Justice for All without Litigations: Reflections on Alternative Socio-Legal Initiatives for Peace Building and Conflict Resolution in Nigeria's Multi-Ethnic Society

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ABSTRACT

Nigeria, being a multi-ethnic nation encounters recurrent tensions among individuals and at community or ethnic blocs. This review paper examined the limitations of litigation or court processes in addressing all such dispute situations, and to ensure access to justice and protection of bill of rights for all citizens. The paper particularly frowned that court processes are unduly long with several adjournments and that the poor may not afford the exhorbitant services of counsels. As a way out of these and other challenges, the paper canvassed for alternative socio-legal initiatives that will stimulate peace building and facilitate speedy resolution of interpersonal as well as intra and inter community disputes in the country. Such viable alternatives or complements discussed herein include mediation, negotiation, arbitration, conflict management, pure pacifism, and adoption of traditional approaches to resolve disputes. It is envisaged that when the options are carefully harnessed, Nigerians irrespective social, political, ethnic, religious or cultural inclination will live in peace and cooperate more to achieve fulfilled livelihoods and optimum socio-economic development of the nation at large.

Keywords: *Court processes, justice for all, litigations, socio-legal structures, conflict resolution*

INTRODUCTION

The phrase 'justice for all' represents the idea that each citizen is equal under the law. It represents the concept that every citizen is free and not to be deprived of life, liberty, or property, without due process of law as indicated in the bill of rights. Access to justice and civil legal system are thus key indicators for 'justice for all'.

In addition to justice for all, every society requires some degree of peace and order to remain a cohesive social unit and for attainment of her cultural, economic and socio-political goals. The term peace, according to Egbue, Nwankwo and Aliche (2015) refers to occurrence of harmony characterized by lack of violence, conflict behaviors and the freedom from fear of violence. It is commonly understood as the absence of hostility and retribution, and suggests sincere attempts at reconciliation, the existence of healthy or newly healed interpersonal or international relationships.

The conceptualization of peace as given above explains why structures for maintenance of peace and order are cultural universals and have

remained regular features of both primitive and modern societies. Peace-building is thus an approach or a set of interrelated efforts that support peace. It addresses the underlying causes of violence and works to create societal change. Although peace-building includes pre-conflict interventions, in practice most peace-building interventions are usually post-conflict interventions. Indeed, justice for all can best be achieved in a peaceful and orderly setting.

The immense role of peace and order to growth and development of any society cannot be overemphasized. Nonetheless, such importance of peace and order does not deny or discredit the fact that dispute situations also make positive contributions to society. Indeed, dispute situations when carefully examined, are not mere pathological phenomena. They could be intended to stimulate or resist social changes which benefit human society in a variety of ways.

However, in societies where persistent disputes dominate, social harmony or group consensus becomes difficult to achieve and anarchy may prevail. To guard against such development,

dispute settlement structures are intricately woven into the socio-political life of every society. Such structures which are usually enveloped and constitute core part of their legal institutions are dependable tools for their survival as social collectives. They also represent safety valves for re-generating or re-building social ties and group solidarity when conflicts or disputes destabilize or puncture the status-quo.

Thus, in this paper, legal institution is conceptualized in two ways in line with views of Nwankwo (2011).. First, as key component of social control devices in a society or state involving a mix of personnel, bodies, rules and clearly defined processes through which the society settle disputes, achieve integration, solidarity and overall behaviour regulation of members. Legal institutions usually have strong ties with political systems. This is understandable because a major objective of government everywhere is to maintain law and order in their territory. Secondly, legal institution in the context of traditional African societies could be defined as the sum total of all agents, processes and belief systems adopted or instrumental to the attainment of order and consensus in society no matter how informal or diffuse and with or without a constituted authority using organized force to coarse people into submission and or to punish non conformists.

The nature of legal institutions usually differs across cultural entities, regions and nation states. They are also affected by the period (time) of analysis. Consequently, the instruments and processes constituting the legal system of traditional societies of Nigeria are not the same with western models now operating in the country. The country now has codified law, formal courts; police and prison apparatuses etc. However, although without such modern or western structures at their time, traditional societies of Nigeria were quite orderly and held them together through time. They had socially accepted rules of conduct, social control mechanisms and forms of dispute settlement arrangement. All these ensured that order and conformity remained the rule rather than the exception. On the contrary, contemporary Nigerian society encounters several divisive conflicts among individuals and social groups. Many of the issues in contention are taken to courts for resolution. Unfortunately, while some of the matters linger in courts for years, peace have failed to return even among parties whose

matters have been ruled by the courts. Furthermore, the poor encounter severe resources limitations in accessing court services.

The core objective of this paper is to reflect on alternative dispute settlement options that can guarantee justice for all Nigerians. This is with a view to underscore the relevance of such alternatives to the Nigerian state.

OVERVIEW OF PROBLEMS OF ADJUDICATION/ LITIGATION OPTION IN SETTLING DISPUTES IN NIGERIA

Litigation is the process of making or defending a claim in a court of law. According to Obiajulu (2011), adjudication involves the use of courts and other litigation processes. He added that courts vary according to their levels of jurisdiction. Parties to a dispute are usually represented by their counsels. The court is usually briefed by the counsel to the parties in dispute. Evidences are usually taken which are important in determining the facts of the matter. Court ruling on the issue(s) in dispute is binding on parties. Appeals can be made to a higher court. Judicial decisions are usually enforced

Individuals could arraign one another before courts for any infringement on rights or nefarious activities. Such matters should be charged to courts of appropriate jurisdiction and the defendant is allowed access to counsel of their choice. That way, individuals or social group grievances, demands and possible pacifiers may be uncovered and addressed by courts in line with applicable laws.

Some problems confronting litigations in Nigeria include that, public enlightenment on need to take matters against the government to law courts for adjudication should be stepped. Also, costs of litigation are exorbitant and beyond the reach of the poor. Others are few numbers of courts and judges leading to several adjournments of cases. Justice delayed is akin to justice denied. There are also problems of abstract legal principles or technicalities on the basis of which matters may be won or lost. All these make adjudication an unattractive and unfeasible option both to government and aggrieved groups.

Furthermore, Onwuejeogwu (1992) had asserted that the aim of traditional African courts, such as those of the Igbo, Tiv and Lozi were rather to mend broken relations between two parties. In contrast, the new western system of courts wants to find the guilty and punish him

adequately irrespective of whether the relation between the two parties are broken or repaired.

Modern courts lack many of the unique features of traditional legal institution. Whereas matter is brought before a very broad group for settlement directed discussion such as the village assembly and council of elders among the Igbo groups, decision in modern courts is taken by a judge or few judges. Quality of decision is likely to be enhanced by such large audience/jury.

Again, laws on which court rulings are based are made by singular body charged with the responsibility of making laws (i.e. legislature). In the traditional setting, even kings cannot be said to make laws but only facilitate their implementation. The source of most traditional laws as Nwanunobi (1992) observed are lodged in antiquity, handed down by ancestors or were of divine origin. However, some laws like the 'iwu' among the Igbos were enacted by the living while 'Omenana' were customary laws which no one really made or could strike out. They were handed down from generation to generation. All these make laws less class and interest driven.

ALTERNATIVE SOCIO-LEGAL STRUCTURES FOR PEACE BUILDING AND CONFLICT RESOLUTION RELEVANT TO THE NIGERIAN STATE

Conflict resolution is conceptualized as the methods and processes involved in facilitating the peaceful ending of conflict situations and retribution. Adjudication or court processes is a key approach to conflict resolution. However, this paper deemphasizes adjudication or court processes because of its limitations in ensuring justice for all especially among the poor who cannot afford legal fees of learned counsels.

Examples of strategies of conflict resolution of interest to this paper are arbitration, mediation, negotiation, conflict suppression, conflict management, traditional approach, realism among others. Other components of peace-building, such as state building and socioeconomic development are also of interest to this paper.

Best (2007) emphasized that scholars on conflict studies should appreciate that; every conflict has a specific context, history and background which deserves to be appreciated in resolving the conflict situation. Oftentimes, conflict resolution aim at finding the win-win solution, or mutually satisfying standpoint for everyone

involved (Fisher and Ury (1981). Nonetheless, achieving such compromise may be difficult actualize in all conflict situations.

It is our strong opinion that where feasible, direct communication between disputants that explicitly addresses issues at stake in the conflict could be most advantageous. The argument by some scholars that such approach is very rude, and makes the conflict worse or delaying resolution is unfounded. Similarly, involving religious, or community leaders, communicating indirectly through a third party and making suggestions through stories are also useful options in conflict resolution.

It is in the light of foregoing, that the author avers that the prospects of resolving diverse range of disputes in Nigeria are bright (without court options) if appropriate, effective, and broader set of conflict resolution strategies are applied. Such conflict resolution options as recommended below will stimulate much desired peace, ensure justice for all and put Nigeria back on the path of socio-economic development.

Need for Negotiation and Mediation of Conflict Situations

Best {2007} defined negotiation as a direct process of dialogue and discussion taking place at least between two parties who are faced with a conflict situation or dispute . The aim is for the two parties to reach an agreement on the sources of conflict between them. According to Best (2007), Roger Fisher is associated with this mode of conflict resolution and also introduced the term principled negotiation which advocated for interest-based negotiation that should result in showing empathy to each other.

Best (2007) defined mediation as informal and non-binding process undertaken by an external party that fosters the settlement of demands of different parties to a dispute. Mediation is usually associated with the emergence of a third party. It is supposed to be a voluntary process. Mediation usually involves dialogue aimed at helping parties to dispute reach a solution to their problems. The mediator is expected to help the parties by creating the enabling environment for dialogue between them to prevail.

Use of Arbitration Option

It involves use of a supposedly neutral third person to resolve a conflict situation. The parties to a dispute can be involved in deciding the

arbitrator. The third party usually listens to the parties position statements, weighs the evidences presented, before handing down their decision. Such decisions are expected to be binding on the parties to the dispute. The fact that Nigeria is a plural society with heterogeneous culture does not make this strategy inapplicable as some people erroneously contend. Effort should be sustained toward identifying leaders of the various ethnic or social groups. Such leaders shall be presented the olive branch of peace and encouraged to choose an arbitrator they can trust who will preside over the resolution of any matter they have with another socio-cultural group.There is need for relevant institutions to provide individuals with training on arbitration to enhance their capacity in the area.

Application of Conflict Management rather than Conflict Suppression and Realism

Conflict suppression involves using instruments of suppression (police, army, local vigilante, taskforce, thugs etc) to quell or push issues precipitating conflict under the carpet. Oftentimes, solutions that are not sustainable and shared by other parties are imposed. It is indeed a conflict resolution method that is both wrong and strong. It is suggestive of unequal social relationship between parties in conflict. It usually leads to protracted conflict because of its spillover effects and reprisal actions or attacks.

Similarly, realism is based on coercion or use of force to resolve conflict. It includes both violent and non violent methods of coercion like war and diplomacy. It is usually a win-lose situation (Obiajulu, 2011).

On the other hand, conflict management which this paper strongly canvasses represents measures applicable to on-going conflicts especially with de-escalation efforts. It is about ensuring that the society, using available cultural mechanisms, does not allow conflict to escalate to the point of consuming people (Obiajulu, 2011). Conflict management strategies include conflict limitation, and containment among others. Also, pacifism which is one of the measures advocated in this paper for addressing disputes/conflicts in Nigeria constitutes a viable conflict management tools.

Conflict management as an interventionist effort towards preventing the escalation and negative effects, especially violent ones is very relevant in Nigeria. This is particularly important because conflict suppression measures (rather than conflict management options) being applied by the Nigerian government in some conflict/dispute situations; particularly through use of military teams and task forces has been minimally effective. Such options have also failed to fully enthrone peaceful coexistence in the areas affected.

Above all, conflict management initiatives are very useful in ending the flow of new recruits and resolving various local and regional issues linked to disputant groups. It is also noteworthy that although US Embassy Records (2001) suggests that some measure of conflict suppression achieved some positive results in Western Countries with formidable Intelligence and Military Apparatus, it has often failed in pluralist ethnic, religious or cultural orientations such as Nigeria.

Adoption of Pure Pacifism

Against the background of conflict resolution strategies advocated, vis-à-vis their weaknesses as identified, the strategy of Pacifism, an ideology which opposes use of violence or war to settle disputes is strongly canvassed. The option pacifism will complement recommended conflict resolution initiatives.

Pacifism in its purest form categorically opposes application of any forms of war or violence as means of settling disputes. It is essentially about talking differences over rather than use of war and violence to resolve them. This strategy is not popular globally, as a means of conflict or dispute resolution due to erroneous belief that it is a sign of weakness on the part of the recognized individual or sovereign state that applies it. Yet it is adjudged as a very effective strategy given impressive results that Ghandi achieved with it in India

It is worthy of note that Gandhi's vision of a free India based on religious pluralism was challenged in the early 1940s by a new Muslim nationalism which was demanded a separate Muslim homeland carved out of India. The demand gave rise to religious violence in the Punjab and Bengal areas of India, similar to the current Boko Haram insurgence Nigeria. However, the pacifism model of conflict resolution applied by Ghandi conquered the violence because she befriended even those who ordinarily should be seen as enemies in the other camp. This gave rise to favourable platforms to talk over the issues until acceptable resolutions to both parties were reached.

Pacifism covers a spectrum of views ranging from the belief that international disputes can and should be peacefully resolved; to calls for the abolition of institutions of the military and war; to opposition to any organization of society through governmental force (anarchist or libertarian pacifism); to rejection of the use of violence to obtain political, economic or social goals; to opposition to violence under any circumstance, including defense of self and others.

The philosophy or strategy of pacifism sees means and ends as inseparable. By implication, it is contradictory to try to use violence to obtain peace. Principled pacifism also holds that violence of any form is an inappropriate response to conflict, and is morally wrong. Pragmatic pacifism holds that the costs of war and inter-personal violence are so substantial that better ways of resolving disputes must be found. Thus pure forms of pacifism abhor violence.

Pacifism entails the need to gather all elder statesmen, elites, religious and traditional rulers and ensure their full participation in the settlement process of dispute situations. The role of such people is important not only in calling their people (who accord them the status of significant others) to order. They are also crucial in the implementation of peace building strategies generated via pacifism like cease-fire agreements. It is important to observe that pacifism as a model of dispute settlement achieves better results where state institutions and dealing with social, economic and religious issues that triggered the conflict are strengthened. This is also canvassed in Nigeria to allow for workability of pacifism in her area.

Need to Revitalize Traditional Dispute Settlement Arrangements of Nigeria's Societies

Traditional societies of Nigeria had effective legal institutions whose relevance to the economic, political and socio-cultural life of the people left much to be desired. The need to revive and sustain such beneficial traditional structures to curb the growing tentacles of less beneficial imported western models is strongly canvassed in this paper.

However, the colonial experience which the Nigerian state underwent brought with it the modern judiciary and police apparatuses through which people can now seek redress for the wrongs done to them. Nwankwo (1992) had observed that with the introduction of the new systems, those committed to the old status-quo are now accused of taking laws into their hands. Consequently allegiances are shifted to new western arrangements. Nigerians now sue their kinsmen to court instead of bringing the matter to the family or village assembly. All these contributed to destabilization and weakening impact of traditional legal system in the country. Nonetheless, because of the relevance of traditional legal institutions to peace building and conflict resolution, there has been documentation of customary laws and the establishment of customary courts in the country. Nigeria operates customary courts, sharia courts as well as the western model of courts. There is need for other measures to be taken to revitalize some relevant old order For instance, the role of family, kinship and village groups in dispute settlement should be recognised and respected by the state.

Role of Government in Minimizing Conflict among Groups through Provision of Social Services /Infrastructure

Nigeria must adequately address social services, functional structures, socio-political stability, and rule of law, good governance, poverty, corruption, and all forms of religious intolerance among others. Alemika (2004) frowned at the disconnection between the governed and the government in Nigeria, He lamented that some manifestations of the crisis of the state and governance in the country are inability to guarantee a basic minimum standard of living that accord with human dignity for the majority of the citizens. Such unfavourable living conditions and non adherence to good governance could account for some grievances, opposition, and intra and inter ethnic conflict situations including terror attacks.

To this end, strict adherence to the ten pillars of good governance advocated by World Bank should be the rule rather than the exception in the Nigerian state. Such pillars of good governance like rule of law, citizenship participation, and accountability among others must be respected. Furthermore, appropriate power should be exercised in the management of the country's economic and social resources for development.

Also the capacity of the government to effectively formulate and implement sound policies and to respect citizens should not be in doubt. Government must address root causes of conflicts or disputes among citizens or social groups, rather than being mere relational in

approach. Attention must shift beyond temporal solutions because none of them has capacity to end inter personal and intergroup conflicts in Nigeria. Okogu (2007) maintains that good economic policy, including diversification of the economy from oil will create prosperity, retard the propensity for conflict, and enhance national unity and security in Nigeria.

CONCLUSIONS

This paper examined the on alternative socio-legal initiatives for peace building and conflict resolution in Nigeria's multi-ethnic society that will entrench 'justice for all' without recourse to litigations. The author is worried that Nigeria cannot make meaningful progress in her socio-economic and political life while her citizens and social groups remain consistently in dispute and or engaged prolonged law suits. No developmental project or investment can thrive in such atmosphere of conflict. The loss of lives, loss of government owned and private property, failure of sustainable development initiatives, withdrawal of prospective foreign investments are major fallouts of intra and inter ethnic conflicts in Nigeria.

The author however deeply appreciated efforts, especially on the part of government through judicial system reforms and use of committees but noted that such measures are yet to fully and permanently entrench peace. In this regard, conflict resolution initiatives, government provision of social services, pure pacifism among other defined as 'alternative initiatives' were recommended.

Nigerians irrespective of diverse social, political, ethnic, religious or cultural inclination of Nigerian must cooperate to achieve optimum results from the processes. This is because when all government institutions, Non-Governmental Organizations, Community Based and Cultural Organizations, political and religious leaders, stakeholders and individuals jointly work in liaison, peace will be fully entrenched and most conflicts will be effectively resolved.

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