

JURISPRUDENCE, CRIMINAL JUSTICE SYSTEM AND PUBLIC ORDER IN AKWA IBOM STATE, NIGERIA

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Abstract

This paper examined jurisprudence, criminal justice system and public order in the traditional African societies. It was a qualitative study that was guided by four objectives. Data were collected from secondary sources and were used in the review of literature and other discussions. Findings of the study indicated that jurisprudence system was anchored by a arrangement which relied on the convenience of maleness and manhood in the appointment of functionalists. In the context of traditional society, the principle of primogeniture provided much needed benefits associated with accountability, responsibility and maturity in handling the affairs of the vulnerable members. Unfortunately, this principle was compromised by the essence of maleness which brightened its efficacy. Virtually, all leadership positions including family headship and traditional leadership were occupied by senior men. Womanhood was a sufficient disqualifying factor regardless of individual qualities and merit. This reality gave indigenous African law the undeniable label of a patriarchal system. It is recommended among others that African jurisprudence be preserved and allowed to function side by side with the English common law because of its significance. Also, agents of modern laws should be well trained on the importance of African jurisprudence in the handling of cases involving traditional institutions and overseeing the maintenance of order at the grassroots.

Keywords: *Jurisprudence, criminal justice system, public order, traditional African societies.*

Introduction

Every society has a way of organizing itself, controlling behaviour of the people living in it and preventing crisis or at least solving crisis. In Africa, there seem to be a uniformity owing to the existence of a common tradition or culture among the people. As posited by Ben (2013) before the arrival of the British administration, the different groups although lived in isolation, were conscious of their common background and heritage as African people.

Conceptually, the African style or method of leadership and the handling of crisis is African jurisprudence. African jurisprudence developed from the community when members evolved a form of government to direct its affairs. Traditionally, the African communities evolved a system of control spearheaded by a family head and elders. This is known as patriarchal form of government. Patriarchy as defined by the Radical feminist cited in Haralambos, Holborn and Heald (2004) is a system dominated and ruled by men. Puts simply, Haralambos, Holborn and Heald (2004) describes the concept as a male dominance system; or a

system of society in which that father or eldest is made the head of the family or descent is reckoned. It implies leadership or government involving men or male children.

The government and organization of communities in parts of Nigeria particularly in Akwa Ibom State is heavily patriarchal. This include in the hierarchy, the paramount ruler, clan head, village head (obong idung), family head (obong ekpuk), youth leader (etubom mkparawa) and women leader (obong iban). At the village level as also applicable in a family, there are elders or counsellors (mkpising). As observed, many communities in Akwa Ibom State, Nigeria went beyond the family rulership to community or lineage rulership based on the ekpuk. The ekpuk head and the council (comprising related family heads) further developed in governance leading to village rulership. This form of government went through series of processes and acceptable conventions. This, according to Effiong and Ekpeyong (2017) can help strengthening the community support and services to promote inclusive leadership in all strata of the communiites. However, the principal determinant of choosing a patriarchal head was age and absent of criminal sanctions. This practice was justified by the adage ‘osong owo osong ifiok’ meaning: ‘senior in age is seniority in wisdom’: an accepted self-evident truth which endeared on the oldest person to be selected as the leader (head) of the family unit. The coming together of members of the same lineage (ekpuk or oduuk) for certain actions led to the emergence of another level of government (clan) and leader or ruler called clan head.

It is important to note that the headship at every level was based on origin, that is, royal family (ufok ubong). Royalty among the communities in Akwa Ibom State was determined by many factors. First, the earliest migrants to an area not formerly occupied always regarded themselves as the custodian of authority in that area. Later migrants were regarded as strangers and as such had no right to rule. Another way of claiming royalty was through wars. If a group was defeated in a war, members of the group would hardly be given a chance to the chieftaincy stool. The third was by voluntary liquidation of rights and privileges to a stronger or wealthier group. This method was known as ‘Uduk Owo’. On the selection of a traditional ruler, the laws of Akwa Ibom State Cap/3/ section 13(1)(d) states that “where such tradition holds, he comes from a ruling family in the area”.

As in other societies in Africa, a jurisprudence system emerged from the pattern of leadership structure and the culture, folkways, beliefs, and types of relationship, for instance, in-law, grandchild and sibling. The type of crime committed and who committed the crime had influence on the jurisprudence and vice versa. However, both the pattern of jurisprudence and criminal justice system played significant role on public order compared to the contemporary systems that are determined by English Law and modern legal system. Addressing the divergences and bridging the knowledge gaps constituted the major task of this paper.

The Study Objectives

This paper was guided by the following objectives:

1. To know how African laws and punishment instill fear upon African people about crime.
2. To know how African jurisprudence and criminal justice system influence public order in the African society.
3. To discuss the extent to which modern laws alter African laws and values and make them illegal and unfit.
4. To find out how African belief system affects its legal system.

Theoretical Discussion

The empirical position of this paper is derived from the theory of equality before the law. This theory is indicated in the work of Acemoglu and Wolitzky (2020). Some important ideas about the theory are cited from the works of Acemoglu and Robinson (2000) and Acemoglu and Jackson (2017). This theory is driven by the ideas of a stateless society and that of a state-controlled society. It is based on two principles, namely, the carrot of future cooperation and the stick of coercive punishment. Basically, the theory (of equality before the law) perceives or proposes a transition of the human society from elite domination to equality before the law, conforming to the positions of both the African jurisprudence and that of this paper.

According to the carrot of future cooperation variant of the theory of equality before the law, all agents are subject to the same coercive punishments and norms are more equal. It involves a standard community enforcement mechanism such as the threat of exclusion from cooperation, or ostracism. Emphasis is on low coercion, low inequality and low effort. The theory is akin to the traditional African society where laws and mechanisms of enforcement are unbiased. The poor and rich, the leader and the subject must go to defend their actions and prove themselves without attempts to bend the rules.

Contrary to the carrot of future cooperation is the stick of coercive punishment which is characterized by high coercion, high inequality and violence and in which case, the elites supplement the carrot with the stick. Under the condition of the stick of coercive punishment, the elites are privileged by both laws and norms since they are often not subject to the same punishments as non-elites and the norms of operation are also more favourable for them. It is a platform for impunity where the elites act with no regard to the existing laws. The concept of equality before the law, where all agents are subject to the same coercive punishments and norms, are to the elites unethical. The stick of coercive punishment is a tool in the modern-day jurisprudence that is controlled by the rich or wealthy, politicians and affluence.

The theory of equality before the law argues that equality before the law increases elites' effort, which improves the carrot of future cooperation and thus, encourages even higher effort from non-elites. Similarly, equality before the law combines high coercion and low inequality;

limited extension of coercion, greater marginal returns to effort, increases in the size of the elite group and greater political power for non-elites, among others. The theory also assumes that a society can be organized without a state by relying on the threat of community enforcement or ostracism to support cooperative behaviour or it can be under the auspices of a state with the power to punish deviators, or equivalently to 'enforce laws' coercively.

This theory is limited by the fact that the coercive state enforcement usually exist under elite domination particularly in a situation that a subset of agents control the means of violence and enforce laws that they disproportionately benefit from and are themselves above same. It is also limited when the means of violence are monopolized by a group of agents who could be elites themselves, law-enforcement officers, or even a band of goons working on behalf of the elite and can be used to inflict additional punishments on agents who break the law. However, despite the limitations, the theory (in the case of the stick of coercive punishment) gives a clearer picture of the operation of modern judicial system. It also shows the variations in the current system compared to the traditional system that is the expectation of our society.

The Concept of Jurisprudence

Jurisprudence refers to the philosophy of law which include all the answers that lawyers give when asked to explain the meaning of law, its origins, its nature and its place among other disciplines. These questions can be asked in all legal systems including African jurisprudence. As part of African law and its culture, African jurisprudence has characteristics that respond to its uniqueness, and sometimes it does not always necessarily conform to western jurisprudence, either in content or in methodology. The reason for this is that jurisprudence does not have a life of its own, separate from its cultural context, but is an integral part of the thought system. African jurisprudence therefore, is a thought system that focuses on the meaning, nature, features and functions of African laws and culture. However, confusion in the relationship between law, custom and culture must be explained to illustrate their roles in unpacking the principle of African jurisprudence. These concepts are closely related and are often used interchangeably in the discussion of African law in order to paint the picture of indigenous African principle.

Law refers to the rules and principles that govern the application, administration and enforcement of the rights, obligations and responsibilities embodied in the custom, while customs themselves are the reference point where the community's good habits are stored as indicator of propriety in society. Customs are related to law because the law reflects the manifestation of the former in social parties. Culture also relates to custom, and therefore to law because it consists of the traditions, applying the laws and customs as their impact on the various aspects of social interaction for example, when the tradition of dressing, singing, dancing or speaking takes particular forms during funerals, weddings, or other traditional activities, these concretize into the culture of their adherents as they begin to insist on their observance of such occasion. To this end, this paper shall discuss African jurisprudence, criminal justice system and public order, especially in Nigeria.

Distinction between Jurisprudence and African Jurisprudence

Jurisprudence implies creating a body of law and methods for interpreting the law, studying the relationship between law and the society. A society is a system of rules, norms, regulations, commands, directives appeals, laws and sanctions; no society is possible if none of the above exists. Every society therefore, has a system in which people abide by the proper norms or rules of conduct. These norms or rules of conduct may come as a command or order. Some will come as law or directive concerning what are expected of a person or individuals who occupy certain social statuses. They may also address the behaviour of those performing certain social rules in the society and interpersonal or intergroup relations within the society. The basic result or outcome of all these is to ensure that there is some sort of control both in behaviour and conduct (Moore, Trojan and Kelling, 1998).

The introduction of African jurisprudence and social control system, according to Udoh (1985) provides tools in guiding the African society such as:

- *Ayeyen* (grandchild)
- *Ukot* (in-law)
- *Imaan* (blood brotherhood)
- *Mbiam* (juju)
- *Idiong* (divination)
- *Afia or ukang* (ordeal)
- *Ebre*
- *Iban isong*
- *Ekpri Akata*

The above social mechanisms provide social control and guide behaviour towards conformity and desirable actions. In many Akwa Ibom State families, if not all, ‘Ayeyen ye Ukot’ (grandchildren and in-laws) cannot be harmed. It is a taboo to harm them because of the severe consequence from the supernatural. ‘Ukang’ ‘Mbiam’, ‘Ekpri’ ‘Akata’, ‘Idiong’, etc. which derive strength and power from the supernatural, all stand for the truth. No one can lie in their presence as they stand for truth. This belief system instills fear and compels everyone to adhere to its principle.

Furthermore, in African jurisprudence, it is not common, in fact, *it is extremely rare for a son to sue his father or mother to court and claim damages. This is so because proper normative behaviour and conduct demand respect for the father or mother. It is also rare for a father to sue a son and claim damages because the father is expected to be a source of profound love and security to the child.* However, in the western jurisprudence, the reverse is the case. Adhering to African jurisprudence would re-establish a broken social network and restore order and good conscience in the modern society.

The Challenges of Non-African Jurisprudence

The rate that crimes are committed in Nigeria as a result of the application of modern laws, their adjudication and execution has seriously call for concern. Basically all the unacceptable attitude and behaviours in the modern societies were totally forbidden, and the rate

of prevalence was limited compared to the present day. Many people attribute criminality of today's world to technology, unemployment, mismanagement of resources, learning in association, etc. It could be argued that crimes and disorder or breach of peace are prevalent in contemporary societies because of the influence of modern laws. This is because people are no longer afraid of punishment meted out. Many criminals may have their way out of punishment through godfatherism, bribery, technicalities of the laws when having good lawyers who can argue for their freedom. Sometimes, people can commit heinous crimes and hide forever without being caught in the modern societies. The above mentioned factors might not be applicable when dealing on African laws, their applications and punishment.

Furthermore, it has been argued that existing customary laws are dynamic, flexible and easy to comprehend because it is based on the circumstances of a particular case involving social norm. African laws or norms (dos and don'ts) were taught during the process of socialization and every child in the community came to learn, internalize and keep to them. It is indisputable fact that very many, if not most of the criminal offences and civil wrong recognize by modern jurisprudence of today were also offences known to an administered by ancestors-long before the advent of the Europeans' notions of murder, robbery, arson, treason, stealing, burglary or even breach of peace, assault, rape, incest, sacrilege and so on, that were all offences recognized and punished by our native communities before the coming of the whites (Nweje, 1975).

Traditional laws were fearful and respected across board; for instance, swearing of 'juju' was ordered for any person suspected to have committed crime. The 'juju' administration did not recognize brother, sister, relations, family members or political associates. So anyone found guilty of any offence could face the harsh consequence which might be dead sentence or infliction of diseases or madness. Due to hard punishment by 'juju', people were forced to fear and have respect for other human rights and handle responsibilities with care and public order was maintained. The problem of the traditional law was that the punishments were not measured with the level of crime committed hence, the introduction of criminal justice system, although in today's society, the judiciary is in the hands of the Governors just like the state electoral commission which produces chairmen, councilors, supervisors, and advisers will all be forced to belong to a particular political party where the Governor belongs. It is necessary therefore, to know if the current criminal justice system has effectively served the need of African society, if not, what alternative system is available?

African Criminal Justice System

Before detailed elucidation on how African criminal justice system works, it is pertinent to know what constitutes criminality and justice in the social system. Who is a Criminal? From the legal point of view, a criminal is someone who has committed crime(s), and has been found to commit the crime(s) through a criminal justice process involving the police and the criminal courts, leading to conviction. In order to ascertain that an individual is legally a criminal, that person must have violated a known criminal law, must have been prosecuted through the criminal courts and found guilty; and subsequently convicted and punished (Otite and Albert, 2007).

Justice: Justice is seen as fairness. It means the observance of rights, duties and obligations on the part of both the governor and the governed. It is the ability to strike a balance between guaranteeing the fundamental rights of citizens by the governor and the observance, duties and obligations by the governed (Nwolise, 2010). In criminal justice, the sum total of justice is equal to the fair application of rules, with the effect that "...laws should be fair and reasonable in themselves". Equality is the essence of justice. The law should be applied equally to all persons without fear or favour, whether a person is rich or poor, ruler or ruled master or servant (Owuamanam, 2005).

The Nigeria pre-colonial criminal justice system for instance differs both substantially and procedurally from contemporary criminal justice system in Nigeria. While we cannot posit that there was no crime in the traditional society, the justice system procedure involves almost all members of society (Kolo, 2002). There was no established court, but the village assembly usually made, heard and decided cases that arose between one person and another or between the community and some recalcitrant members. Depending on the arrangement of a particular community, the tribunal that first heard the case was the family meeting. In Annang and Ibibio land, it is called "Ekpuk". From this appeal, when to the village assemble or meeting made up of either just the village elders or general adult population. Some larger communities such as Benin and Oyo kingdoms had higher tribunal (Nweye 1975). The evidence then, just as argued was subject to a similar standard or assessment. The eye witness account always carried more weight than the hearsay's weight depending on the integrity and credibility of the witness. Age, interest and known reputation of the facts alleged having regard to all other circumstances of the case, were all considered. If at the end of the hearing the tribunal was unable to say which side was telling the truth, the judgment was shifted from the province of human to that of the divine wisdom.

Swearing some juju was then ordered. Who swore the juju depended on the nature of the dispute. If a man was being accused of committing an act but denied he was the one (accused) to swear that he did not commit such an act alleged. If on the other hand, a property was on dispute, the person who claimed to be real owner will swear the juju. As stated earlier, the order varied from one community to the other but the practice was usually along this line. Punishment for crime varied from beating to death or other forms of execution of the offender and setting ablaze his house and belongings. In the case of very serious offences, fine and, in default, ostracism of not only the offender but also his family and anyone else who continued to associate with him, in other cases (Nweje, 1975).

The above antecedent reveals that there might be less alienation in the traditional justice system of this society compared to the modern ones. As such the modern criminal justice system came up along with a series of changes, both in form and content. Such changes include alienation, deprivation, subjugation, explication and domination of the audience by members of the enforcing agencies. The changes which many hopes for after independence remained an illusion, and in fact, the situation has worsened (Kolo, 2002).

The advent of European administration ushered in an entirely new situation. The code of conduct prescribe by the new colonial master was of universal application to all the communities, which before the colonial era were independent. To further expatiate on the criminal justice system, Dambazau (2007) said that criminal justice system is seen as a legal process or as an academic discipline. As a legal process, it involves the procedure of processing the person accused of committing crime from arrest to the final disposal of the case. Similarly, Newman (1978) adds that criminal justice system is a legal entity, the interrelationships of criminal justice elements comprising of the police, court and the correctional facilities. Also, Clare and Kramer (1997) posits that:

It is possible to view criminal justice as sequence of decision-making stages; through this system, offenders are either passed on to the next stage or diverted out of the system. This diversion may be due to any number of reasons such as lack of evidence or a desire to reduce the load on the system. Each subsequent stage of the process is dependent upon the previous stage for its element, it is this dependent that best exemplifies the “system” nature of criminal justice.

Merhern (1972) refers to criminal justice system as a system by which police, courts and correctional institutions enforce basic rules of any society, as expressed in its criminal law. To Cohn (2003), the criminal justice system is a network of specialized agencies set up to deal with crime and criminals. The justice system covers three main areas – the police, persecution and offense; the judiciary and all phases of the correction system in so far as society is involved in dealing with those who violate our criminal laws. These agencies discharge perhaps the most significant responsibility of government. Furthermore, without effective system of criminal justice, there cannot be government in any realistic sense (Mehern 1972). Anarchy prevails, and no man is secure in his person or property. With effective justice system, government can operate, and order is maintained. The order so imposed may be tyrannical and unfair or it may be democratic and decent, depending on the justness of the laws and the character of the government that administers them, but in either case enough social control is maintained to allow the society to function.

Criminal Laws

Governance, however small the unit, demands the institution of law and the use of conventions. Customary laws in Akwa Ibom State included those which were connected with crimes.

- (a) Crimes against the public and penalty
 - i) Treason or treasonable felony led to the severe punishment of being sold into slavery.
 - ii) Perverting or obstructing justice was also viewed seriously and led to the culprit being sold into slavery.

- iii) Contempt for the law of customary authority like ‘ukpippe eyei’ or attack on ‘ekpe’ or ‘ekpo’ led to the culprit being ostracized from the community until they could pay the fine for cleansing. Ostracization may involve forbidding the culprit to draw water from or use the village stream, to attend the village market, or to call on anyone or be called upon.
- (b) Crimes against Persons
- i) Murder: The injunction was, “thou shall not kill” either by physical attack or by diabolical means. If found guilty, the culprit could be sentenced to death by stoning or burning.
 - ii) Manslaughter was not treated seriously as murder but the culprit was made to pay damages or indemnity to the family of the deceased.
 - iii) Assault attracted damages plus fine to the community.
 - vi) Slander on conviction led to payment of fine and cleansing of the person slandered. The cleansing required a goat, fish, yams, and plantain. In minor cases it only required ‘akpa iyak’ which had the type of fish known as ‘inua-keed iyak’. The process was known as ‘uyed idem’.
- (c) Crime against Property
- i) Theft: If found guilty, the person would be stripped naked, painted with charcoal and paraded around the town and to the market square. In addition, the culprit would pay damages to the owner of the property and undergo cleansing ceremony which involved a goat or a hen in the case of women in addition to drinks.
 - ii) Arson: This was treated as crime against the public and the person was often sold into slavery.
 - iii) Removal of Landmark: If found guilty the person would be made to pay fine and appease the gods of the land. If he failed, it was believed that the spirit of the forefathers might take actions which might be very disastrous.
- (d) Crimes and Immoral Acts
- i) Adultery: All convicted cases required fine and cleansing. Failure to confess the sin early might lead to disastrous consequences especially in the case of women offenders. There was what was called ‘Ekpo Nka Owo’ (the avenging spirit of adultery) which would get the woman to suffer from lack of blood and might indeed cause her to die especially during child-birth, if she failed to confess her adultery to enable cleansing to be done. It was believed that ‘Ekpo Nka Owo’ was so deadly in action that the husband of the offending partner might also die if ‘Idiong’ did not reveal the matter in good time.
 - ii) Rape: This was a rare offence but was punishable by sale of the offender into slavery and cleansing process which involved goat, fish, yams, and drinks.

- iii) Seduction: Seduction was punishable by payment of damages and cleansing exercise.
 - vi) Incest: This was a taboo and abomination and so needed appeasement of the gods and cleansing.
- (e) Law Pertaining to Domestic Relations: Our customary laws were made to regulate domestic relations in a community. Examples of such laws and conventions were for the following:
- i) Marriage: Certain conventions and practices had to be followed in marriage. There was the law that for marriage to be properly consummated, dowry or bride-price had to be paid. If not the issues (children) from such marriage would belong to the parent of the lady or to the former husband; if the lady was previously married. There were customary laws or convention against marriage with near relations. If someone committed this offence, he had to undergo effective cleansing to be free from the evil attack. Customary laws promoted respect for parents by children.

Food Security and Welfare Laws

- ii) Widows and Orphans: Customary laws provided for the marriage of widows to nearest next of kin of the late husband who would then be responsible for the welfare of the widow and her children. For the marriage to be legalized the widow soon after the burial ceremony of her husband would be summoned by the family to name the one she would marry. The person would present certain things to the family including goat, fowl, akpa iyak, yam, plantain and a rope (idud), for the cleansing and release of the woman from her former husband. Her hair and nails would be cut and traditional prayers and incantations would be offered before the goat would be slaughtered and the blood would be spilled over those things and buried. The family would then eat the goat, yam and fowl, during the ceremony.
- iii) Imaan, Ukot, Eyeyen, etc: There were certain relationships which were revered and given special treatment even in the laws of the land. Akwa Ibom people believed in the gods of grandchild, and how they could be angry if offended by not ensuring the practice of acceptance and kindness. Do no harm to ‘imaan’, ‘ukod’ or ‘eyeyen’; show kindness and provide for them” was the acceptable, widely practiced norm. other welfare laws included welfare and security of strangers, care of the poor and handicapped, neighbours (mboho itabake mboho idaake which means that the neighbor does not sleep if the neighbor is in trouble or pains).

- (f) Religious Laws
- i) Foods: Different communities had different laws restricting persons from eating certain foods or certain animals connected with clan totem. No person would be expected to eat new yams; not until after the ceremonies and appeasement of the gods. Similarly, it was a serious criminal offense for one to remove newly planted yams for food. This was known as ‘udok mbia’ and was punished by death or by being sold into slavery. If a forbidden food was eaten, the person had to undergo cleansing.
 - ii) Religious Practices were governed by laws and conventions. For example, a priest must not have sex seven (7) days before going to the shrine and must not eat food prepared by a woman under menstruation. If he did so, he might never return alive from the visit to the shrine. Laws for ‘uduk iman’, high priesthood were clear and beyond all doubts. Some of the laws touched on food, sex and general cleanliness.
 - iii) Sorcery was not a common criminal offense but a sin against the gods of the land. If found guilty the sorcerer was killed or sold into slavery.

Customary Laws Pertaining to Legal Procedure: Jury system was widely used in all the communities especially in Akwa Ibom State. The jury was constituted by the chiefs and elders from among themselves.

Jury system was widely used in all the communities especially in Akwa Ibom State. The jury was constituted by the chiefs and elders from among themselves.

Procedure: The aggrieved party would go to the chief (family unit, village, ‘ekpuk’ or clan) depending on the gravity of the offense to lay his/her complaint. The chief would issue ‘eyei’ and demand truce until the matter was settled. ‘Eyei was the young part of the oil palm leaf used as a symbol for maintenance of law and order in communities in Akwa Ibom. It was used as an injunction to restrain parties from an outrageous act or entering a piece of land in dispute. In a serious matter like murder, witchcraft or community offence, the ‘ekpuk’ or clan head would use ‘nnuk enin’ (elephant tusk) as symbol of authority to demand for peace and amicable solution. A jury would be set up and the case would be heard. Judgement would be entered and the side not satisfied had a right to move to the next higher chief of the clan. The final court of appeal was the court of Clan Head.

Non-legal Procedure

- i) Ukpokko Okpok: There were occasions when the aggrieved person would have to take illegal procedure of using drum or ‘okpok’ or ‘ekere’ to announce publicly that someone was using diabolical means to attack him or a member of his family and that he should refrain from same. This would then trigger off legal procedure by the accused or suspect. To clear his name, the accused person would then go to the family/village/ekpuk clan head to seek redress.

- ii) Uno Idud: Another custom connected with accusation of people suspected to be planning evil against someone was for the person to take (idud) piassava to the suspected person and inform him of what he was accused of. Then he would leave the piassava string there. Again this would trigger off legal procedure instituted by the elders on the instruction of the accused person.
- iii) Uduk Ekpo/Ekpe/Iban Isong: It was also the custom for an aggrieved person to seek redress or relation by going to inform special societies like 'ekpo', 'ekpe' and 'iban isong' about his/her grievance and then the secret society would take action without due notice to the accused. They would sometimes destroy the property of the accused and might also assault him/her if caught. This was like what is termed "jungle justice" today.

The woman in Akwa Ibom had judicial powers to go into certain criminal or civil action when so invited. The society known as 'Iban Isong' was formed by women to administer justice especially on matters affecting women. However, on some occasions their method of dispensation of justice was more of vengeance than fair hearing. Cases of slander or abuse on women attracted this type of mob action from the women.

Methods of Punishment

Various methods of punishment were used for the offences listed above. They include the following:

- i) Payment of Damages for assault, stealing, kindling a fire which damaged property, breach of trust, loss of animal, killing an animal, and loss of borrowed property.
- ii) Killing of a Criminal in the open square or by special secret society approved by the Clan Head to perform such duty.
- iii) Beating and Painting with Charcoal were used in minor cases of theft.
- iv) Ostracism: The culprit was removed from active participation with any member of the society. In addition, the offender might not be allowed to fetch water from the stream or take part in the cultivation of community land or harvest palm fruits from the community oil palm grove. In some stubborn cases, the offender would be banned from buying from any person in the market.

Protection Against Injustice

It is worth that the accused could seek protection against unjust judgement or suspected injustice by escaping to another chief or person of influence outside his area of jurisdiction. This was the practice of 'Ufeghe nkoduk owo' (that means finding protection of a stronger person in the community of neighbouring community). The person would then send words across to those concerned that he was interested in the safety of the suspected person or victim.

Leadership in African Context

To understand these concepts, one needs to realize the uniqueness of African family unit which was administered by a well-defined collective member, headed by a leader selected through the primogeniture principle. In this principle, the most senior family member was selected as the head of the family or traditional leader, as the case may be. In this sense, primogeniture provided a structure for organizing society at family, community, or national level, by conflating the definition of seniority with that of responsibility. This is why Ngcobo (2001) says that the primary purpose of the rule is to preserve the family unit and ensure that upon the death of the family head, someone takes over the responsibilities of the family head. These responsibilities include looking after the dependents of the deceased and administering the family property on behalf of and for the benefit of the entire family.

The primogeniture rule was merely a tool for providing the family collective with a leader who would facilitate the participation of the members in the enjoyment of the affairs and resources of the home. The principle of primogeniture served as an assurance that the head would not act alone in administering the affairs of the family. It shows how the family head would not act alone in administering the affairs of the family. It shows how the family head was the mouthpiece of the council of elders and seniors who were the real owners of family decisions. Also, a family head is by no means a despot in-law, as is sometimes supposed: he has control of each house, but its members have a collective interest in its affairs and property. This is a far cry from the current dominant, pejorative trivialization of the concept of primogeniture which allows succession from father to firstborn son only. This view overlooks the fact that family headship as underpinned by the primogeniture rule was primarily designed to ensure the protection and safety of women and children by responding to the need to leave them in the safe hands of a strong leader.

In fact, the principle of primogeniture and family headship displays the position occupied by the institution of manhood as the sign of obligations and responsibilities, rather than merely serving the narrow interest of patriarchy. Stripped free of its patriarchal stigma, the rule's role is to advance the rights and interest of vulnerable members of the family in accessing their benefits in the assets and resources of the family by providing them with an agent for facilitating access. The rights and entitlements of weaker family members are secured by the notion of communal sharing and common belonging, which they could enforce against an irresponsible family head through the family collective. Opening the principle of primogeniture to both men and women on the basis of equality can only enrich if, particularly in communities that are organized as extended families and clans which often have to meet to take collective decisions. To this end, the power of the family heads were inherently geared towards promoting the welfare of the entire household, especially its most vulnerable members including women. To Africans, the presence of men in a family or clan meant that society was assured of socio-economic stability for vulnerable groups in the unit. These values demanded that a man's son should succeed him so as to perpetuate the home as a permanent entity for the collective survival of the members.

Furthermore, the virillogical or patriarchal nature of the indigenous marriage ensure that son remained in their homes to perpetuate the legacy of the family, whilst daughters could not be considered for those responsibilities as they were always potentially about to leave their maiden homes for their marriage homes. The centrality of the primogeniture rule as an administrative, political and leadership institution directed the psyche of Africans toward establishing an appropriate education system to equip men to assume and advance the responsibilities of their fathers in line with the dictates of indigenous metaphysics. The latter philosophy's import is that the current generation does not own the world it occupies as it had received it from the previous generations, but rather holds it in trust for onward transmission to future generations.

An appreciation of their opposition as transient caretakers of their responsibilities was vital to understanding why men were always preferred over their sisters in the appointment of successors to family headship. The successor had to remain at the family home to look after women and children, whereas their sisters move on to their marriage homes. In the African jurisprudence women were not allowed to participate in the leadership of the family, village and clan and that has kept women out of kingship. The primogeniture principle has brought peace to the society having allowed women to concentrate mostly in the domestic activities and men in leadership. Though women in Baloyi community in Kenya sue their men for not allowing equality to prevail in the traditional leadership position for instance, family headship and chieftaincy and demand to succeed their fathers at death.

In the case of Richard's death in 2001, his son Nwamitwa challenge a lady Shilubana who was appointed into the traditional leadership position, relying on the principle of male primogeniture. In both the Gauteng High Court and the Supreme Court of Appeal, Nwamitwa won the case on that basis. The constitutional court was called upon to vindicate the constitution by invalidating the principle of male primogeniture and confirmed his sister Shilubana as the head of the family. In its judgment, the court stressed that the equality clause meant that Nwamitwa's maleness did not give him a stronger right to the traditional leadership position than the woman, Shilubana, who had been appointed. Thus, the official principle of male primogeniture as entrenched in section 23 of the Black Administration Act was struck down even in the public law sphere of traditional leadership.

In addition to this section which applied country-wide, two more codes entrenching, it is a principle applied in the Kwazulu-Natal provinces. This arose in a case where the constitutional court struck them down for conflicting with the constitution. These codes had laid down that all matrimonial property belonged to the husband and the wife owed him a duty of respect. In all these cases, the constitutional court was asked to invalidate the principle of primogeniture for its inconsistency with the constitution, which it did. The judgment held that there is nothing to indicate that a gender-neutral principle of primogeniture is in conflict with the constitution, this legal framework does not prevent communities from applying their customary law, including their laws of succession. Indeed, the constitutional court held in the *MayeLane's* case that communities may apply their customary law provided that it conforms to the values of human indignity and equality. In the case of *Shilubana's* case, living (customary) law applies in a

community as part practice until it is established that a new practice has developed to replace it or the law has been amended to conform with the constitution. Until then, a constitutional complaint community practice remains valid customary law for the people concerned.

The marriage institution has also contributed to the development of customary law of succession. The important of marriage agreement entitle the transfer of the woman together with her reproductive capacity from her maiden family to the husband family so as to provide the latter with a successor who will be charge with responsibility of perpetuating family legacy. This is in accordance with the African tradition which directed that when a daughter is married she bore children who belong to her marital family. For this reason, African culture could not imagine a marriage entered into for a purpose other than the provision of children. A childless marriage therefore was regarded as the most abysmal thing that could befall an African family.

When viewed from the reality that most African women necessarily married away from their maiden family and were actually integrated into their marital home, family headship meant that women would not be available to provide their maiden home with the requisite stability and continuity associated with the nature of the position of family head. As alluded to earlier, the primogeniture principle centred around the values of accountability and responsibility, which reveals the purpose of the family head's life as the 'advancer' of the lives of other family members. In a democracy such a noble purpose cannot be allowed to be tarnished by associating it with patriarchy.

While men's responsibility was to advance the interest of their families, women were transferred through the *loboloigbogadi* agreement to their husband's families to enrich them with children, particularly successors to headship positions. This explains why women were not selected as successors. In order to provide the services demanded by her married condition, a woman relinquished all her succession rights within her maiden family, since 'successorship' also carried with it the obligation to remain in the family home for the purpose of discharging the responsibilities associated with 'heirship'. This was particularly so in the case of succession to traditional leadership as a princess who married a commoner outside of her maiden heritage could not demand to succeed to the position of her deceased father. The court should have explained that the *Shilubana* case was an exception to this rule. However, it was silent as to how a woman who was married away from the royal family could conduct her important leadership duties.

The functions of traditional leadership are required to be exercised from the royal family and not from some family of commoners into which the princes may have married. In the latter event, the princess could be seen as having abdicated her royal heritage and assumed the status of a commoner, and thus could not claim the traditional leadership position. For this reason, under the South African Constitution, an unmarried maiden who meets the primogeniture qualifications should have no difficulty in succeeding her deceased father as a traditional leader if the relevant traditional authority recognizes the legitimacy of her claim.

A married woman and her children acquired succession rights within her marital family, while the marriage itself established a secure economic entity known as the house. One of the

most important consequences of the indigenous marriage was the duty of the husband to provide such an estate, to enable the wife and her children to prosper in accordance with the principle that upon marriage the wife and her children's welfare became the responsibility of the corporate home for her husband which they accessed through its head. This ensured that the husband established and headed the house as a unit for the wife and her children. After the husband's death the house remained under the protection of the family head.

The primary purpose of the concept of primogeniture is to promote the interests of males and to oppress women in society. The relegation of women to a seemingly subordinate position is the natural adjunct of a culture where common survival and shared belonging are most greatly prized than individual autonomy. This must be viewed against the reality that marriage changed women's family relations and made them members of the marital family. This broad view of the primogeniture rule rejects its pejorative equation with mere patriarchy in the sense that conflates the relationship between manhood and womanhood with the western liberal 'contest' between feminism and chauvinism. This is rejected as part of Euro-Western liberalism which tends to impose its hegemonic features on the definition of indigenous institutions in order to undermine the African life-world and its underpinnings.

Another factor of jurisprudence principle is shared belonging and guardianship in African law – Guardianship over children was a communal activity which involved the participation of the family collective. This included the position of a child who was a ward from another family who has joined the family collective to be raised. Through the head, the child became a member of the extended family and of the entire clan (Adegbamigbe, 2001).

Secret societies provided bonds of unity in Akwa Ibom in that all members of each society saw themselves as one everywhere no matter where they came from. They disciplined the community in that people had to order themselves according to the traditional requirements of the societies. It was their duty to enforce peace and order. People were expected to behave well and avoid quarrelling and fighting during the operative seasons of these societies. They enforced healthy habits by supervising the cleaning of streets, springs and their roads, markets and even private compounds and houses. The vows and prayers offered at the opening seasons of the societies reminded people of their sincere duties to the community and prevented them from committing wicked acts.

Customs and beliefs regulated the conduct and morals of Akwa Ibom Community. They provided the norms and standards of behavior of the people and checked autocracy and dictatorship on the part of the rulers as they guaranteed the existence and enforcement of the rule of law. It was the duty of everybody to obey them. They provided people with days of rest at reasonable intervals to enable them live longer. Customs and beliefs help to maintain cordial relationship between God and man and between man and man. They softened anger and made people to cultivate rational thinking. Lessons of respect for humanity, goodness and kindness were taught through the medium of customs and beliefs. With customs and beliefs, people had little or no chances to commit atrocities in the society because the fear of natural law of retribution existed. The fact that everybody in Akwa Ibom observed the same customs and

beliefs cemented Akwa Ibom people together as a people with a common destiny. Esen (1982) says:

with “Idiong” on the one hand and “Mbiam” on the other and with a people whose natural temperament was antagonistic to crime, the Ibibio Communities proved too hot for criminals of all kinds. Perhaps the anti-crime partnership of “Idiong” and “Mbiam” couples with the certainty of nemesis which availed the guilty all combined to keep the Ibibio community’s relative crime-free. These items even were more effective than the present firing squad.

All the traditional instruments, items, elements, objects and symbols already discussed conspired to give a jumbo personality and an enviable dignity to the Akwa Ibom communities and loudly or silently, consciously or unconsciously but effectively and spontaneously delivered messages to and disciplined the Akwa Ibomites.

According to Ekpo, Nkanta and Effiong (2023), no known human society survives without a culturally defined heritage. Hence, they educated the people to know their rights, privileges and limitations and respect traditional institutions without much effort. They provided checks and balances which regulated and put the community on a steady economic, political, social and religious balance responsible for stability and meaningful government. The mere sight or sound of these instruments, elements, objects and symbols automatically called people to order, gave them food for thought, directed their actions and reminded them of their obligations to themselves, their neighbours, communities, rulers, government and the Almighty God. Any flouts earned the flouters appropriate painful rewards while obedience earned the observers pleasant reward in life and after life on earth. Omercooper and Ayandele, et al (1968) asserts:

Conversion to Christianity necessarily involved weaning Africans away from traditional religion as well as from traditional social values which were based on that religion. The missionaries believed that to make their work permanent, they needed to change most aspects of African traditional life. They preached... also against such practices and institutions as polygamy, the taking of title, body tattooing, secret societies, traditional dances and modes of dress. In return, they extolled the adoption pby European modes of dressing and the habit of tea drinking, etc.

Christianity preached against almost everything African; the worship of gods, institution of shrines, swearing of juju (mbiam) and ancestral spirits, while extolling absolute and only God. All the converts must go to church, work, pray, live and sing together, deserting the non-converts, even if they are their parents, relations, friends or neighbours. This situation shattered the natural and traditional social life of the African people who were before bound together by the social and traditional norms. Above all, this western lifestyle taught a very strange matrimonial doctrine – that, a Christian man must marry one wife, and monogamy was introduced as an extra religious morality. Polygamy was described as “the curse of the land” and was said to poison the blood stream of the nation.

Fasuyi (1973) points out:

In most of the big towns the cultural activities formerly encouraged by the traditional rulers were greatly curtailed if not suspended...; the traditional status and important social functions of artistic expression. The early missionaries came to introduce a new religion; all the former religious rites and manifestations (including dance and music) were banned and the new converts were encouraged to dispose of any art works which had been used in religious rites.

All the shrines and their forest abode must be destroyed and Christian churches built in their places. Christians were not allowed to celebrate any traditional native festival because they were anti-God; they entailed waste of time, money and efforts and involved sacrifices which God did not want. The only festivals permitted were Christmas, Easter and Boxing days celebrations. Converts had to change their names from African to European because African customs and beliefs were preached against. They were condemned as anti-Christian because they meant disbelieving in God Most High (Philips and Morris, 1971). This they do through the instrumentality of law courts, socio-political organizations and WILLS specifically written and preserved by parents and husbands. These WILLS are accordingly executed by authorized bodies after the demise of the parents, husbands and others. On this issue, Ekong (1983) says,

Educated women are resisting the custom of being inherited by the relations of their deceased husbands. Similarly, the easy access to the court of law and the gradual adoption of the writing of WILLS have given married women greater opportunities to inherit their husbands (sic) (property) in spite of their husbands' relations.

Western laws have also vehemently condemned the idea of inheriting deceased relations' wives (the levirate system). Today, widows have right to either within the family or outside the family of her deceased husband. Once a person accepted Christianity and western education, he had to live above and withdraw from thing native. He, as already mentioned must marry only one wife, withdraw or refuse to be a member of any native secret society; and stop dancing, playing or singing anything native. He must always speak English, drink tea, dress in English suit with ties on as a mark of being educated. He must condemn the idea of fattening, native art and craft (painting, drawing and carving). He must not swear by "Mbiam" (oath) anymore. The Holy Bible became the only thing by which Christians could swear.

The ban placed on the traditional marriage system especially polygamy has created loopholes in the moral of the society. The capacity of men to absorb all women in the community as wives through the medium of polygamy had been destroyed. The one man, one wife Christian policy leaves many women who would have otherwise been married, unmarried. On this, Talbot (1969) says:

The abnormal conditions of life in the townships are evidenced by the comparatively large number of unmarried and widowed adult females who reach the proportion of twenty-seven percent and eight percent of the total adult females. In the mass of the population such cases were rare, attaining only about one percent in the old days. Life, however, in the townships attracts an increasing number of women who earn their living in undesirable ways.

These surplus unmarried women must care for themselves and secure the natural pleasures offered by men. This, they cannot do unless they flirt from man to man whether

married or unmarried. It therefore, encourages prostitution which is an undesirable tendency in any good society. The discovery of such cases by the bonafide wives, more often than not, upset families and even leads to divorces and their attendant ills. Such free women are healthy carriers as they contract venereal and HIV Aids diseases easily and do the ignorable service of spreading such diseases among their customers in the society thus ruining their health and leading to untimely dead.

One man, one wife system fails to provide substitute for a husband when the only wife he has is in a situation of constraint – like menstruation, illness and child-nursing. To satisfy sexual urge either the husband has to go out and have sex with somebody else or he has to have it with the wife despite the odds in which case the family faces problems including extra-ordinary frequent pregnancies which may be inimical to the welfare and health of the child and the mother.

Western culture and laws introduced two other types of marriage in addition to the traditional marriage system practiced by the people of Akwa Ibom. These were and are still the Church and Act or Court Marriage which either need to boycott parental consent. While studying or staying abroad, sons and daughters can marry without the consent of their parents and performance of traditional marriage rites. This situation removes the chances of pre-marriage investigations and scrutiny by parents to discover any ills which might surround the marriage and the proper blessing and cementing of such marriages with the necessary traditional rites. It has brought untold difficulties in families of married couple. The one man, one wife system has taught women of today to thoroughly adopt selfish instead of liberal attitudes towards other women because the spirit of cooperation and unity which accompanied polygamous system is now completely dead and gone. The seeds of jealousy and hate have been sown instead between married women and the unfortunate unmarried women always regarded as potential rivals who must be adequately checked and kept at arm's length early and quickly enough to avoid marital problems.

The 'death' of fattening institution is a serious blow to the traditional society. The moral restraints on girls which enabled them to maintain their chastity till marriage is no longer there. Early sexual dealings and unwanted pregnancies and their associated ills like the existence of bastards, abandonment of children and fatal intentional abortions are rampant. This is as a result of quest for freedom preached by the western laws. The removal of the period of fattening from the life of our girls denies them of the traditional valuable lessons on mother craft, housewifery and home management. This situation creates a great vacuum in their social life and makes it difficult for them to carry out their social obligations. The dignity and grace often associated with traditional marriage especially during the period of honeymoon are driven aground. The assurance of wealth, care, obedience and cooperation for both the parents and married couples are no longer there because western education and Christianity have baptized them with the notion that these ideas are not necessary.

The abandonment of secret societies by western educated folks has really affected the traditional Akwa Ibom society. The venues of bringing people together which these societies

provided are no longer there. The spirit of collective responsibility, inter-family, inter-village and inter-clan competitions occasionally arranged to strengthen the bond of unity is now non-existent. The idea of sharing things in common which had been the ideology of secret societies has been mercilessly murdered in cold blood.

Peace and order which used to exist in communities because of fear and respect for the rules of secret societies – the guardian of community law and order, are no more. Crimes can now be committed without the criminals being easily found, whereas, criminals in the indigenous cultural communities were assured of being found out by secret societies no matter how long ago or how secretly the crime had been committed. This pattern, according to Effiong (2019), plays significance role in the preservation their cultural heritage. Now western laws have produced lawyers, whose duty is to plead for criminals who may be discharged and acquitted even where and when they had actually committed such offences; whereas, secret societies with their seasoned system of investigation to detect crimes and criminals, hardly free criminals. Western laws had, to a very large extent, watered down social discipline. The community has no more power to traditionally punish offenders and deter others from committing such offences. The calm which characterized the traditional Akwa Ibom society is now far-fetched and crime wave has actually increased by leaps and bounce. Highway robbers, assassins and other marauders hitherto scarcely or even unheard of now move about without being easily caught because there are no longer strong secret societies to effectively parade the streets and keep them in check.

Akwa Ibom indigenous customs and beliefs are now seen as anti-Christian and anti-education. People no longer place premium restraint on people, keeping them out of criminal tendencies. For instance, the belief in the power of the ghost of adultery prevented married women from committing adultery. Today when such belief is no longer tenable, women freely commit adultery with no fear and this situation has accounted for broken families with their attendant evils. Ekong (1983) and Ekpo, Nkanta and Effiong, (2023) agrees with this idea when they observed that:

This Christian influence which has led to the relegation or total abandonment of sacrifices to the ancestor has also demolished the belief in “Ekpo Nka Owo” thereby liberating women, even in monogamous unions, to indulge in adultery with little or no compunction.

The fact that people no longer regard the custom of not having to offend or kill in-laws, grandsons and strangers, has been responsible for the ill-treatment and even harm being done to humanity without any healthy consideration. The belief in ‘mbiam’ (oath) as the detector and punisher of evil doers is no longer accepted by modern laws and educated elements who now rather swear on the Bible which they feel and regard as a mere harmless literature book. Abasiattai (1987) says:

The use of Mbiam oath was briefly adopted in the native Court’s procedure and both the judge and the litigant were required to swear by it – the one for the impartial dispensation of justice and the other for telling the truth. However, this

practice was discontinued in 1947 and the Mbiam was substituted by the bible thereby restricting the fear of reprisal for either untrue evidence or unfair judgement.

The cultural get-together of boys and girls, men and women which engendered mutual understanding is now thrown overboard. It is now illegal to sing people who commit social environmental crimes in well coined songs even when it is proved beyond all reasonable doubts that such crimes have been committed. Modern courts are very serious over such cases now described as libelous and slanderous. This situation actually affects the society in two ways. In the second place, the criminals are not put to shame, a situation which would correct them and deter others from committing such crimes anymore. No wonder crimes are on the increase day in and day out.

Libation which was a period of displaying historical and rhetorical knowledge, praises to the gods and ancestral spirits and self-dedication and prayer (akam) to the gods for blessings on the upright and woes on the wicked, is now regarded as anti-Christian and a mark of uneducated. It limited and actually jeopardized the powers of the Village Heads by transferring the Legislative and Judicial powers to what was called the modern governmental instrumentalities located outside the villages. Through the Indirect Rule System, the Colonial government recognized village as the basic unit of local government by instituting the Warrant Chieftaincy System (Red capped chiefs) whereby a person with no traditional authority could be selected, given a warrant and imposed as a chief (red capped as it were) upon a group of people.

The qualifications of such warrant chiefs included literacy, active identification with Colonial administration, inclination towards Christianity, some Charismatism in view of their allegiance to foreign rulers, lack of traditional authority, the use of their office with big-stick policy to harass the powerful traditional chiefs into submission and subjugation. Situations existed when and where the powerful traditional chiefs were forced to surrender through deportation or imprisonment or both just to eliminate them as opponents.

In other to explain and justify the development of Local Government and courts (Native Administration – Indirect Rule System), the colonial government passed three laws between 1931 and 1935. These laws were:

- i) Native Authority Ordinance
- ii) Native Courts Ordinance and
- iii) The Protectorate Courts Ordinance.

In 1934, High Courts and Magistrate Courts were instituted to run under the English Legal system with professional judges and lawyers actively operating. These institutions permanently transferred the legislative and judicial powers from the traditional rulers to centralized non-traditional chiefs as mere figure herds or puppets or stooges.

In the words of Abasiattai (1987),

The new government took over control of economic process and warfare and although chiefs could still serve as judges in disputes at the village level and

magnitude of punishment they could award was critically reduced. The chiefs under the colonial regime also found themselves playing the mutual contradictory roles of being leaders of their people as well as the representatives of the foreign government by whose grace they held their offices.

Previously, Chieftaincy could only be conferred as an honour on one who took membership of a cult or performed a special and important feat like killing of a lion or an elephant. Cult and feat performing chief differed from civil traditional chiefs. But today with Western cultural influences, rich and prominent position holders in government are indiscriminately honoured with chieftaincy titles thus cheapening and humiliating chieftaincy as an institution. No wonder Udo-Ema (1975) says:

“A son can become a chief while his father is still a commoner”. It may not be an overstatement if it is stated that in today’s Akwa Ibom society, out of every ten people one meets at least two are chiefs. This is so because where and when one is not a Minister, he must inevitably be a chief. The payment of handsome stipends to Chiefs by the government greatly influenced by Western culture with particular reference to village heads, clan heads and paramount rulers further commercializes chieftaincy and engenders acute chieftaincy institution”.

From the foregone postmortem examination on the impact of western culture of the indigenous culture of Akwa Ibom, it can be rightly concluded that it (Western Culture) has created negative attitudes and ignorance in the younger generation of Akwa Ibom community. In support of this idea, K. C. Murray (1938) in the Government owned Nigerian magazine writes: The younger generation who has been to school are unfortunately mostly ignorant... of their local traditions and history and fail to appreciate ...African Art. The old religious carvings are gone or are disappearing. No study is being made of Nigerian music and it is neglected in schools.

Conclusion and Recommendations

It is very wrong for the common law from the British to be imposed on the Africans in all aspects. Before the advent of colonialism, Africans had a culture which specified African modus operandi and instilled discipline and fear among all groups of people in the case of evil doing. Imposition of western culture and its jurisprudence which is embedded in technicality, evidence and manipulation has brought all manner of evil without fear into the social system.

Thus, it is pertinent to conclude and submit that African system of laws and ways of enforcement be allowed to go along with the western common laws so as to bring sanctity into the system. In this, African culture, traditions and its criminal justice system would be fully practiced and maintained. As a system which embraces communal living, a shared belonging and group solidarity, African culture developed the principles of primogeniture in which the family head ensures a collective administration of and equitable access to family resources. These principles ran as a golden thread through all the structures of society in selecting leaders such as heads of families, clans, villages, and the community as a whole, to ensure that each department

had a responsible and accountable manager to facilitate equitable access to resources that belonged to all members collectively.

Based on the findings of this paper, the following recommendations were made:

- i) African culture, norms and mores should be preserved along with the modern legal practices so as to bring order into the social system.
- ii) Agents of the modern laws should be educated and properly trained on the principles of jurisprudence so as to handle cases of the traditional and modern institutions effectively.
- iii) Customary courts should be established in different communities and strengthened to handle customary related cases properly.
- iv) Civil matters should be separated from criminal matters in the traditional institutions.
- v) In adjudication of customary cases, the community members should be selected to join the customary court especially, the elders and community leaders as representative of the people and the community.
- vi) The paramount rulers, clan heads and sometimes, the family heads should be allowed to also have opinions on the matters, projects related to their families or clans.

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