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# Law and Criminal Justice System in Nigeria: The Dichotomy of Native and Western Styles of Law Enforcement.

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### ABSTRACT

In the last two decades since the present political dispensation, Nigeria's law enforcement system has faced challenges with reconciling the different and often conflicting native and western style of law enforcement in a magnitude that have never been seen before since independence 58 years ago. The citizens have felt disenchanted with the way and manner successive governments have managed to resolve the conflicts for the welfare of the generality, and this has exacerbated situation. Most Nigerians felt that past governments have ignored, and often fought against the effective, efficient, and widely used native law enforcement and social control systems. The official government's position is hostile to the native law enforcement systems and has continued to date throughout Nigeria and indeed in some African countries. This paper argues that the criminal justice system in Nigeria should be redesigned to either reflect the centrality of the native systems in Nigerian lives or adopt correctly in form and substance the western style if Nigeria is to be a player in the comity of nations in this 21<sup>st</sup> century.

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### Introduction

The criminal justice system as a form of social control in Nigeria since independence in 1960 and indeed in most of the African countries can largely be divided into native and western types. For the Nigerian example, the native variety is rooted in various Nigerian traditions, customs, culture and native laws, since Nigeria is a multi-tribal country with over 200 ethnic tribes, cultures and languages, while the western type is English/white in origin and bears the hallmarks of western culture, customs and traditions.

There is no doubt that over the years since independence the western social control system in Nigeria has taken some local Nigerian coloration. But without doubt, it still remains fundamentally English/white and Western. Thus, it is mostly alien to Nigerians and has continued to be so since independence 58 years ago. In the presently constituted Nigerian law and administration of criminal justice setup, the foreign (English/white) system is called upon to anticipate and regulate lives that are mainly alien to the system. The lifestyle of a typical Nigerian or other Africans seems fundamentally different from that of the (English/White) or other Western (European/American). For this reason, the western social control system in Nigeria may be unsuitable to effectively regulate relationships in Nigeria.

The indicators showing that the European/American based criminal justice system as practiced in Nigeria today may not sufficiently guarantee a stable independent nation appears to contradict Nigeria's proposed modern outlook and status. To many Nigerians both at home and in the Diaspora, a post-independence, modern Nigeria should earnestly pursue law and criminal justice systems consistent with the systems and techniques bequeathed to her by the former colonizers.

Consistently with this mind-set, Nigeria's modern law and criminal justice systems has to fundamentally agree with the colonial era British system in Nigeria or its post-independence version.

In any case, this way of thinking argues further, that law and criminal justice system in post-independence Nigeria ought to be mostly, if not entirely, consistent with the imported British type. This is a rather curious and unfortunate line of reasoning. However, in a radical move, this writer argues that there is nothing universal about a European /American style of law and criminal justice system. The western (English/white) system, as an example, developed from the traditions, customs, and native practices (tribal laws) of England. Thus, the western (English/white) system is perhaps best suited to regulate relationships among the English, not among Nigerians, all its ethnic nations inclusive.

The prevailing post-independence law and criminal justice setup in Nigeria establishes a dual system (foreign and native). However, it has been noted that most African countries including Nigeria continues to invest a great deal of resources (financial and human) in promoting foreign law and criminal justice systems over the native systems. But, since the foreign systems reflect western norms instead of African norms, the average African suffers from a confused norm-less condition in which the official governing rules of conduct differ from, and do not reflect the native practices. Such is the case in Nigeria.<sup>1</sup>

<sup>1</sup>Okafor, N (2005) "Customs and Traditions as Answers to a Norm-less Nigeria", in Nigeria world. <http://nigeriaworld.com/articles/2005/sep/232.ht> ml.

Among African elites and officials of governments, there have been tendencies to advocate and promote the European/American law and criminal justice systems over their native African counterparts, the African systems persist. Using Nigeria as an example, several factors attribute to this.

### **Factors Enabling Native Law Enforcement Systems in a Modern African State (Nigeria).**

The continued existence, and many would argue, efficacy of native law enforcement systems in post-independence African States such as Nigeria is well documented.<sup>2</sup> Using Nigeria as a test case, it is prudent to identify and briefly examine the reasons for grounding native law enforcement systems.<sup>3</sup> Reference is made to the August 2004 Okija incident, where the Nigerian Police Force recovered dozens of human skulls and decaying bodies at the site of Ogwugwu Isiula, Okija, a traditional Igbo shrine in Okija town, Anambra State. This was a classic example of a traditional/native law enforcement system that went badly. Questions were asked:

“Why do the Okija’s-----exist and flourishes among us?” The fact that Nigeria’s official criminal code criminalizes this type of traditional crime management makes the question particularly relevant. The Code defines this form of native-based crime management as a “trial by ordeal” punishable under sections 207-213. In view of this strong, negative official attitude toward this traditional process, those Nigerians who persist in managing their civil and criminal cases through the deities must be doing so for compelling reasons.<sup>4</sup>

Okafor further identifies several explanations for the continued existence and critical role of the Okija’s and other native agencies of law and order in Nigeria. These are some of the following explanations. One, the perception of ineffectiveness and inefficiency of the (English/western)

Law and Criminal Justice process: The contention is that in the face of rising crimes, particularly violent personal and property crimes, many, perhaps most, Nigerians view the English/western Law and Criminal Justice System in Nigeria as ineffective and insufficient for social control in the country. Secondly, there is the perception of alienation from the British-imposed, English system of law and criminal justice. The imposed English-based common law system of social control in Nigeria lacks the foundation that it enjoys in its native England. The common law in Nigeria is bereft of the cultural foundation that it enjoys in England. Three, Pride in Culture: The continuation and expansion of Nigerian’s indigenous social control systems (law enforcement) partly derives from many Nigerians’ natural human impulse to resist British “substitutive interaction” policies towards Nigeria.<sup>5</sup>

By these policies, colonial Britain sought to destroy, emasculate, or substitute Nigeria’s indigenous law enforcement systems and practices with their British versions. There is mounting evidence for this proposition which has worked against Nigeria’s rapid development from becoming a

modern Nation-State. In virtually every respect, the institutions and infrastructures of the Nigerian State (electricity, good roads, adequate medical care, quality educational institutions, entrenching internal democracy in our political systems, etc.) have degraded substantially. Today, these institutions and infrastructures are, in most cases, far worse than they were under imperial British rule, mainly because of entrenched official corruption in the country. The 2007 Nigerian “elections” evidenced the immensity of official corruption in the country as even reported by some international observers. Thank God, the 2011 and 2015 elections have been viewed as big improvements from 2007 elections. However, with what happened with the primaries in some of the political parties in 2018 and at times with the connivance of the security forces, one is left to think that in the 2019 elections there will be widespread corrupt practices.

After the 2007 elections, Nigerians witnessing the images of failures of the Nigerian State, the citizens understandably focused on their ethnic nations and indigenous/native systems to regulate relationships. Also, with the spate of kidnappings and the killings by the Fulani Herdsmen as well as the Boko Haram, Nigerians began to ask tough questions about the efficacy of the English/western style of criminal justice bequeathed to us by the British colonial masters. Discussions about community policing, state policing and or vigilante security by the natives came back to the fore, with many Nigerians asking for state police and or vigilante as a better alternative which is close to the native law enforcement system as opposed to the present unitary police force system in Nigeria today. The desire for quick, inexpensive justice is receiving attention again in Nigeria. Justice in Nigeria’s English-based official system to many is too expensive, time consuming, and insensitive to the indigenous Nigerian cultures. The country’s indigenous/native social control mechanisms (law enforcement systems), on the other hand, appear to satisfy Nigerians’ yearnings for quicker, less expensive, and culturally relevant justice and social order.

The explanations offered in Okafor<sup>6</sup> for the continued and growing uses of indigenous/native law enforcement systems in modern Nigeria supports the view that the tradition will not die anytime soon. There are compelling religious, cultural, philosophical, ethnic, and material reasons, as well as reasons of official government ineffectiveness, inefficiency, citizen’s pride, belief, fear, apathy, and limited resources for Nigerians to use their native social control systems, rather than the English/American-based system of law and criminal justice. The practice will likely continue and probably expand as more people lose faith in the English/American based system. As in other African countries, as long as the foregoing reasons persist in Nigeria, native systems and practices of order maintenance and other social control mechanisms will remain strong even in a “modern” Nigeria.

With particular focus on law and criminal justice and based on the Nigerian example, the following sections of this paper will examine the role of native systems in policing and order maintenance as well as the nature of the relationship between the native systems and the official, English/American based law enforcement systems.

<sup>2</sup>Elechi, O. O. (2006). *Doing Justice without the State: The Afikpo (Ehugbo) Nigeria Model*. New York & London: Rutledge.

<sup>3</sup>Okafor, N (2005). “Foundations of Okija Justice”, in *Nigeria world*, <http://nigeriaworld.com/articles/2005/mar/033.html>.

<sup>4</sup>Okafor, N (2005): p.13.

<sup>5</sup>Okafor, N (2002). “Law and Justice in Post-British Nigeria: Conflicts and Interactions between Native and Foreign Systems of Social Control in Igbo”. Westport, Connecticut, USA: Greenwood Press, p. 18-20.

<sup>6</sup> Okafor, N (2006). “Traditional Social Control in an Ethnic Society: Law Enforcement in a Nigerian Community”. *Police Practice & Research: An International Journal*, Volume 4, Number 1 (March), p. 21-33.

### Relationship between Native and Western Style of Law Enforcement Systems in Africa (Nigeria) Since Independence.

Similar to other aspects of law and criminal justice in native Africa, there is strong evidence that the traditional mechanisms for security maintenance, crime prevention, and general law enforcement remain strikingly relevant in modern Africa, and Nigeria particularly inclusive. In Africa before colonialization, the details of the mechanisms varied from one community to another. Nevertheless, the general theme was the furtherance of control, justice, and law in the African societies by using the applicable native strategies and techniques. The native strategies of control, justice, and law in each pre-colonial African society had grown out of the society's traditions, customs, and native-laws. Some aspects of social control in contemporary Africa are similar to the pre-colonial practices.

In traditional Africa, security maintenance, crime prevention, and general law enforcement are based on each society's historical circumstances and desires. Thus, most members of each society willfully partake in programs and activities to prevent and control crimes and deviances. Community members, individually and collectively, play roles in each society's law enforcement efforts. Community members generally accept the group's methods and procedures for security maintenance, crime prevention, and general law enforcement. One of the main reasons for the wide acceptance and celebration of the native methods and procedures is that the citizens tend to know their society's control, justice and law personnel well. The citizens have a reasonable knowledge of each office holder's morals, values, and ethics. Since the citizens of an indigenous society have direct and indirect influences on their control, justice, and law personnel, persons whose morals, values, and/or ethics are at variance with the general societal standards are unlikely to occupy or remain in their assigned positions.

The security maintenance, crime prevention, and general law enforcement duties in a traditional African community devolve on various community institutions, groups, and members. The obligations fall on such community structural levels of government as the Family, the Extended Family (Kindred), the Village, the Age Grades, the Village Group, the Town, and the Community of Towns based on well understood geographical and subject matter jurisdictional considerations. At each government and administrative level, there are provisions for security maintenance, crime prevention, and general law enforcement by the entire community acting together or, as is more often the case, through their elected or appointed representatives as well as by specialized agencies, such as the Age grades. For instance, a Young Men's Age Grade among the Igbos of Eastern Nigeria may be charged with the responsibility of security maintenance and general law enforcement. Community members may mandate and expect the Young Men's Age Grade to use commonly sanctioned vigilantism to prevent crimes by identifying, apprehending, and processing persons suspected of committing crimes. The Age Grade's other responsibilities may include enforcement of judicial decisions, such as by means of *oriri iwu* (retrieving judgment fine) or *igba ekpe* (publicly shaming and humiliating a criminal).<sup>7</sup>

Also, as in the pre-colonial era, the *mmanwu* (masquerade) in post-colonial Igbo have many other functions; the task of law and order maintenance in some cases. Therefore, the masquerade cult *mmanwu* acts as a [traditional] government functionary. Much of the function of these masquerades is to effect obedience to the sanctions of the town on a culprit. These masquerades could invade a culprit's home, and seize all his belongings until the owner paid the stipulated fine for his crime, and again reclaim his property by a further fine. This police action of the masquerades is generally referred to as "iri iwu". Some masquerades, the clever ones of the young boys, called Iga, also kept surveillance over the village streams during the dry season, to see that water wasn't misused.<sup>88</sup> This is an oral historical account by a witness, Nnanyi Obilor, aged 105 years, native of Umuolulu, Obiangwu, Ngor Okpala LGA, Imo State, Nigeria.

Security maintenance, crime prevention, and general law enforcement in Africa after independence involved contests and struggles between native and western (colonially imposed European/American) ideals.<sup>9</sup> The official governments of modern African countries have either adopted the colonially imposed European/American models or created such foreign ideals in the respective postcolonial countries. Whatever its form, the prevailing situation gives rise to many systemic conflicts between native and western models of social control, justice and law in Africa.

For instance, the Nigerian Police Force (NPF), which the British colonialists patterned for Nigeria after the alien British security and law enforcement models, lacks indigenous Nigerian foundation and is structurally and procedurally a stranger to Nigerians. Regardless, successive Nigerian governments since the country's independence have favored the imposed foreign (European/American) models over the indigenous (native) law enforcement systems. Thus, in Nigeria—as in most other contemporary African States – the Nigerian Police Force (NPF) has officially assumed the security maintenance, crime prevention, and general law enforcement functions that the indigenous security systems performed in the pre-colonial era. As a result of African governments' official emphasis on the foreign models, these governments use a lot of human and material resources pursuing and applying to African conditions strategies that are designed for other (usually, European and American) conditions, mostly without making honest efforts to respond to the African circumstances that differ substantially from those of the west or to adopt in totality, in form and substance the model which has been given to us by the west.<sup>10</sup>

For several reasons, the security maintenance, crime prevention, and general law enforcement systems in most African countries since independence, exemplified here by

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Igbos of Nigeria", UMI Number 9638581, Ann Arbor, Michigan, USA: University Microfilms.

<sup>8</sup>Isichei, E (1978). „Igbo Worlds: An Anthology of Oral Histories and Historical Descriptions “. Philadelphia, USA: Institute for the Study of Human Issues.

<sup>9</sup>Okafor, N (2002). „Law and Justice in Post-British Nigeria: Conflicts and Interactions between Native and Foreign Systems of Social Control in Igbo-land“. Westport, Connecticut, USA: Greenwood Press.

<sup>10</sup>Onyechi, N.M, (1975), „A Problem of Assimilation or Dominance“, in Elias, T.O, et al., eds., African Indigenous Laws: Proceedings of Workshop (7-9 August, 1974). Enugu, Nigeria: The Government Printer, pp. 265-280.

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<sup>7</sup>Okafor, N (1996). „The Relationship Between Informal and Formal Strategies of Social Control: An Analysis of Contemporary Methods of Dispute Processing Among the

the Nigerian Police Force (NPF), are incapable of satisfying the security and law enforcement needs of the citizens. The present official NPF can be traced directly to the colonial era British West African Frontier Force (BWAFF), which the British created for their colonized populations in West Africa. Therefore, it is not surprising that both the BWAFF and the NPF follow largely the same structure, philosophy, and model as the British idea of public security and policing in pre-independence Nigeria. And till date, with the advent of modern technological gadgets in law enforcement work around the world, the NPF can still be identified as little more than a throw-back to the period of Nigerians' subjugation to colonial Britain.

The NPF as is presently structured today is largely foreign to Nigeria's indigenous/native law enforcement systems and practices. Its foreign structure and largely unquestionable powers over the citizens among other factors, demonstrates the NPF's inconsistency with Nigerians' traditional models and forms of law enforcement and social control.

Several other factors compound the divide between Africa's official security and law enforcement systems, on the one hand, and the native systems, on the other hand. These factors include unjustified official unitary policing that is practiced in Nigeria as a country with many ethnic/tribal groups, official police corruption, and insufficient number of official police officers and personnel. Corruption in African police organizations appears to be widespread. Apart from incidents of the police demanding and receiving bribes or "settlements" from sometimes equally corrupt citizens, many police officers and personnel actively participate in criminal activities. Often in Nigeria, police officers plan and commit serious crimes, such as robbery and murder, against the citizens that the police are supposed to protect. A classic example was an unwarranted invasion in September 2018 of the residence belonging to an Ijaw Elder Statesman (Chief Edwin Clark) only to render a public apology amid widespread condemnation and protest. Police officers alone may commit the crimes or the officers may commit the crimes in conspiracy with civilian criminals. A Nigerian case in which three policemen were tried and sentenced to death for the murders of defenseless traders is illustrative. The policemen, while on official duty, burned the commuting traders alive in the victim's motor vehicle and stole over one million Naira belonging to the victims. The victims were travelling to a wholesale market to purchase goods for resale.<sup>11</sup> This writer also lost a very dear Uncle, Chief Richard A. Diala in November, 1995 at a Lagos police checkpoint to an unwarranted police officer who pulled his trigger because he took human life with levity. As a result of this criminal act by the police, the Igbo community in Lagos and Imo state lost a very brilliant, hardworking and promising illustrious son that was to contribute a lot to the development of humanity.

Recently, we all became aware that some police officers were involved in the kidnap of the Nigerian International Soccer Star Michal Obi's father. A case such as that of the three murderous police officers contributes a lot to the citizen's lack of trust in the official police. Hammer reports that in one case in Kenya, a woman was robbed of jewelry worth fifty thousand dollars. She reported the crime at the local police station. To her consternation, she recognized that the police officer recording her report was wearing one of her

stolen diamond rings! Can a crime victim in such a situation have faith in the police?<sup>12</sup>

In the Nigerian example, the negative images of the country's official police lead directly to the intended or unintended exclusion of decent citizens from official policing. And so less honest and less effective people generally staff Nigeria's official law enforcement system. It is suspected that this is similar to the situation in many African countries. The fact that many of these official police organizations employ far less than the number of officers and personnel needed to adequately police their countries worsens the situation.

Also of critical importance is the fact that most of the official governments in Africa run their police organizations as unitary agencies often to be manipulated to serve the short-sighted interests of the prevailing regime, rather than as broad-based democratic institutions to be used to maintain public security, prevent crime, and generally enforce laws for the greater public good. While professing constitutional federalism, many African governments, such as Nigeria's, insist on rigidly unified official police. Such an organization, no matter how large, answers to one person. As in the colonial era, the unitary model makes it easier for the rulers to dominate and control their population.

### **Patterns of Indigenous/Native Security Maintenance, Crime Prevention and Other Law Enforcement Systems**

The following hypothesis guides the discussion in this section of the paper: "An unsatisfactory system of official security maintenance, crime prevention, and law enforcement in a modern African community will lead to an increase in a demand for alternative (unofficial, sometimes extra-legal) security and law enforcement systems and organizations aimed at addressing the citizens' desire for secure and ordered lives". Instances of African countries in which the citizens generally yearn for alternatives to the official security and law enforcement systems abound. But suffice it to cite Cameroon, Kenya, Nigeria, and South Africa as samples of African countries that are popularly regarded as having ineffective official police forces and other official crime prevention structures.<sup>13</sup> For Nigerian examples, some examples are discussed below.

Considering the utility of the native systems in the prevailing circumstances, there is an incontrovertible need in many African countries for each official State Government to recognize and promote the relevant indigenous systems of security maintenance, crime prevention, and general law enforcement.

Instances of unofficial, native security and law enforcement systems and organizations abound in Africa. It seems that the generally held view that the official, Western-style systems and organizations are incapable of providing needed security and law enforcement has strengthened the native systems. The other related reason for the re-emergence of the unofficial security and law enforcement organizations is that most citizens regard the official organizations as imposed, irrelevant, and different in forms and procedures from the citizens' traditional outlooks, convictions, practices, and beliefs. In Nigeria, for example, there were the more prominent *Bakasi Boys* of the Igbo, the *Hisha* of the Hausa/Fulani, and the *Odu'a People's Congress (OPC)* of the

<sup>12</sup>Hammer, J (1993). "Nairobbery", in *The New Republic*, November 29, 11-14.

<sup>13</sup>Okereafezeke, N (2006). "Legalism, Tradition, and Terrorism in Nigeria". *The International Journal of African Studies*, Volume 5.2, winter pp. 27-61.

<sup>11</sup> The Guardian Newspaper, (2001) "Three policemen to die for setting traders ablaze", in *The Guardian*, April, 3.

Yoruba, among many other native law enforcement and social control organizations. The *Hisha*, an Islam-based law enforcement organization, is officially charged (by each of the relevant northern state governments in Nigeria) with the responsibility of enforcing the state's *shari'a* system. Note that until about the middle of year 2000, the *Hisha* had no official legal backing in Nigeria. In fact the form of the *shari'a* that the *Hisha* is now asked in many northern Nigerian states to enforce came into being in 2000/2001. The *Bakasi Boys* and the *OPC* are not religious-based as the *Hisha*. Nonetheless, the *Bakasi Boys* and the *OPC* often used indigenous/native African religious beliefs and practices to insure the supernatural powers with which the organizations operated.

In the southern states of Nigeria where the *Bakasi Boys* operated, the organization was widely regarded as an effective public security and law enforcement group. The organization was over and above the NPF (the official police), the *de facto* guarantor of public security particularly in the Igbo area of the country. The *Bakasi Boys* were reputed to be so good that they were capable of identifying a criminal despite attempts to conceal his or her identity. The *Bakasi Boys* moved from one community to another; fishing out suspected criminals (mainly perennial thieves, armed robbers and murderers), arresting, and quickly judging and punishing the criminals. The punishment is typically death, which is applied swiftly by decapitating and burning the adjudged criminal. In my Christmas holiday trips between 200-2006 back home to Nigeria while residing in the United States, most of the locals I spoke to about the *Bakasi Boys'* operations expressed satisfaction with, and enthusiastic support for the *Bakasi Boys'* crime-fighting activities. Most of the locals expressed confidence that the *Bakasi Boys* are able to accurately identify a criminal even among a large group of people, thus avoiding misidentification or punishment of an innocent person.

The *Bakasi Boys*, the *Hisha*, the *OPC* illustrated the large co-ordinated and well organized indigenous/native organizations for security, crime prevention, and law enforcement in African societies. As indicated, these organizations, which were initially conceived as purely unofficial, native/indigenous groups for law enforcement have between 1999 and 2007 assumed positions as official, native/indigenous-based (or in the case of the *Hisha*, *religious-based*) groups. Their position stemmed from the fact that the various official governments have, by official laws, formally recognized the different organizations, even though the organizations continued to operate based largely on indigenous ideals of social control, justice, and law. However, former President Olusegun Obasanjo's government opposed the adoption of the *Bakasi Boys* and other indigenous law enforcement groups by various state governments in the country. The government went so far as to use the official NPF to intimidate, stifle, and break up these groups.

Apart from the large, coordinated, and well-organized indigenous organizations found in many African countries, there are numerous other groups, such as neighborhood watch organizations or vigilante groups found in most African communities. Again, these groups came into existence because of the ineffectiveness and inefficiency of the official law enforcement agencies such as the Nigerian Police, the Nigerian Civil Defence Corps, the State Security Services, etc.

In Nigeria, for example, the neighborhood watch organizations or vigilante groups existed to help guarantee security, law, order, and stability to the citizens of each community. Generally, the groups are more active in the night than during the day. Usually, able-bodied young men of each community, supported financially and materially by the other community members, are charged with the task of securing the community and enforcing the law, often with the aid of small weapons, such as machetes, bows and arrows, spears, and some guns. The neighborhood watchers often seek to limit access to parts of the community by erecting temporary, movable obstacles on the roads that would slow vehicular and human traffic. Whatever their limitations, the neighborhood watch groups (vigilante groups) are deliberate, coordinated efforts at control, justice and law, even if these groups operate outside the official laws. Moreover, it seems that most citizens are satisfied with the groups' activities.

Other, less organized local attempts at social control, justice, and law enforcement are plainly based on *mob action*. These are neither deliberate nor coordinated. Thus, they are typically *ad hoc* and often thoughtless. The persons who seek to enforce the law by this method may take some rash action before thinking through the issues involved. Example, if a person (innocent or guilty) is alleged at a public place in Nigeria, such as an open marketplace, to have stolen another's property, a mob may immediately take brutal action against the accused person, which action may result in death. It may later become apparent that the accused person was in fact, innocent. By then, it would be too late for the accused. In addition to the obvious undesirability of this result, there are other legitimate concerns regarding indigenous (unofficial) law enforcement.

While recognizing that traditional policing, vigilantism, and mob action may be necessary and beneficial responses to official law enforcement failures, the potential for abuses of traditional policing, vigilantism, and mob action should be highlighted. One of the key features of indigenous/native law enforcement is its wide acceptance by the citizens. Members of a society to which traditional policing, etc. apply generally accept and participate in their indigenous system. In short, the community members own the indigenous/native system. Being part owners of the system, it is very unlikely that any significant part of the population will be excluded from the system or its mode of operation. Generally, decisions are made and enforced with members' knowledge and consent. However, as in every human system, there is a danger of abuse of a traditional law enforcement system. This is so particularly where the indigenous (unofficial) and the state (official) policing systems, rather than complement each other positively, collude to abuse the citizens.<sup>14</sup>

However, traditional policing and mob action efforts at security and law enforcement in independent African societies illustrate the ineffectiveness and inefficiency of the official security and law enforcement apparatuses. The unofficial, indigenous/native alternative systems and models of control, criminal justice, security and law enforcement are established and maintained principally because the citizens of the communities where the models operate recognize and accept them as preferred alternatives to the official, Western-

<sup>14</sup>Anyanwu, G (2007). „Tyranny of the vigilante groups: They brutalise residents over illegal levies“, *Daily Sun* (February 28, 2007), available at <http://www.sunnews online.com/webpages/news/national/2007/feb/28/national-28-02-2007>.

based models. The wide acceptance that the indigenous models enjoy over their western-based counterparts strongly attests to the relevance and currency of the indigenous/native African systems of control, justice, and law even in the modern state. What is missing is the official state adoption of, and support for, the on-going unofficial efforts to indigenize law enforcement and social control in independent African societies.

### Conclusion

This paper has identified forms of law and criminal justice systems in independent African States using Nigeria as a classic example. The main varieties are official government and unofficial indigenous/native law enforcement. Further, the paper used Nigeria to illustrate the nature of the interactions and relationships between official government and unofficial indigenous law enforcement. Overall, the research for this paper revealed that there is lack of coordination between the two principal avenues for law enforcement; they tend to operate with little or no effort to strengthen each other. The official government system – with the huge financial and other state resources at its disposal – shows little regard for the unofficial indigenous/native law enforcement. This is so despite the fact that the unofficial indigenous/native system plays an invaluable role in social control. It seems that the greatest law and criminal justice challenge facing independent African States and Nigeria included is over-reliance on western standards in attempts to address Africa's postcolonial social control needs.

### Recommendation

An African writer, Ali Mazrui, once advised African political leaders and other leaders of thought to reconceptualize “development” for Africa's use. According to him, African countries should redefine development to suit their individual indigenous needs.<sup>15</sup> A new definition should likely, differ from the European and North American (western) meaning. The characteristics of western “development” reflect western history, belief, culture, and ideals. An African-based definition of development should be grounded in African history, tradition, lifestyle, and future. Even though there are likely to be common features of development between Africa and the West, the need to conceptualize and operationalize “development” for Africa's specific needs necessitates a divide between its African and Western meanings.

Mazrui's counsel leads to the logical view that effective law enforcement in an African independent State such as Nigeria requires the following: One, an official state understanding and acknowledgment of the current anomic (confused) social control condition in which the process of socializing the average Nigerian differs starkly from the behavior standard imposed by the official western-style legal

system. Two, honest efforts by state social control agencies to synthesize and blend the imported Western-style law enforcement system to Nigeria's indigenous law enforcement systems widely available and applied in all parts of the country, while borrowing useful and relevant ideas from other African and world societies.

Okafor<sup>16</sup> argues that the social control process in Nigeria is in a condition of normlessness. This means that the governing rules of the Nigerian society are conflicting, confusing, and/or differs from the cultures and expectations of many, if not most, Nigerians. The average Nigerian is socialized from birth in his/her cultural expectations and standards of behavior. These expectations and standards are typically rooted in the Nigerian's traditions, customs, and native laws. At a later stage in his/her life, the Nigerian is confronted with western-style rules and regulations that diverge from the previously learned indigenous norms. The resulting conflict situation creates an anomic condition with legitimate questions about the proper standard of behavior in the society. Okafor recommends the following as ways out of this anomie

For a more effective and efficient law and criminal justice system (social control) in Nigeria, the official Local, State, and Federal governments, through their respective legislatures, should pass legislations adopting the country's native customs and traditions (customary law) as the Grund-norm (basic law), that is, the fundamental sources of Nigerian law. Formal adoptions (by legislations) of the native customs and traditions will strengthen the customs and traditions. Thereafter, other sources of laws, such as English law, will be used to supplement the basic Nigerian law. While urging that the proper Nigerian authorities should reinforce the country's native customs and traditions over the English law, it is equally important to point out that unreasonable, unpopular, and out-dated customs and traditions should be discarded and replaced with more progressive principles. Like every post-colonial society, Nigeria should strive to achieve a modern society that maintains a reasonable balance between the welfare and freedom of its citizens and the progress and orderliness of the State. Of course, the Nigerian Bar and Bench will be invaluable partners in these efforts to reengineer law and criminal justice in the country and de-emphasize English law.<sup>17</sup>

On this note, it is evident that the above article has strongly reasserted the arguments and recommendations made in this paper. Effective law and criminal justice system in Nigeria, an African independent nation, should be based primarily on the enforcement of laws and standards indigenous to Nigeria, and through enforcement means indigenous to Nigeria. Western (Foreign) laws, standards, and means of enforcement, where and to the extent appropriate, should serve as opportunities to make the indigenous-based system better.

<sup>15</sup>Mazrui, A (1986) “The Africans: A Triple Heritage”, Publisher: Little, Brown. Author looks at the history, geography, and culture of Africa, assesses Native, Arab, and Western influences, and discusses sports, religion, government, and social issues in Africa. In stressing Africa's unique culture as a product of three major influences (Islamic, Western, and Indigenous), political scientist Mazrui points out that the West has tended to regard Africa as recipient rather than as transmitter of effects. Yet Africa has transformed both Europe and America.

<sup>16</sup>Okafor, N (2005) “Customs and Traditions as answers to a Norm-less Nigeria”, in *Nigeria-world*. <http://nigeriaworld.com/articles/2005/sep/232.ht ml>.

<sup>17</sup>Okafor, N (2002). “Law and Justice in Post-British Nigeria: Conflicts and Interactions between Native and Foreign Systems of Social Control in Igbo”. Westport, Connecticut, USA: Greenwood Press.