasonable extent on societal level of conformity to these established rules and regulations. Though the local legal framework may not be codified, it is however, eternally registered on Peoples memory because of peoples belief on the efficacy of oral information. To some extent, it has some resemblance with the western legal concept. Meanwhile, recent studies show that the Western legal framework has effectively eclipsed the traditional legal system by creating a toga of inferiority complex on it. It should however be noted, that, the African legal concept, was in practice by the British, prior to the tabulated format which it has majorly assumed. In African legal concept, the body of rules is known by heart. Legal Interpretations in most cases need no logical explanation, and judgments adopted through resolution. In that sense, African legal concept cannot be inferior to the western legal framework but only subjected to regular amendment which is also synonymous with the western concept or judicial system. In the western legal system, everyone is subject to the law and in Africa the political leadership, judicial functions and legislative set-ups well defined, but in African system the leadership could be above the law since the judicial arm is fused with the Executive. The article is an overview on the importance of traditional legal system in Ohafia land in conflict settlement, which is not far from what obtains in any other non-literate Societies. The need to apply the traditional concept of indigenous laws, from its interpretation, enforcement, and execution, necessitated the need to its benefits and its essentiality to application in our changing world.

IGBO TRADITIONAL LEGAL THEORIES

The concept of Natural Justice is anchored on Igbo legal interpretation ‘Ometara Buru’. It is generally believed in Igbo land, that the wicked cannot go unpunished. ‘Onye metara ihe isii ka o’na esi’ he who touches the rotten carcass must bear the stench or ‘Okotara buru’ or you must bear the consequences of your action. This is another important aspect of Igbo people’s belief in the law of Natural justice. In that respect, ‘Ometara buru’ is Igbo theory with absolute faith on punishment to every offence committed. As a guiding principle to Igbo justice, contending parties always approach judgement with full assurance of receiving justice. It is also a traditional legal terminology with strong belief of the ability of natural cause to identify and to vent punishment on offender(s). In Igbo land with emphasis on Ohafia clan, the administration of punishment to offenders is decentralised depending on offences committed. In Igbo land every grown up is entrusted to safe guide the moral etiquette. Njoku in his submission opines, thus, ‘Nwa wu nke onye new ya, mgbe oka no afo’ meaning a child is the responsibility of one person only when it is still in the womb. In that regard, there is specialized body to adjudicate law or to interpret the law since the native law ingrained in the peoples’ culture. In that respect, the Igbo legal framework the legal concept of the people is hidden in the peoples’ moral etiquette which cannot be altered. In view of that, children sees every adult member of the group as a potential executor of judgement, and as such have no question on the legality of receiving punishments when contravene the societal norms, having been prepared by the society to receive such measures of training.

In Igboland constitutional rights is expressed and punishment exerted for violation from the family unit upto the ‘Ama ala’ the highest political and legal unit in (Ohafia) Igbo land. In

addition, the following political and social units exist in Ohafia Igbo. Starting from the least unit, the Onu Ulue (Nuclear family) to Utuga Ulue (Minimal lineage), Ezi (Compound), Onu ogo or Isi ogo (Village unit) and the highest Onumara (Community). Various units are naturally assigned responsibilities based on the areas of their control. In that respect, rules formed in these units are occasioned by needs to arrest certain challenges. In that regard, rules are enforced where ever violation emanates.

Appeal could also be made upto the highest level of traditional court (the court of Ama Ala). In that case, the Community Square usually served as the Supreme Court Arena. In Ohafia Igbo, the concept of 'Ikpe anaghi Ekwere onye akpuhghari Abia Ikpe' meaning one who is often dragged to justice hardly obtain favorable judgment. The notoriety of such person could deny him judgement because of the general opinion. In that respect sentiment could swing judgement at the court of Ama-ala. Again in the local parlance victim could be consoled in that 'Onye ikpe mara anaghi ebi n'ulo ikpe' meaning, a convict should not remain in the court room. It is a consolation and a concept that a convict should serve his or her judgment. In Ohafia land, there is another concept 'Ikutu uguru ga akpara nku iji anya ya'. This too, has strong legal implication and also serves as a warning on the danger of violating the societal laws. This concept also serves as a guide in engaging on anti-social behaviors. It has the same implication as 'Onye kpatara Nku Ahuhu siri Ngwere biara uri'. It is also related to 'Isi kote Ebu ya ogba ya'. These are some of the moral concept with strong leanage to the legal sense of Ohafia people.

In Ohafia land, the legal concept is derived from the peoples culture 'Omere Ali'. According to Otakpor in Nwala 'omenani' contains within itself the principles for propagating and projecting Igbo traditional way of life. Culture in itself contains the traditional legal framework of the people. In other words, Otakpor further stated, thus, 'Norms therefore, being an aspect of culture, in addition to the peoples belief system, project the peoples view about law, its interpretation and executions.

The assumption by the Europeans that Africans had no clear legal framework or lack the knowledge of legal concept can only be acceptable to people who were desperate to blanket African contributions to the legal knowledge. However, such assertion will remains tenable when viewed in the light of the following Eurocentric arguments, thus:

- (i) Did these savage primitive people ever quarrel?
- (ii) Did they reason at all like other human being?
- (iii) Did they argue on any issues, or on issues concerning rights and entitlements
- (iv) If they quarrelled at all, how did they resolve disputes?

In Ohafia land, there is the 'Obu Ikpe', the court yard. It is in recognizable all over the clan. Here less serious matters are settled. More serious cases are settled at 'onu ogo' by council of Elders. Cases settled are ones involved stealing of yam, poisoning, murder and inter-community matters. In such cases the consent of the general public is not required to pass resolution. Since the council of Elders represent the entire isi ogo or onu ogo, the final decision could not be disputed. Moreover, cases involving individual could also be reported to the council of Elder, when such cases could not be handled satisfactorily at the kindred level. Cases involving kindred can also be settled by the council of Elders. Meanwhile, an individual who would prefer having his cases settled by the council of Elders, instead of his

kindred, has this concept ‘onye eku eje ulue ikpe, ikpe anaghi ekwere ya’. Meaning a person who often drags his kindred to judgement will hardly receive favorable judgment. Morality, in this regard play a very important role in administration of judgement.

THE OHAFIA TRADITIONAL LEGAL STRUCTURE

In Ohafia Clan there are bodies dully recognized to promulgate and to execute judgment. Each of these bodies are however, subject to the Ezie-Ogo in council, in the Execution of certain aspect of the laws. Nevertheless, since such bodies were recognised based on certain conditions Ezie-Ogo in Council hardly interferes in the rules and regulations guiding such bodies and judgements passed

AMA-ALI COUNCIL.

Ama-Ali is the highest political and social organization in Ohafia land. The governance of the village is in the hands of a council of Elders represented by the Ama-Ali. The Ama-Ali constitute representatives of various Isi-Ogo and Compound in the Village. In Ohafia land, the Ama-Ali rules more or less by decrees announced to the Community by the dully recognized Village Crier. The Ama-Ali also served as the Supreme Court in Ohafia Clan. Ama-Ali also settles disputes which have defied solution at the lower Court levels. Since the Council of Ama-Ali is made up of Nde-Ichin (Old Men), the enforcement of their verdicts is often carried out by the youthful ‘Uke Akpan’. The Akpan people are composed of men in their fifties and above. They are the next to Nde-Ichin Club. However, Philip Nsugbe contradicted this, thus; ‘the Akpan comprises men of about 36 to 45 years. Meanwhile, available research, however, shows that the age brackets of the Akpan Cult is well above that. Nevertheless, the Akpan members also known as ‘Ukeji Akpan’ usually carry their responsibility with clear precision. In the course of enforcing the decision of Nde-Ichin, the Akpan members do so by beating their talking drum repeatedly as they marched in a single file to the culprit. It is a taboo to run across their procession, as a consequence is a heavy fine.

Njoku aptly captured the consequences of refusal to pay the fine imposed through the Akpan group by the council of Elders, thus, ‘if an offender proves obdurate and tried to argue with Akpan members, they would depart speechless. But this would not be before hanging the Akpan drum at the entrance of the house of the head of compound in which the offender resides’. This is done so as to force members living in the offenders compound to exert pressure on the culprit to pay whatever fine(s) imposed on him. From Ohafia legal point of view Akpan cult can never be wrong since they are enforcing the directives of ‘Ndi-ichin’ who are culturally regarded as the custodians of customs and traditions of the people. In Ohafia Clan Ama-Ali represent the entire Male adults of the Clan. They have the power to summon for judgement and in advent of emergency. Ama-Ali can also meet when very serious matter of grave concern occurred.

For instance, cases such as an untraced murder or external threat, or when proclamation of change in custom is to be made, are some of the issues that could cause the Ama-Ali to summon for a general meeting.

EZIE-OGO IN-COUNCIL’S COURT

The Ezie-Ogo in-council is headed by the traditional ruler of the Community. The council members are made up of the representatives from various Villages (Onumara), titled men, Compounds units in the Village, who could be represented by a Compound leader. The Ezie-

Ogo as the case may be is usually the custodian of the sacred symbols of the ancestors, as well as the Communal land. The Council runs a close court and could as well promulgate laws. Matter or cases handled by the Ezie-Ogo in-Council included cases involving individuals, between an individual and his kindred, matter involving a kindred with the Community or Kindred versus Kindred. Presently, any matter brought before the Council attract the 'Ego Nmanyi Ikpe'. This is a kind of money paid to have the case filed. The Cases treated by Ezie-Ogo in-Council, included land matter, Cases of incest, theft, poisoning etc.

IKPIRIKPE WOMEN'S COURT

Just like Male Counterpart, in Ohafia Clan there are Council of Elder, Constituted for the Women (Iyom Ohafia). This Council exercises jurisdiction over female matters. Under the leadership of the 'Ezie Nwami' the women leader. This women Court is also referred to as the 'Ndi-Ikpirikpe'. They consider such matters that borders on the violation of time for Planting and harvesting of women's crop. The Council also makes rules regulating the conduct of Women. Just like in the case of the Council of 'Ndi-Ichin' whereby, the 'Akpan' announces to the public their decisions on matters arising, in the case of the Village Council of Women Elders, decision taken by them are announced to the public with talking drum. Cases handled by the Village of Women Elders, included pre-marital pregnancy, obscene remark about a woman or female sexuality and adultery. The admission of members into 'Ikpirikpe' group is obviously non-lineage, but based on high moral reputations.

AGE-GRADE COURT

Age Grade is another institution in Ohafia land, culturally entrusted with the responsibility of making and enforcing laws among members. Age-Grade is also a Social institution that has contributed to the development of Ohafia Clan. Membership to an Age-Grade is based on people who are born within the Age bracket of three years. Chieke opins that 'age-sets also exercised considerable discipline over its own members'. Njoku further buttressed the Age-Grade responsibility, thus, 'Every Age-Grade is acutely conscious of its good image and any attempt to tarnish that image invites prompt protective and punitive response. In that regard, every law enacted by the Age-Grade is thus promulgated for the sake of the image of the Age-Grade. Therefore, there is no Age-Grade in Ohafia without laws guiding them.

In Ohafia Clan, Males initiate the formation of the Age-Grade. Women are only admitted when married. Among the major offences in every Age-Grades included fighting and adultery among members. Others are indebtedness to the Age-Grade, lateness to meeting, and the use of profane words during meeting. Some punishments on violation of Age-Grade rules, include suspension, expulsion, payment of fines etc. Age-Grade institution is very formidable in socio-political and economic development of Ohafia Clan.

LAW PROMULGATION AND EXECUTION IN OHAFIA LAND

Some aspect of Ohafia laws have been as old as the the society. In most cases the sources of such laws could not be traced. In effect, evidence suggested that, the ancient laws in Ohafia Clan emerged in response to addressing certain anomalies in the societal norms and belief system. No wonder, those ancient laws have never been disputed with since in them reside the societal ethics. In addition, such laws are under the purview of the Ndi-Ichin (the council of Elders), whose responsibility it is to safeguard them. In Ohafia Clan the amendment of certain laws are very difficult. It is easier to amend punishment than the law. Yet in some cases certain laws and ascribed punishments have been dropped. Giving birth to twins is no longer an offence, parading one who stole yam naked as in olden days has been replaced with option of fines and the return of the said yam to its owner. In the area of law promulgation,

Ezie-Ogo-in-Council can promulgate new laws. He could also do that with the consent Ama-Ali. Various legal bodies could also promulgate laws to guide their various organisations.

In Ohafia land the underlisted are some of the acts legally deemed offences and commensurate punishments, thus:

OFFENCE

- (1) Poisoning resulting to death
- (2) Stealing or theft
- (3) Fighting that resulted to bodily injury
- (4) Drug Abuse or Addiction
- (5) Abortion
- (6) Raping

PUNISHMENT

Life banishment, plus #50,000, one life goat, one carton of beer, one bottle of local and foreign gin

#50,000. One carton of beer and a bottle of local gin

#50,000, one goat, two bottles of gin for the Ezie-Ogo-council. One goat and a bottle of local gin for Uke-Akpan

#10,000, in addition to the culprit being flogged and taken to the rehabilitation home where he will be treated at the expense of the culprit's family

#50,000, banishment of the girl for seven years by the council of female Elders

The culprit will pay whatever fine imposed on him by the Ezie-Ogo in council and the Ikipirpke women, after which he is handed over to the police.

The offences listed above are the ones that the Ezie-Ogo-council could mediate. Those that could be handled by Ndi-ichin or Uke Nkpa-aba are Natural laws which have remained for years. Although the commitment of certain taboos like the birth of twins, killing and banishment of twins mother have stopped, throwing down of husband in a fight, incest, adultery and parading of a thief round the community naked have been modified to the payment of fines. In all honesty, traditional legal institutions should be empowered more, so as to enable it play effective complimentary role to the western legal system. We can achieve appreciable level of peace and security in Nigeria if the traditional legal system is allowed to operate freely from the grass roots.

CONCLUSION

The Ohafia people of Nigeria are among the Igbo groups with streamlined legal concept that evolved through the norms and belief system peculiar with the people. Like other Igbo group, legal concept of the people is anchored on the people's philosophy. It equally have strong religious colouration, thereby making some of these concept sancrosanct to the peoples way of life. In that regard, the Ohafia legal concept are positioned to caution, to correct and to punish. It interprets the consequences of law violation and upholds the efficacy of the rule of law. 'Ikpe mara ezi-okwu, aka azu di ya'. English interpretation 'justice denied is compromised. The concept also advices against constant violation of law, thus, 'Onye ana-akpo aga n'ulo ikpe mgbe obula, Ikpe anaghi ekwere ya'. One who is constantly dragged to Court of law may likely be denied justice. Obedient to law in Ohafia clan is in born. Punishment for the violation of law cut across age-grades. In a non-literate society like Ohafia, the concept of law adds fillip to the enforcement of justice. By implication, in olden days,

immediately an offence that borders on murder is committed, retaliation is open. Murder case is a case against the god of the earth, so punishment is prompt. This is to avert severe consequences. The concept of punishing the offender is by 'Igwa ochu' or 'Igwa imeri'. When this is delayed, the spirit of the death will continue to hunt the family of the murderer until vengeance is exerted. The concept of 'Iso Ochu' that is to take flight, applied or happened when the murder or family refused to submit to the law the culprit for retaliation (Ogbu nma ga ala na nma). By going into self-exile or escaping from the gods of the land through suicide the immediate punishment could be averted. Because the Ohafia people believe in retributive justice, even when the culprit absconded judgement, the concept among the people is always, 'The onye metara di eche ya' meaning for every evil committed, there is a repercussion. In that respect, the Ohafia legal concept effectively shut out logic. That is the application of logic or the knowledge of jurisprudence do no often win judgement.

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