



THE ROLES AND CHALLENGES OF PRE-COLONIAL INDIGENOUS METHODS OF ARBITRATION AND ADMINISTRATION OF JUSTICE FOR SUSTAINABLE DEVELOPMENT IN NIGERIA

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Abstract

Pre-colonial Nigerian societies had a formal and organized system of government. Traditional rulers' roles had evolved as a result of shifting societal values, aspirations, and the imposition of foreign modern political culture. Traditional institutions' non-participatory responsibilities in modern-day Nigeria, as opposed to their roles in pre-colonial Nigeria in managing both men and materials, can be related to decades of societal tensions that are manifesting in our socio-economic and political circuits. This trend not only renders existing institutions obsolete, but also poses a threat to the country's peace, security, and stability. This paper examines not only the roles and challenges of traditional institutions in nation-building but also how the institutions can be restructured to perform better in the maintenance of national integration for sustainable development in Nigeria. Data were obtained from secondary sources and observation. This paper reveals that westernization and its politics, combined with primitive politics in the Nigerian political arena, have completely distracted and deviated these institutions' consciousness from their primary role as custodians of traditional and customary values,



particularly in the area of ensuring peaceful coexistence among communities. The paper recommends that recognition of traditional institutions by the government at all levels will enhance their performance especially in managing issues related to grassroots integration and general development in the country.

Keywords: Traditional institutions, Nation building, Sustainable Development, Nigeria.

Introduction

Stability, progress and prosperity are the goals of any society. Every traditional community in Nigeria has its method of guaranteeing rational control of human and material resources and maintenance of peace and order. As observed by Ajetunmobi and Osunkoya (2011), the pre-colonial history of Nigeria impressively confirms that the nation is rich in effective political administration. Traditional rulership evolved amongst various ethnic groups in Nigeria right from the time of the foundation of each settlement and transmitted from generation to generation. According to Abdullahi (2007), traditional institutions in pre-colonial Nigeria had norms and values which formed the basis upon which they exercised governance, power and authority or influence over their subjects. These traditional rulers were virtually the only institutions of governance that played critical roles such as custodians of customary law and communal assets, especially land and resources; guardians and symbols of cultural values and religious practices; dispensing justice, enforcing contracts and also resolving conflicts. After the colonization of Nigeria, the British government employed the system of indirect rule for convenient administration of these colonies. Indirect rule was a system of governing colonies through the use of local chiefs or other approved intermediaries and traditional laws and customs with British officials merely supervising the administration. It was in appreciation of the strategic positions of the traditional institutions in local governance that the colonial administration considered them relevant and incorporated them into the administration to act as middlemen between the colonial government in the North and West where centralized administration existed; and the natives in the form of warrant chiefs among the Igbo as a result of the absence of centralized system of government in the East. Thus, the warrant chief's system became synonymous with the native court system especially in the Eastern part of Nigeria where there was no centralized authority structure. Although the involvement of the



traditional institutions in colonial administration and making of bye-laws was because of their Status as warrant chiefs who already enjoyed the loyalty of their subjects, every arrangement was to serve the economic interest of the colonial government. Traditional institutions have played significant roles in the administrative process before, during and after colonial governments; these institutions have contributed to the history of the nation. In recent times, there have been continuous questions as to whether traditional authority and democratic governance are ultimately compatible or contradictory (Logan, 2009). The long-time debate on the appropriate role of Africa's traditional rulers in modern politics has been strengthened in the last two periods, to stand-in democratization and devolution that has brought contending rights to authority and authenticity to the forefront, specifically at the local level (Logatn, 2009).

Traditional rulers were the headship of the government of their areas; they were the lawmaking bodies" and governed with supreme power. Politicians respect the traditional rulers because they are the custodians of the tradition of the people and seek their advice when the need arises. Based on this, royal fathers kept their positions at the mercy of the authorities who could approve or a ruler or chief in the community or society. Sadly, these institutions, in modern times, particularly traditional rulers, have failed to play this pivotal role and have lost the trust of their subjects, resulting in a legitimacy crisis in some quarters. Many communities that had previously enjoyed relative peace with their neighbours have suffered severe devastation as a result of trending violent clashes. Without doubt, these communities have one or more traditional institutions that are expected to mobilize their structures to mediate peace between contending communities, as was the case previously. (Akinbade, 2008).

Despite their importance in nation-building, traditional institutions are being relegated to local communities only, with politicians seizing administrative powers. The 1999 Constitution passably recognized the existence of traditional institutions but failed to state specifically their exact position in the scheme of governance. This has left a huge vacuum in the democratic system, which must be filled by incorporating traditional institutions into national policy and decision-making, which will aid the maintenance of stable democracy in Nigeria. This paper examined the roles and challenges facing traditional institutions in nation-building to achieve sustainable development in Nigeria.



Explanation of Concepts

Traditional Institutions

As a result of diversity in the political and administrative components of traditional systems in different parts of Nigeria, it is impossible to have a generally accepted definition of a traditional institution. It has been defined by several scholars based on their understanding and perceptions. According to Orji and Olali, (2010), traditional institutions refer to the native political provisions whereby leaders with confirmed track records are chosen and turbaned in line with the requirements of their traditional customs and laws. Traditional institutions exist to preserve the customs and traditions of the people and to manage conflict arising among members of the community by applying the laws and customs of the people. Traditional institutions are organizations and offices that evolved or that were created and nurtured by the people of the community before the advent of colonialism. They are long-established practices that do not derive their existence from the formal constitutions of the state. Instead, they have their origin in African natural history, tradition, culture and technology. These institutions are grouped into social organisations, political or administrative institutions, age-grade associations, trade and professional guilds, village unions, community development associations, women groups and religious organisations. To Egwurube (1988), traditional institutions can be described as a body of individuals or groups of individuals who occupy communal political leadership positions by right or inheritance and are through the consent of community members granted authority and legitimacy to direct the affairs of particular ethno-cultural or linguistic groups in an ordered manner. According to the Dasuki Committee report (1988), traditional institutions are seen as the body of the person(s) who occupies the throne or stool of an area by their ancestry and has been appointed to it in accordance with the customs and tradition of the area. So, it can be said that traditional institutions are those indigenous political arrangements whereby leaders with proven track records are appointed and installed in line with the provisions of their native laws and customs.

Nation Building

To understand the idea of nation-building, it is imperative to explain the meaning of a nation. Laitin (2007) defines a nation as a population with a coordinated set of beliefs about their cultural identities whose representatives claim ownership of a state for them by dint of that coordination either through



separation, amalgamation, or return. In this regard, the people of a nation generally share a common national identity therefore it becomes the building of a common identity. Nation-building is the process whereby a society of people with diverse origins, histories, languages, cultures and religions come together within the boundaries of a sovereign state with a unified constitutional and legal dispensation, a national public education system, an integrated national economy, shared symbols and values, as equals, to work towards eradicating the divisions and injustices of the past; to foster unity and Promote a countrywide conscious sense of being proudly a Nigerian committed to country and open to the continent and the world. Nation-building is a deliberate State effort to unify the people within a country so that it becomes or remains politically viable and stable over the long-term (Reinhard, 1990).

Sustainable Development

Although many definitions abound, sustainable development is the ability to preserve the existing resources of the state for the collective use of the citizens while conscious efforts are made to conserve the resources for the use of future generations. To Mohammed (2013), sustainable development refers to the type of economic growth pattern where the use of resources meets the needs of the human population while conserving the environment at the same time. Sustainable development means resources are used in such a way that both current and future human needs can be met. Guga (2014) observes that sustainable development is a situation where basic operating structures and processes that would ensure the continuous development of a nation have been established and are working efficiently. The overall goal of sustainable development is the long-term stability of the economy and environment; this is only achievable through the integration and acknowledgement of economic, environmental, and social concerns throughout the decision-making process. According to Human Development Report (as cited by Oke, 2018:33) sustainable development is that development that is participatory and people centred, where men, women and children must be the center of attention with development woven around people, not people on development.

Nigeria

Nigeria is a country in West Africa, and it is located between parallels 4° and 14° north - entirely within the tropical zone, and occupies a position where the western parts of the African continent meet equatorial Africa. It borders Niger in the north, Chad in the northeast, Cameroon in the east, and Benin



Republic in the west. Its southern coast is on the Gulf of Guinea in the Atlantic Ocean. Nigeria has been home to several indigenous pre-colonial states and kingdoms since the second millennium. The Nigerian state today is a product of evolution through a series of transformations of former independent villages, chiefdoms and kingdoms. What is known as Nigeria until the British colonial conquest of the 19th century was made up of villages, kingdoms, empires, city-states and nations in their own right. While some of the villages and kingdoms were provinces of stronger political powers within the region of Nigeria, others were independent; they controlled their resources and maintained their sovereignty (Ajetunmobi & Ogunyemi, 2011).

Roles of Traditional Institutions in Nation Building for Sustainable Development in Nigeria

Over time, the traditional institutions' functions are evolving. In pre-colonial Nigeria, the roles of traditional institutions were more of governance: shape appropriate policies, order priorities and generate revenue to meet the needs of their communities in the exercise of these functions especially in the northern part of Nigeria. The introduction of colonialism brought a shift to their functions, some of their roles during the colonial era included: maintaining law and order, initiating development at the local level and mobilizing people to undertake communal works, they were also charged with educating people concerning colonial government policy, and submitting regular reports on a range of matters.

After independence, the political elites continued to try to reduce the influence of traditional institutions in governance. Traditional institutions used to have a constitutional role. The 1960 and 1963 constitutions created a Council of Chiefs for them in the regions and some of them were even regional officials. Minority councils created in the Eastern and Western regions further reduced the roles of traditional rulers to a mere advisory. By 1966 when the military seized power, the extent of influence of traditional institutions was greatly influenced by which side of the political fence they faced (Orewa & Adewumi, 1983). By 1979 the Federal Military Government in consultation with State Governments attempted to institute a uniform role for traditional rulers throughout the country through the 1976 Local Government Reforms.

The 1979 constitution gave traditional institutions representation in the National Council of State. However, the constitution failed to make any provision for administrative roles to the traditional institutions. They were relegated to just serving as advisory bodies to the Governor at the state level



on matters relating to customary law, inter-communal relations, chieftaincy, peace and tranquility within their domains. The 1999 Constitution of the Federal Republic of Nigeria did not make any provision for traditional institutions to exercise any political power and neither were they represented in the council of state. Thus the 1999 constitution is the most radical in quashing, abrogating and eschewing the traditional institutions from exercising any political power in Nigeria.

This study believes that traditional institutions play important roles in nation- building which include peacekeeping, advising the politicians, preservation of customs and culture, settling disputes among people, religious authorizations, and recognition of outstanding members of the society amongst others.

Peacekeeping

According to Aliyu (2007:3), traditional rulers, nationwide, have been involved in the past and will continue to be involved in the future in the maintenance of national security which includes the following among others:

- a. Trans-border Security
- b. Internal Security which he divided into Physical and Community, and Food Security.

In the pre-colonial era, traditional rulers were generally assisted in their onerous task of securing their domains by subordinate chiefs appointed by them. They were divine kings and personifications of the various communities under them. They were seen and observed as the pivots around which the administration and everything revolved, the supreme religious heads as well as the civil authority in the land.

Peacekeeping in the society is one of the most important functions of the traditional institutions in every society, and the key or sustainable development. Therefore, it is the responsibility of every citizen to play a role in maintaining peace, though this is one of the major duties of the traditional rulers in every society. The traditional rulers ensure peaceful co-existence in their domains, ensuring that the security of the areas is guaranteed: This is a major factor in nation-building and national security. This is in line with the assumption of servant-leadership theory, which suggested that leaders are supposed



to serve the people first before people can serve them, this would help in nation-building (Wooi& Ismail, (2017). This study further found out that peace and order are essential for any economic activity to take place in any given society. Thus, the government depends on the traditional institutions in maintaining peace and order in their various domains. This is because the leaders know all members of the society, and in most cases, they have a direct connection with all the community elders, this would help in sustaining order by disclosing any bad elements among the individuals in the society.

From the above explanation, it is understood that leaders play a vital role in nation-building. To accomplish sustainable development, traditional rulers should have autonomous power to discharge their responsibilities. This statement is in line with dependency theory of the leadership theory, which centered on leadership autonomy (Nweke, 2012). For instance, people living in an environment know themselves very well, if there is any new face or faces in the community or the society the people in that society must know, as such it will be very easy for them to fish out any criminal in their midst and hand over the perpetrator to the designated institution for further necessary action, that is for trial and penalty by using communal policing or vigilante group. They also provide information to the security agencies on security matters. Through these means, the traditional rulers complement the efforts of the government and the security agencies in the maintenance of national security to ensure stability, which is a sine qua non to nation-building. They need to be encouraged and empowered to continue in this regard for sustainable development in Nigeria.

Preservation of Custom and Culture

Traditional institutions in Nigeria serve as custodians of custom and culture. They can be a source of heritage and traditions that can be used to make sure cultures, traditions, and the people's beliefs are not relegated to the background in our quest for social advancement and general development in Nigeria. Customs and culture here mean a total way of life of persons of a society that differentiate them from one another. Considering the heterogeneous nature of Nigeria, it encompasses over 371 ethnic groups; each ethnic group has its own culture and custom that separate them from other communities (Sowunmi, 2017). Traditional institutions assist in uniting the people through campaigning strength in diversity rather than separation. All the ethnic groups are under the leadership of the traditional rulers of their various communities. Traditional institutions have the power to control



their behaviours toward sustainable development in the society, as such, they deserve leadership autonomy that can enable them discharge their roles in society. This would help in accomplishing stable democracy and good governance (Sami et al., 2018; Sowunmi. 2017). Traditional rulers are always called upon by either central government or state government to help ensure peaceful co-existence and promote national unity and political stability as well as help in the security of the nation as a whole. According to Olaitan (2009) in David et al (2013), the past is always implicated in the present and that no worthwhile edifice could be built on nothing, it becomes important that modern democratic practice be built on the reality of the past in Africa and Nigeria and this would entail grafting modern democracy on the cultural and institutional pattern which defined the people to ensure a link between the modern form of governance and the people.

Bureaucratic Role

Traditional institutions play important roles in nation-building. They serve as advisers to elected leaders in different areas including: economic policy, security, equal distribution of social services, the nomination of aspirants for elections or appointments to serve the country customs and culture, demand for good governance and general wellbeing of the people among others. The traditional rulers as advisers to the government through the state council of chiefs are partners in progress with the government. The advisory role played by the traditional rulers is very important in nation building as they are grassroots leaders. They are nearer to the people as they live among them. Their advice on security matters cannot be overlooked as they present to the government firsthand information on security issues. In some cases, as a result of the respect and reverence the people have for the traditional rulers, they divulge sensitive security information to them because of the implicit confidence they have in them, the traditional rulers on their part relay such information on the government to act upon. It is believed that "leaders' advice is the word of wisdom'. This advice helps in maintaining firm democracy in the nation.

Conflict Management

The traditional rulers as the leaders of the people and custodians of the people's culture and tradition are highly respected and revered by the people within and outside their domains. Their words are laws to the people and their advice and opinions on issues are respected and accepted. This is so because



they are seen as intermediaries between the people and the gods and the ancestors, and as such, cannot be disobeyed or disrespected. Traditional institutions are seen as impartial arbitrators that were looked up to for the adjudication of cases and resolution of conflicts. According to Osifo (2017), traditional rulers play significant roles in settling disputes among people in their respective domains, they make sure they settle the land-related disputes, community disputes, religious crises before they worsen into exposed aggressions that people kill one another. It is understood that land dispute is the major root of conflict in most of the rural communities where land has become the major primary means of making wealth and earning a living through subsistence and commercial agriculture. In this case, the government depends on the traditional rulers in ensuring peace amongst the people. By making sure that they settle or overcome all the hostilities between individuals in each locality and do not escalate into ethnic conflict. This would help in nation-building and national integration.

Recognition of Outstanding Members of the Society

Awarding of chieftaincy titles to recognized outstanding members of the society helps to keep the moral compass of the society up. People get chieftaincy titles when they distinguish themselves in their fields of enterprises and serve as role models for creating a better society. And those that have the vision and mission of uplifting the society to a better position, by rendering selfless services to the various communities, by extension to the nation at large. The traditional rulers as the motivator of supply, demand and generator of traditional wisdom, collectively can call on the government to establish infrastructures and ventures that can generate employment. They can also call on their subjects to invest at home to create employment for the people. Those who have contributed to the development of their community are honoured with chieftaincy titles. Recognition of outstanding members of the society by traditional institutions is an important role that contributes to nation-building.

Challenges Militating Against Traditional Institutions in Contemporary Nigeria

Many factors have contributed to the gradual loss of relevance of traditional rulers in recent times. Fatile (2010) postulates that these factors are self-inflicted by the traditional institutions themselves while others are systematically engendered. First of the self-inflicted factors is the non-regard for due process in their appointment. Traditionally, the appointment of traditional rulers followed laid down traditional procedure whereby only members of the royal families had the right to be crowned



(Fajonyomi 1997). In several parts of the country, many of the current crop of traditional rulers' ancestry cannot be traced to any form of royalty. Instances abound where history is invented to favour some candidates for royal tools over another. The high taste of social lifestyles, elegance, expensive cars, tens of children, hangers-on and concubines warrant the need for an extra illegitimate source of income. Thus, traditional rulers began to give their support to any illegitimate dictator who could extend the loots to the palaces. The effect is a total loss of sight of their major roles as custodians of traditional values and brokers of peace, as they have deliberately made themselves prisoners of conscience.

Closely related to the above is the influence of the present state structure on traditional institutions. In the present civilian dispensation, many states in Nigeria have created the Ministry of Local Government and Chieftaincy Affairs. Consequently, all matters concerning chieftaincy selection and installation have come under state government control which also dictates the pace and direction of traditional leadership. In pre-colonial times, traditional societies selected their leaders based on certain confirmed striking qualities possessed by the person(s) being selected, while in some cases selection was done based on heredity. Today the reverse has become the case. Traditional rulers now emerge after meeting certain Conditions given by the state government to qualify for the position. Conditions such as presentation of a live cow or its cash equivalent to local government, cash donation running into millions of Naira to the state government to compete with other candidates who also have to meet these requirements. Thereafter, the person who captures the interest of the state government receives the staff of office traditional ruler. Some traditional institutions have been politicized by corrupt politicians, for personal interest, so also some of the traditional rulers have polluted the mind that has contributed to negating the power of the traditional rulers in maintaining stable democracy in the nation.

The increasing trend of westernization of the Nigerian elitist values has made difficult to re-orientate the nation's political values in the light of existing culture and tradition which were hitherto communal in orientation. Besides, the influence western tradition with its consequent spread of Christianity quaked the very foundation of traditional African religion on which the native legal system based. Thus, the introduction of the colonial legal system through the instrumentality of the customary courts undermined the efficacy of traditional institutions especially as it pertains to conflict management.



Consequently, instead of applying established traditional mechanisms to mediate for peace between among warring communities, trivial cases are filed in courts as long as the court deems fit, while hatred and rancour rage on between conflicting parties. Traditional institutions are still there though, trying to mediate for peace using customary and traditional laws. However, the authorities exercised by these institutions are hardly backed up by any item of the Nigerian legal system or constitution. The result is that people feel more comfortable seeking redress in a recognized modern court instead of following customary court which they think do not apply appropriate sanctions on the culprit, or would not permit them.

In the 1999 constitution, there is no definite constitutional role for the traditional rulers. The power of the traditional rulers in conflict resolution has seriously been undermined both in terms of authority and power.

Orji and Olali (2010) believe that traditional institutions in modern Nigeria are confronted with several matters such as the struggle for headship amongst traditional leaders in the Assembly of Traditional Rulers, participation in biased politics for individual gains and giving support for the reigning governments whether military or civilian. Knowingly, the traditional rulers in the Nigerian context have also been suspected of continuous involvement in traditional corruption and ceremonial office abuse despite contemporary inspirations. Besides, traditional institutions in Nigeria are caring about giving traditional titles to prosperous people in the society who have not made any important contribution to the development and growth of the society for their exaggeration and physical gains.

The above factors put together have watered down the legitimacy, sovereignty and integrity of traditional institutions which have lost their focus in the pursuit of material gain. The trend has undermined the core values of peaceful co-existence amongst communities as the institutions are no longer keen on pursuing and sustaining these values. Suffice it to say that such values are pursued to the extent to which they attract material gains.

Recommendations

To attain sustainable development, the following strategies are suggested as remedies that could address the above issues if adopted:



Constitutional roles should be given to traditional institutions in Nigeria to allow them to have a say in the administration of their various localities, not advisory roles alone; but to participate in the development of the country. If the traditional rulers are given the autonomous power and can exercise the power in conflict resolution, all problems of national question which originate from religion, ethic and cultural interest will be minimized using the Nigerian indial process as all the traditional leaders whose areas are affected will meet one another as well as those involved in the conflict. This is because all the traditional institutions are united above tribalism, religion, and ethnic differences, they see themselves as a traditional force for preserving people's cultures and traditions. This would help in bringing and improving peace that would lead to a stable and sustainable democracy in the country.

There should not be unhealthy state intervention in the appointment, selection and installation of traditional rulers. Communities should be free to select who will rule them according to criteria set aside by their custom and tradition. The state can send a representative on the day of installation as an eye witness to the installation of someone as a ruler of his people. However, the state should ensure that traditional rulership procedures tally with the state's broad objective of good governance. This will ensure accountability to the people and not to the state government. The regular meetings state governments hold with traditional rulers should be an assessment of the quality of leadership of communities and the degree of satisfaction enjoyed by the services of traditional institutions, and not to act as a forum where decisions on how to undermine the interest of the opposition party members are taken based on the information supplied by the traditional rulers.

Traditional rulers on their own should be conscious of their positions as custodians of tradition irrespective of how appetizing state or any other group promises appear. Kukah (2007) describes traditional rulers as the 'substratum of our past! They should seek restoration of their past glory; endeavour to act as messengers of peace, preservers of tradition and cultural heritage, managers communal conflicts, the embodiment of truth and other virtues on which traditional African society was built. Suffice it to say that any modification in leadership style by way of being trendy, that deviates completely from these core values of African socialism is an aberration, and should not be associated with the traditional institutions.



Traditional rulers are nearer to the people and they should take part in media activities where local interests are discussed and expressed. Therefore, this study recommends that traditional rulers can establish a valued resource in notifying the state about the interests of communities as well as in mobilizing rural inhabitants for active engagement, not only in developmental activities and the allocation and distribution of resources and public services but also in the national political progression.

Recognition of traditional institutions by the government at all levels will enhance their performance especially in managing issues related to grassroots integration and general development in the country.

A research or study can also be undertaken to find more on the ways government and traditional institutions in Nigeria can work together to improve integration and sustainable development.

Conclusion

The paper averred that, before the advent of the colonial administration, traditional institutions played a significant role in the democratic setup, to regain the proper role of the traditional institutions in the national development, there is a pressing need for the government of Nigerian state to reinforce the traditional institutions of governance by rapidly specifying their roles and their mode of operations in the Nigerian Constitution to support their activities, in this regard some lawful outline and backing should be put in place. The traditional institutions in the country could be a source of national integration and sustainable development through areas like influencing of their subjects towards the realization of nationhood, also serving as advisory bodies for both federal, state and local government levels, mobilizing their subject towards community participation in all aspects of development, and also serving in areas like land management at the local level and lastly serve as information managers at the local or grassroots level.

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