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### **Modes of Implementing Native Court Judgments in a Post-British Igbo (Nigeria) Community (a Research Synopsis)[1]**

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diacritics in this paper; the closest equivalent has been used)*

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#### **Abstract**

With the aids of face-to-face interviews of key participants in the Ajalli (Igbo) community native justice system, as well as scrutiny of hand written, typed, and printed archival records, this paper examines the dimensions of applying and effecting judicial decisions handed down by the native courts and tribunals in the Ajalli (Igbo) community. The interviews, archives, and cases are content analyzed to reveal the methods and procedures used in contemporary traditional Igbo to enforce judicial decisions. The data reveals that for the purposes of enforcing judicial decisions in traditional Igbo, decisions are divided into three principal categories, namely: decisions in civil cases, decisions on crimes against public security, and decisions on crimes against public morality. Crimes against public morality are also called *aru* (or *alu*), that is, crimes that pollute the land or taboos. The parties involved - usually without the involvement of other community members - enforce decisions in civil cases. Community organs and groups, acting on behalf of the entire community, enforce decisions on crimes against public security and crimes against public morality. *Mmanwu* (masquerades) constitute an important means of enforcing judgments on crimes against public security and crimes against public morality. In addition to the community enforcing judgments on crimes against public morality, a convict is often ostracized and expected to go on exile for an extended period of time. The data shows that unofficial, traditional Igbo law enforcement

strategies are crucial in Igbo social control. A synthesis and coordination of the unofficial, traditional and the official strategies would improve law enforcement and social control in Nigeria.

## Research Population Dynamics Relevant to Law Enforcement

In the pre-colonial Ajalli and Igbo justice system, the enforcement of judicial decisions was the responsibility of several community agencies and groups, including the *mmanwu* (masquerade), which was a community government agency (Isichei, 1978, 74). Many of the pre-colonial law enforcement strategies in Ajalli and other Igbo communities (including the *mmanwu*, *igba ekpe*, and *oriri iwu*) have survived till date (see Okereafoezeke, 1996). However, the character of traditional Igbo judicial decisions in post-colonial Nigeria is different in some respects from what it was before the British colonization of Nigeria. Also, the techniques and methods for enforcing the decisions have changed in some ways from what they were prior to colonization. Some of the differences in character, techniques, and methods are the consequences of the prevailing divide between the native or indigenous justice systems and the foreign, English-style justice system imposed by the British imperialists. Other differences stem from the societal changes within Nigeria as a result of the passage of time and societal evolution. Thus, with the passage of time, some issues that were not justiciable (subject to the judicial process) prior to colonization, may have become justiciable, thus leading to new types of judgments to be enforced. Similarly, some issues that were once justiciable are no longer so, with the result that the kinds of judgments to be enforced have changed. The judgments cover crimes and civil wrongs. Also, as in every society, the enforcement of judgment in Nigeria may be official (governmental) or unofficial (non-governmental). Consistently with the changing nature of society (generally from simpler to more complex), the official and unofficial methods of enforcing judgments change. Prior to colonization, Nigerian societies were relatively simple and closely knit. Some remain so [Adeyemi, 1990 (July); Anene, 1991], although other Nigerian societies have since colonization become more complex because of the heterogeneous populations presently constituting the societies. As a result of the increased societal complexity, there is enlarged emphasis on officialism in pre- and post-trial law enforcement in Nigeria.

Law enforcement in Nigeria's plural, hierarchical justice systems (Okereafoezeke, 2000) may be divided into unofficial and official categories. Unofficial and official agencies and groups play vital roles in law enforcement. Unofficial and official laws are enforced. The crucial role of unofficial justice agencies in Nigeria's Igbo is well established (Oli, 1994; Uwazie, 1994; Okereafoezeke, 1996; 2000). The advantage of the present study is that it identifies and examines unofficial, traditional Igbo post-trial law enforcement techniques used in contemporary Nigeria, and how some of the techniques may be borrowed by the official law enforcement agencies or coordinated with the official processes to improve social control in the country.

The lowest social, structural level of control in Ajalli is the *ezi na uno* or *ngwuru*. This may be the nuclear family made up of the husband, wife (or wives), and their children, or a number of nuclear families sharing a common residential compound. Two or more siblings living in the same compound with their respective spouses and children is an example of *ezi na uno*. The *ezi na uno* is a social entity. It may also be sued to advance the group's religious, economic, and political actions.

Immediately above the *ezi na uno* is the *umunna*. The *umunna* is a group of related *ezi na uno*'s or nuclear families. The members of each *umunna* have a common ancestor from whom they descended. However, an *umunna* may permit an individual or *ezi na uno* to join the *umunna* even though their ancestor is different from that of the *umunna* they seek to join. The *umunna* could be a social, political, religious, as well as an economic group. Each *umunna* has a head that may or may not be the eldest male member of the group. Where the leader is not the eldest male member, he is an elected male member of the group. Election to the headship of an *umunna* could take place as often as once a year.

Higher on the hierarchy than the *umunna* is the *onuma* (village). Each *onuma* contains a number of *umunna*'s. Four *onuma*'s make up Ajalli town: Amagu, Obinikpa, Umuabiama, and Umueve. Unlike the *umunna*, the *onuma* does not have a standing leadership. Individuals and groups are appointed to lead the villagers on an ad hoc basis. However, each village has some persons who are highly regarded by other villagers. The high regard enjoyed by such persons places them in unique positions to play important roles in the management of the

village affairs. Social control, particularly enforcement of judicial decisions, is an important aspect of village affairs in Igbo.

A male member, *Eze* (literally, "King") of the Ajalli community leads the town. The *Eze* is the "Chief" or "Traditional Ruler" of the town. The position of *Eze* Ajalli generally belongs to the *di di okpala* (first surviving son) of an *Eze* who passes on. Even so, a successor to the position now has to have the consensus of other community leaders. A reigning *Eze* generally holds office for the rest of his life. However, an *Eze* could be forced from office if he loses his support among the key members of the community. An *Eze* will lose the support base if, for instance, the *Eze* is regarded as corrupt.

The leader of Ajalli, like the leader of any Igbo community before the advent of colonial rule, was an important political figure. However, since the creation of superior political entities in Nigeria (Local Government Authority, State Government, and the Federal Government of Nigeria), the political clout of *Eze* Ajalli has been substantially diminished. The *Eze* nevertheless continues to wield some influence on religious and economic issues. He remains particularly influential on social and cultural issues, as well as social control and order maintenance (Okereafoezeke, 2000).

In this paper, "native court judgment" refers limitedly to judgments given by unofficial, non- governmental traditional courts, tribunals, organizations, and groups. Thus, the Customary Court in Nigeria (an official, governmental court) is not included in this discussion.

## **Enforcing Unofficial Court Judgments**

### ***Enforcing Judgments in Civil Cases***

The data shows that Igbo communities rarely take overt steps to enforce judicial decisions in civil cases at the *Ezi na uno* (Family), the *Umunna* (Extended Family), the *Onuma* (Village), or the *Obodo* (Town) Level. Judgments in civil cases are left to the parties to enforce between themselves. They would do so if they accept the judgment. However, the justice representatives at these levels encourage the disputants to abide by a decision in their case. In Case Number 19 (1993) (a land case heard and adjudicated by the Ajalli community's *Eze-in-Council*), the Council advises the disputants to cooperate with each other to find a peaceful resolution to the dispute. A disputant may, however, ignore the judgment, although a party that ignores such judgment risks being viewed as standing against the system and being ostracized by the community.

### ***Enforcing Judgments in Criminal Cases***

The methods and procedures followed to enforce a judgment on a crime depend on whether the crime is "against public security" or "against public morality". Crimes against public security are the acts and omissions that breach the freedom, property, security, and peaceful co-existence of community members without threatening the moral basis of the community. Crimes against public morality are those that additionally threaten the moral basis of the community. The exact procedure to be followed in enforcing each judgment is determined by the community leaders on a case-by-case basis, but there are common trends in enforcing all judgments in each crime category.

### ***Enforcing Judgments on Crimes Against Public Security***

Examples of crimes against public security are stealing, assault, battery, public nuisance, disobedience of some of the *iwu mmanwu* (rules and regulations governing masquerade displays), street fighting, contempt of a community institution, such as the *Eze-in-Council*, and destruction of property. Each Igbo community takes overt steps to enforce traditional judicial decisions in cases dealing with any of the issues. In Ajalli town, the two main ways of enforcing such decisions are *oriri iwu* (retrieving a fine) (Record of Proceedings, vol. 2, p. 1), and *igba ekpe* (public shaming by humiliating display of convict) (Case Number 12, Record of Proceedings, vol. 2, p. 4, at p. 6).

*Oriri iwu* is a common method of enforcing judgments of fines. The *oriri iwu* procedure is as follows. A group of community members is sent to the offender's home. When the group arrives at the home, they give the offender the last opportunity to comply with the terms of the judgment. If the offender fails to do so, the group seizes and removes as much property as they believe would cover the amount of the fine. The particular items of property removed from the offender's home need not belong to the offender personally. The judgment enforcers may legitimately seize and remove any property found in the household where the offender lives, whether or not the property belongs to the offender personally. In the event that the seized property belongs to someone else, the offender must sort it out later with the owner. The offender is given some time (usually, a few days) to come to the community leader's home with the fine and recover the seized property. If he or she does not pay the fine, the seized property is sold, and the money realized is used to replace the fine the offender should have paid.

In particular, where an offense violates the *iwu mmanwu*, the judgment is enforced through masquerades. The masquerades, rather than humans, seize the property (Case Number 4, Record of Proceedings, vol. 1, p. 60). The property seized by the masquerades is almost always goats. A person found guilty of violating an *iwu mmanwu* certainly pays with at least 1 goat. Depending on the seriousness of the crime, he or she may be fined up to 7 goats (Case Number 4) or more. If masquerades attempt to enforce a judgment but cannot find goats at the offender's home, they may seize goats from the offender's neighbors. The offender must repay the neighbors for the goats. The goats seized by the masquerades are not returnable. They are killed and shared among the various groups and units in the community. Only men may eat the meat (Case Number 4, at p. 61).

### ***Enforcing Judgments on Crimes Against Public Morality***

The following are examples of crimes against public morality: incest, *ochu* (homicide), and defilement of important community institutions, such as a shrine. These are more serious than other crimes. Thus, they are known as crimes that pollute the land. They are *aru, alu, nso* (taboo, abomination). The community coerces a person convicted of a crime against public morality to expiate his or her evil conduct by offering sacrifices to the land and begging to be forgiven. After the offerings, the offender is expected to leave the community for an extended period of time, probably years. In Case Number 24 (1994), the criminal offender has an incestuous relation with his daughter aged about 14 years. He is tried and convicted by the community. In addition to being made to offer specific sacrifices to cleanse the community and *ana* or *ala* (the land), he is forced to leave the town for about 7 years.

### **Summing Up**

Unofficial (non-governmental) law enforcement in Igbo is evolving with the Nigerian society. Colonial and post-colonial changes have necessitated equivalent changes in native, traditional Igbo law enforcement. With particular regard to post-trial law enforcement or enforcement of judicial decisions, each Igbo community maintains official (governmental) as well as unofficial structures for enforcing judgments. The data shows that in enforcing judgments in traditional Igbo, a distinction is drawn between civil wrongs and crimes. Crimes are further divided into "crimes against public security" and "crimes against public morality". Judgments on civil wrongs are usually left to the parties to enforce between themselves, although the community or its agency may lend a hand if either party defies the judgment. The entire community, its agency, or a chosen group or individual enforces judgments on crimes. A popular means of enforcing judgments on crimes is *oriri iwu* (retrieving a fine), which may be done by means of *mmanwu* (masquerades) acting on the community's behalf. *Oriri iwu* may, alternatively, be carried out by a group of community members. The full authority of the community backs the *mmanwu* or group, as the case may be. A defiance of the *mmanwu* or group is regarded as a defiance of the entire community. *Oriri iwu* and *igba ekpe* (public shaming by humiliating display of convict) are popular means of enforcing judgments on both crimes against public security and crimes against public morality. However, crimes against public morality [*ochu* (homicide); incest; desecration of a religious institution, shrine, other place of worship; etc.] are regarded as more serious than crimes against public security. Therefore, a person found guilty of incest, for instance, is expected to do more than pay a fine or suffer public shame in atonement. The convict must take further steps to "cleanse" the community of the crime that has polluted it. The cleansing process often includes making offerings to the ancestors, the land, and God asking for forgiveness. Also, the convict would be required to leave the community for an extended period of time. The period of exile in one of the case studies is

7 years for a father's incestuous relationship with his 14-year-old daughter. The data shows that traditional Igbo law enforcement and social control are effective and efficient. What is lacking is a deserved appreciation and recognition of this fact by Nigeria's official justice system (Okereafoezeke, 1996; 2000). Increased coordination and cooperation between official law enforcement and traditional, unofficial law enforcement that recognizes and incorporates relevant aspects of the traditional law enforcement methods would result in more effective, efficient, and overall improved social control in Nigeria.

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## Bibliography

Achebe, C. 1959. *Things Fall Apart*. New York, USA: Ballantine Books.

Adeyemi, A. A. 1990 (July). *Crime and Development in Africa: A Case Study On Nigeria*, in Essays On Crime and Development. Publication Number 36. Zvekic, U., ed. Rome: United Nations Interregional Crime and Justice Research Institute (UNICRI).

Afigbo, A. E. 1972. *The Warrant Chiefs, Indirect Rule in Southeastern Nigeria 1891 - 1929*. London.

Anene, L. O. C. 1991. *A Study of the Rapid Transformation of Ibo Heartland Settlements from Rural to Urban Centers: A Post-Nigerian Civil War Phenomenon*. Unpublished Dissertation No. AAC9201061.

Berg, B. L. 1998. *Qualitative Research Methods for the Social Sciences*. 2nd edition. Boston: Allyn and Bacon.

Black, D., ed. 1984. *Toward a General Theory of Social Control*, 2 vols., New York: Academic Press.

\_\_\_\_\_ 1990. *Elementary Forms of Conflict Management*, in New Directions in the Study of Justice, Law, and Social Control. School of Justice Studies, Arizona State University. New York: Plenum Press.

Garland, D. 1990. *Punishment and Modern Society: A Study in Social Theory*. Chicago: University of Chicago Press.

\_\_\_\_\_ 1991. *Punishment and Culture: The Symbolic Dimension of Criminal Justice*, in Studies in Law, Politics, and Society, 11: 191 - 222.

Headcount. 1990 (June 9). *The Economist*. ISSN 0013-0613 v. 315 p. 46.

Henry, S. 1987a. *Disciplinary Pluralism: Four Models of Private Justice in the Workplace*, in Sociological Review, 35: 279 - 319.

\_\_\_\_\_ 1987b. *The Construction and Deconstruction of Social Control: Thoughts on the Discursive Production of State Law and Private Justice*, in Transcarceration: Essays in the Sociology of Social Control, Lowman, J., et al, eds. Aldershot: Gower.

Isichei, E. 1976. *A History of the Igbo People*. New York, USA: St. Martin's Press.

\_\_\_\_\_ 1978. *Igbo Worlds: An Anthology of Oral Histories and Historical Descriptions*. Philadelphia, USA: Institute for the Study of Human Issues.

"Nigeria's Population Tops 108 Million," *Cable News Network ("CNN")*, October 23, 1998; available from <http://cnn.com/WORLD/africa/9810/23/RB000959.reut.html>; Internet.

Nzimiro, Ikenna. 1972. *Studies in Ibo Political Systems: Chieftaincy and Politics in Four Niger States*, Berkeley, USA: University of California Press.

Obi, S. N. C. 1963. *The Ibo Law of Property*, London: Butterworths.

Okereafoezeke, N. 1996. *The Relationship Between Informal and Formal Strategies of Social Control: An Analysis of the Contemporary Methods of Dispute Processing Among the Igbos of Nigeria*. UMI Number 9638581. Ann Arbor, MI: University Microfilms, Inc.

\_\_\_\_\_ 2000. "Igbo Justice" as a British Colonial Legacy in Nigeria. (unpublished manuscript).

Oli, S. I. 1994. *A Dichotomization: Crime and Criminality Among Traditional and Christianized Igbo*, in A. T. Sulton, ed., African-American Perspectives On: Crime Causation, Criminal Justice Administration and Crime Prevention. Englewood, CO: Sulton Books.

Ottenberg, Simon. 1971. *Leadership and Authority in an African Society: The Afikpo Village-Group*, Seattle, USA: University of Washington Press.

Shaidi, L. P. 1992. *Traditional, Colonial and Present-Day Administration of Criminal Justice, in Criminology in Africa*. Rome: United Nations Interregional Crime and Justice Research Institute (UNICRI), Publication No. 47.

Smandych, R. C. 1991a. *Tory Paternalism and the Politics of Penal Reform in Upper Canada, 1830 - 1834: A "Neo-Revisionist" Account of the Kingston Penitentiary*, in Criminal Justice History: An International Annual, 12: 57-83.

\_\_\_\_\_ 1991b. *Rethinking "the Master Principle of Administering Relief" in Upper Canada: A Response to Allan Irving*, in Canadian Review of Social Policy, 27: 81 - 86.

\_\_\_\_\_ 1991c. *Upper Canadian Considerations About Rejecting the English Poor Law, 1817-1837: A Comparative Study of the Reception of Law*, in Canadian Legal History Project Working Paper Series. Faculty of Law, University of Manitoba.

Snyder, F. G. 1982. *Colonialism and Legal Form: The Creation of Customary Law in Senegal*, in Crime, Justice and Underdevelopment, Sumner, C. ed. London: Heinemann.

*The Missing 20 Million*. 1992 (March 28). The Economist. ISSN 0013-0613 v. 322, 37.

Uchendu, V. C. 1966. *The Igbo of Southeast Nigeria*. New York: Holt, Rinehart and Winston.

Uwazie, E. E. 1994. *Modes of Indigenous Disputing and Legal Interactions Among the Ibos of Eastern Nigeria*, in Journal of Legal Pluralism and Unofficial Law, No. 34: 87 - 103. Foundation for the Journal of Legal Pluralism.

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## Notes

1. The research synopsis in this paper led to a forthcoming book titled *Law and Justice in Post-British Nigeria: Conflicts and Interactions Between Native and Foreign Systems of Social Control in Igbo*, ISBN: 0-313-31308-3. Author: Nonso Okereafoezeke. Publisher: Greenwood Press, November 2001. See [http://www.greenwood.com/books/BookDetail.asp?dept\\_id=1&sku=GM1308](http://www.greenwood.com/books/BookDetail.asp?dept_id=1&sku=GM1308) for Greenwood's promotion of the book on the Internet.

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