CHAPTER 20

THE IGBO INDIGENOUS JUSTICE SYSTEM

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INTRODUCTION

This chapter examines the indigenous justice system of the Igbo of southeast Nigeria from restorative, transformative, and communitarian principles. The Igbo, like other societies in Africa, had a well-developed, efficient, and effective mechanism for maintaining law and order prior to colonialism. These social control practices and processes were rooted in the traditions, cultures, and customs of Igbo people. However, the Igbo system was relegated to the background by the British colonial authorities, who installed their own versions of "justice": the common, civil, and criminal legal institutions. The Nigerian postcolonial government has inherited this practice from the colonial era and continues to undermine the Igbo indigenous justice system.

Despite colonial and postcolonial state subjugation, the Igbo indigenous justice system holds sway, especially in rural areas, where the majority of the people reside. In line with Igbo egalitarian worldviews, crime is viewed as a conflict between community members. As primary stakeholders in the conflict, victims, offenders, and the community are actively involved in the definition of harm and the crafting of solutions acceptable to all stakeholders. The quality and effectiveness of justice are measured through the well-being of victims and the community.
Conflict creates opportunities for the education, socialization, and resocialization of offenders, victims, and all community members. Conflict also creates an opportunity for the re-evaluation of community values and socioeconomic conditions.

IGBO PEOPLE AND IGBO SOCIETIES

The Igbo occupy the southeastern part of Nigeria and constitute one of the three dominant ethnic groups in Nigeria, with a population of about twenty-three million. The Igbo fall into two main groups: Riverine and Heartland Igbo. There are more than thirty dialects of the Igbo language, and there is great variance in their mutual intelligibility. However, to enhance communication a central Igbo language has been developed from the various dialects. This is the language taught in schools and used in commerce. Like many other Africans, the Igbo are a deeply spiritual people who believe in "one God, in lesser deities, spirits and in ancestors who are regarded as lesser deities and may be worshipped as such. This traditional religion is non-aggressive or evangelical but involves the use of propitiatory rites designed to appease the deities or to request their aid in times of need and crisis" (Awa 1985, 31).

Most Igbo societies are described as acephalous, in that they operate through a decentralized government. In this political and administrative arrangement authority is exercised through age grades, lineage heads, and pressure groups. There are also a few Igbo kingdoms, namely the Onitsha, Agbaja, Arochukwu, and Aboh. Despite the hierarchical social and political arrangement in Igbo societies that incorporate a constitutional monarchy, villages in these societies remain autonomous, and leadership is exercised through the Council of Elders. Furthermore, participatory democracy and the egalitarian outlook of the people are not affected. Awa (1985, 38) explains that

the typical Igbo governmental system consists of: (1) the Chief and council of elders at the centre, (2) lineage groups, age
grades, secret societies, priestly groups, etc., who exercise a considerable amount of influence over the decision processes of the community, and (3) the town/village forum. From the well-known processes by which these institutions take decisions and exercise power, we know that Igbo people value participatory and consensus politics, along with checks and balances. We must note in particular that in consensus politics, the individual is entitled to express dissent on any issues that crop up in discussions and the leaders of the institution concerned must somehow explain away the problem raised so that all can go along together.

This political arrangement and process are not peculiar to the Igbo. According to Ayittey (1999, 86), in “virtually all the African tribes, political organization of both types began at the village level. The village was made up of various extended families or lineages. Each has its head [the patriarch], chosen according to its own rules.”

It is important to note that, “at certain levels of political discourse, women and children were not allowed full participation” (Elechi (2004, 165). However, women have access to constitutionally enshrined sanctionary powers that can be brought into play to offset the dominance of men. In addition, women have analogous institutions where they adjudicate on conflicts among themselves. Furthermore, women are encouraged to bring their marital problems to the village courts for adjudication. It is also important to note that women do dominate the informal realms of social control (which in a communitarian model of justice hold more weight than the Western professionalized forms of justice), and are gaining more formal authority and rank in Igbo societies.

From the foregoing, I reiterate that the Igbo, like other societies in Africa, had a well-developed, efficient, and effective mechanism for maintaining law and order prior to colonialism. These social control practices and processes were rooted in the traditions, cultures, and customs of Igbo people. Deviance or
conflict is a characteristic of any social group, and the method or instrument employed to realign recalcitrant individuals speaks volumes about the civilization of that society. The Igbo indigenous justice system is in the main restorative, transformative, and communitarian: strenuous efforts are made to restore social safety without resorting to punishment. This is because punishment is believed to undermine the goal of justice, which is primarily the restoration of social equilibrium. When punishment is employed in the maintenance of social safety it is as a last resort, used only after all other efforts have failed to achieve conformity, order, and community safety.

PRINCIPLES OF THE IGBO INDIGENOUS JUSTICE SYSTEM

The Igbo indigenous justice system is process-oriented, victim-centred, and humane, and it applies persuasive and reintegrative principles in adjudicating justice. A major component of the Igbo indigenous justice system is that it is participatory, and decisions are reached through consensus. Everybody has equal access to and participation in the justice system; furthermore, no one can arrogate to himself or herself the role of “professional” or “expert,” thereby subjugating the voices of ordinary community members. Again, the goal of justice is the restoration of relationships and social harmony disrupted by the conflict. It is understood in Igbo justice models that all members of society are experts on their shared social realities and are thus qualified to participate in the quest for justice.

My own ethnographic research shows that the indigenous justice system is better and more effective in addressing issues of crime and justice in Nigeria. One reason the indigenous justice system is more effective is because it recognizes that crime is a violation of people and relationships, not just a violation of “law.” From this perspective accountability should be to the victims and the community, not to an external system of legal codes and bureaucratic procedures. As a balanced justice system Igbo
indigenous justice works to empower, not criminalize, victims, offenders, and the affected community. The focus of this system is to actively and meaningfully participate in the identification and definition of harm, and to have direct involvement in the search for restoration, healing, responsibility, and prevention. As a restorative justice system it emphasizes a move away from the law-and-order model of criminal justice, and encourages steps toward implementing a human rights model of social justice.

This system of justice has illustrated, first, that social sanctions, even when devoid of punishment, are sufficient to bring people to order, and to resolve conflicts and maintain social safety; second, that justice-making is more viable and effective when enmeshed in the daily life of local communities, as opposed to centralized and depersonalized institutions of criminal justice; third, that democracy is, after all, about the decentralization of power in governance and the involvement of all segments of society in decision-making. Thus, the principles and practices of the Igbo indigenous justice system further support the notion that crime is a local event, and that a centralized policy of governance is insufficient in bringing "justice" to the "crime" problem. These illustrations reinforce democratic principles of governance, emphasizing and practising within this very important principle that government, having obtained its mandate to rule from the people, should also be accountable to the people. As a democratic system of justice the Igbo indigenous justice system emphasizes the involvement and empowerment of the people in social control.

**Law-Making in Igboland**

The Igbo indigenous justice system views legal violations primarily as victimizations of an individual or groups of individuals, and secondarily as victimizations of the community and its social order. This approach is vastly different from that of the Western criminal legal system, which places the state as the primary victim and officially records the state as the only victim of crime in court cases. While victims of crime are treated as
“witnesses” (at the most) in Western criminal justice systems, the Igbo social justice system views victims of crime as participants in the quest for justice, empowering them to be part of the process of justice and restoration, as opposed to categorizing them as bystanders, silent observers, or witnesses open for interrogation in the “justice” process.

The Igbo also distinguish between crime and tort. These concepts are therefore used here to describe such phenomena as they are conventionally understood. I disagree with Western criminological literature arguing that use of the terms “crime,” “torts,” and “laws” to describe such practices in precolonial Africa is inappropriate. Maine (1969) and Diamond (1973), pioneer Western researchers of the living habits and social customs of precolonial peoples in Asia and Africa, argue that the customary practices of Asians and Africans are erroneously described as indigenous “laws.” The evidence often presented to support this line of thinking is that precolonial African societies lacked centralized governments essential to the formulation and enforcement of laws. The assumption here is that governmental structures that mirror those used in the West can enact and enforce laws.

The inability to understand diverse structures of governance led many Western researchers to erroneously conclude that societies not structured in a hierarchical and centralized Western manner were “less civilized,” and thus settled conflicts through violence and blood feuds. They further assumed that, since there was no recognizable central authority, there was no authority at all, concluding that victims of crime took matters into their own hands, and that chaos, not civility, structured and guided non-Western societies.

Available records suggest that the contrary was the case. The very principles of Igbo justice models recognize the interrelationships between the victim, the offender, and the community, and thus cannot constitute a society that alienates its victims and does not participate with them in the quest for justice. In my view Western conclusions on precolonial African
laws highlight the divergence between restorative and retributive justice systems. Whereas retributive systems of justice rely on centralized forms of social control and law-making, restorative systems of justice do not. Most African justice systems incorporate restorative and transformative systems of justice, and thus were not recognized by the Western scholars who were not versed in these frameworks. This lack of recognition led to the assumption that there was a lack of justice.

African societies had agencies, groups, and individuals with authority to make, apply, and enforce laws. Laws served the same purpose in Africa as in other societies, which Gluckman (cited in Aubert 1969, 163) notes is the "regulation of established and the creation of new relationships, the protection and maintenance of certain norms of behavior, the readjustment of disturbed social relationships, and punishing of offenders against certain rules." Eze (cited in Motala 1989, 379) further points out that "in most traditional African societies the law existed outside the framework of a state in the modern sense. Obedience to the law was maintained through custom and religion as well as established patterns of sanction. These pre-colonial African societies had a high level of organization in which political, economic, and social control was maintained."

Laws and regulations guiding behaviours and interpersonal relationships, and the procedures for seeking grievances, are defined by the appropriate authorities in Igboiland. Actions that are prohibited are clearly defined and stated, and the procedures for enacting and enforcing laws are unambiguously stated by the institutions of society charged with such responsibilities. As Ayittey (1999, 91) rightly points out, the African "village meeting under a big tree" and the European "parliament" were simply different forms of the same institution of democracy. What Africans had was participatory democracy; Europeans introduced parliamentary democracy. A unique characteristic of Africa's indigenous system of government was that it was open and inclusive. No one was locked out of the decision-making process. One did not have to belong to one political party or
family to participate in the process; even foreigners were allowed to participate.

Most Igbo societies are egalitarian, with decentralized political authority. The power and authority to make and enforce laws are vested in the Council of Elders. A few Igbo societies had a hierarchical political arrangement with the power to make and enforce laws located in the office of the constitutional monarchy and the elders' council. Laws are distinguishable by the types and seriousness of the acts they seek to regulate, such as serious crimes, social obligations, and duties imposed by custom. As Obi (1963, 27), as cited in Okereafoezekwe (2001, 22), rightly observes, the Igbo, like other African societies, are able to distinguish among "purely social obligations (such as the duty to honor invitations), duties imposed by custom only (for example, a father's duty to provide his male children with their first wives in order of seniority), and legal duties which can be enforced against the will of the party on whom such a duty lies." Okereafoezekwe further notes that a distinction can be made between crimes against public security, such as theft, assault, battery, public nuisance, and violation of rules and regulations governing masquerade displays. Others include crimes against public morality, such as incest, adultery, and the murder of a kinsman, and the defilement of sacred institutions, such as a shrine. Prior to colonialism and the advent of popular education, as Okereafoezekwe observes (24), the laws and procedures for law creation and enforcement were mostly unwritten, so "the natives relied on their individual and collective memories to ascertain the controlling legal authority on an issue. Because of the high integrity and honesty among community members, the absence of written documents as objective statements of the laws was not a major handicap to ascertaining and applying laws."

The Igbo indigenous justice system respects and promotes the rights of litigants. This is because respect for and promotion of human rights are values deeply rooted in African cultural values. As Gyekye (1996) rightly observes, the African believes in the sanctity of human life and human dignity, which is an
expression of the natural and moral rights of the individual. However, the individual’s rights must be appreciated within a communal context, as Elechi (1999) notes. This is because the community’s rights or interests override those of the individual. That the community right is supreme does not mean that the rights of individuals are in jeopardy or compromised as a result. The individual versus the community rights paradox is eloquently described by Achebe (2000, 14): “In the worldview of the Igbo the individual is unique; the town is unique. How do they bring the competing claims of these two into some kind of resolution? Their answer is a popular assembly that is small enough for everybody who wishes to be present to do so and to ‘speak his own mouth,’ as they like to phrase it.” The African humane and communitarian values make the welfare of one the concern of all. The African humanitarian and communitarian values make it difficult to subjugate anyone or deny his or her rights. Ifemesia (1978), as cited in Iro (1985, 4), describes Igbo societies as communitarian and humane. According to Ifemesia, humane living conditions encompass a “way of life emphatically centered upon human interests and values, a mode of living evidently characterized by empathy, and by consideration and compassion for human beings.... Igbo humanness is deeply ingrained in the traditional belief that the human being is supreme in the creation, is the greatest asset one can possess, is the noblest cause one can live and die for.”

The Victim in the Igbo Indigenous Justice System
The victim is central to the Igbo indigenous justice system. Victims take the lead in bringing offenders to justice, unless the crime victimized the entire community. Victims may be assisted by family members and others in the search for justice. Victims are empowered by being accorded a voice and a role in the judicial process. The justice system seeks to vindicate the victim, and protect his or her rights and interests. The restoration of victims is achieved through their empowerment and by addressing their needs. Opportunities are provided to victims to tell relevant others
how the actions of the offenders affected them. This all occurs in a secure and respectful setting. Victims are further reassured of protection against further victimization. This approach leads to validation of the victims' hurts and losses. Furthermore, victims feel validated when afforded the opportunity to share their concerns with empathetic listeners. Victims are encouraged to openly vent their anger and frustration. Respectful and secure settings do not have to be emotionally sterile and controlled, as is assumed in Western court settings. In the Igbo process of justice victim care is a priority because of strong social solidarity and the prevailing spirit of good neighbourliness in the society in which these justice models are implemented.

The Offender in the Igbo Indigenous Justice System

Offenders are actively involved in the definition of harm and the search for resolution to the problem. Ample opportunities are provided to offenders to feel the impacts of their actions on the victim and the community. They are also persuaded to be accountable to the victim and the community for their actions. Offenders are made to appreciate the fact that their actions harm more than the individual victims, for they also harm the community. Offenders are made to realize that they are also harmed by their own actions. Igbo societies view themselves as collectives responsible for the well-being of all members of the community. This responsibility includes offenders who have contributed to the destabilization of the community through the imposition of harm. Offenders are held accountable for their actions and are persuaded to pay compensation to the victims. This approach is different from that of Western criminal justice processes, in which offenders pay compensation for their crimes to the state by serving time in prison or by paying fines.

In Igbo justice processes holding offenders accountable is not tantamount to punishing them. The goal of justice is to restore, as much as possible, victims to the positions they were in before victimization occurred. Compensation to the victim, according to Nsereko (1992), goes beyond restitution. It also represents a
form of apology and atonement by the offender to the victim and the community. Restitution to the victim is integral to the settlement of the disputes because of the understanding in the community that a victim whose needs are not addressed is a potential offender.

An offender's accountability includes restoring the victim to the position he or she was in prior to the offence, limited of course to the extent to which money or property can solve the problem. Offenders are further made to show remorse for their actions through apology and atonement to the victim and the community. The Igbo people believe that no offence is so serious that it cannot be atoned for with a commensurate sacrifice and reparation. It is generally believed in Igboland that human beings are inherently good, but may be driven to violate societal norms by evil forces or circumstances beyond their control. Conflict resolution therefore becomes an opportunity for the education, socialization, and resocialization of offenders, victims, and other community members. Conflict resolution becomes an opportunity to probe the underlying socioeconomic causes of the individual offender's actions.

Family members of offenders are held accountable for the actions of one of their own. They are either chastised or made to appreciate where they failed as parents or family members. In this inclusion of family also lies the distribution of responsibility necessary in properly addressing harm in a manner that will avoid future harms. The incident could not have occurred in an isolated context (because society is communitarian), and thus the solution cannot be found in isolation of responsibility. Where the offender is unable to pay restitution to the victim the family is held responsible. It is important to note that, in a system of justice that does not rely on revenge and harmful punishment to deal with conflict, the dispersion of responsibility is not problematic, as it is in a system of justice that chooses to hurt and violate those who have offended.

In holding the offender and his or her family responsible for the offender's actions strenuous effort is made not to sever
the connection between the offender, the family, and other community members. The prevailing culture is such that the actions of the offender can be condemned while a message of love and respect is extended to the offender. The basis for this thinking is the belief in the community that justice-making is an opportunity to promote repair, reconciliation, and reassurance.

The mainstay of the people's economy is agriculture. Agrarian economy is labour-intensive, and as such no body is expendable. All efforts are made to reintegrate offenders into the community to remain productive members. Furthermore, violations indicate a failure of responsibility by the offender on the one hand and the community on the other. The reasoning is that it takes a village to raise a child. Community members also acknowledge and accept their responsibility for failing in raising a responsible and productive citizen. Justice-making therefore becomes an opportunity for the re-evaluation of community values, culture, and political, social, and economic conditions. Justice and fairness are enhanced as decision-makers become conscious of their own vulnerability, as they could be at the receiving end of justice in the future.

The Community in the Igbo Indigenous Justice System
The Igbo indigenous justice system recognizes the community as also affected by criminal behaviour. Since crime is a local event, and an intraethnic and intraclass affair, community peace and harmony are undermined when there is conflict between community members. Crime creates fear in the community. It can lead to isolation and distrust, which further weaken community bonds. The community response is therefore critical to bringing about desired restoration and reconciliation, failing which will further polarize the community. Due to these understandings the community is actively involved in the definition of harm and the search for a resolution acceptable to all stakeholders. The community's goal in intervening in a conflict is to reform the offender and reintegrate him or her into the community. There is an implicitly recognized need to restore order, stability, reassurance, and faith in the community.
As previously stated, the Igbo indigenous justice system can differentiate between individual victimization and offences where the entire community comes to be or feel victimized. When the matter is strictly between two people or groups of people the community becomes actively involved by assisting the litigants to find a quick resolution to their conflict. The understanding is that if the conflict is not quickly resolved it may escalate, and undermine societal order, peace, and harmony. If it is a matter where the entire community is a victim, the offender is prosecuted at the community’s tribunal. In the following sections I review how the Igbo and other Africans handle cases of murder and theft to appreciate the principles and practices of the Igbo indigenous justice system.

Responding to Law Violations in Igboland

All behaviours that violate the society’s laws and regulations attract one form of sanction or another. In the Western legal context sanctions are primarily structured to impose harm upon the offender, based mainly on the assumptions that people inherently want to harm others and thus that the law functions to deter such animalistic tendencies. In the Igbo model of justice sanctions are primarily a method through which harm can be addressed within the understanding that all people are inherently good, but at times make mistakes, lose control, or slip up. While not all sanctions in Igbo justice processes avoid harming an offender, harm (such as execution) is only imposed if the community, the victim, and the offender’s family all agree that it is necessary. From within this context (and implicit difference in approach to humanity) the institutions of Igbo society charged with enforcing laws see it as their obligation to respond appropriately to behaviours that violate the norms of society. Failing to do that would be an open invitation to chaos in the community. As Dike (1986, 17) rightly observes, “control of the activities of individuals and groups within Igbo societies is therefore of paramount importance at all times, hence the existence of a multiplicity of institutions and organizations for enforcing compliance with Igbo societal
norms. Such institutions include the masquerade societies, age grades as well as the assemblies of lineage elders who hold the Ofo [the symbol of legitimate authority and justice] and perform important political roles."

Murder
Murder is a very serious crime in Igboland. Igbos distinguish between murder and manslaughter. Within these distinctions the nature of the crime determines the community’s response. Murder is generally viewed as a crime against the victim and the victim’s family, and thus murder cases are mediated between the victim’s family and the offender’s family within the normative framework of the community. An agreement can be reached whereby the offender’s family is made to pay compensation to the victim’s family. This payment is decided upon according to the contributions that the murdered victim made to the survival of his or her family. The cost of burying the victim is also the responsibility of the offender. These compensations are meant to address the logistical losses incurred by the murder. In addressing such losses Igbo justice is not undermining the emotional elements of harm involved with the violent taking of life, but working to address the situation in a manner that brings about the least suffering possible for surviving family members—by addressing immediate financial struggles that the murder has imposed, the surviving family members are better equipped to face other burdens (emotional, psychological, traumatic) imposed on them. In addition to restitution, murder evokes a diverse array of sanctions in Igbo justice models.

In Afikpo (Igbo) society, according to Elechi (1999), if the murder occurs in the course of a robbery, it is viewed as a crime against the Afikpo community as a whole. The circumstances of the act will determine the community’s response. If the offender is a repeat offender and/or perceived as dangerous, and a major threat to life and property in the community, he or she could attract the community’s harshest response. A conviction will result in capital punishment in which the offender is buried alive,
with an iroko tree planted to mark the grave to act as a general deterrent to others. Before such sentences can be carried out the matrilineal relatives of the offender have to sanction it. In some cases murderers are expelled from the community.

The killing of a kinsman is viewed more seriously. It is an abomination, for which the remedy is cleansing and expiation rather than punishment. As Amadi (1982, 58) observes, “in many tribes the killing of a kinsman, the antithesis of caring for him, was not only a crime but also an abomination. After the murderer had been executed his family would perform sacrifices and rites to remove the stain of evil and ward off the anger of the gods.” Amadi further notes that the murder victim’s family and the murderer’s family met to negotiate appropriate compensation. Reparation negotiations were always under the watchful eyes of the entire community. The bargaining was always supervised by the elders of the community to ensure that retribution was not excessive.

In some African societies the murderer was forced to commit suicide. In some cases the murderer’s son, wife/husband, or other relation was executed in his or her place if he or she escaped the long arm of the law. Some African communities force the murderer to die the same way the victim died. In still others the murderer is persuaded to compensate the victim’s family by providing a close relation as a replacement for the victim. Amadi (1982, 15-16) notes that

The Kwale (Igbo) required a girl as replacement and twenty bags of cowries as compensation. The Kakkakari tribe required the murderer to substitute either two girls or a girl and a boy. The Gamawa required fourteen slaves as recompense. In some tribes, like the Gade, the Arago, the Burra and Ikwerre, bargaining was possible, and the death penalty could be commuted to a heavy fine, usually involving replacement by a slave or free-born. In tribes like the Ikwo (Igbo) the murderer was simply handed over to the family of the deceased, which was free to do whatever it liked with him.
As can be seen from the foregoing, the punishment for murder varied from one African community to another, from one era to the next. Even among the Igbo community responses for murder varied greatly from one town to the other. For example, the Orlu (Igbo) used execution by hanging if the murderer was apprehended immediately after the crime was committed. However, if the murderer was able to escape justice and stay away for three years, he or she could return to the community as a free person. Yet other societies, such as the Kadara, “treated murderers fairly lightly. They isolated them for a month or so, and that was the end of the affair” (Amadi 1982, 16).

The community’s response to murder also varies depending on whether the offender and the victim are from the same place. In societies where bargaining between the victim’s family and that of the offender is the norm the outcome might be different when the murderer is a stranger. In such a case the stranger will likely be killed or taken into slavery unless the victim’s community and the murderer’s community have some bilateral arrangement or understanding on how such cases can be handled. However, should the unknown murderer escape arrest, the communities of the offender and the victim can enter into arbitration, whereby compensation to the victim’s family will be sufficient.

**Sorcery and Magic**
Most cases of murder in Africa originate from sorcery, magic, and witchcraft. It is not always easy to distinguish among them, notes Parrinder (1973, 113), as cited in Elechi (1999, 275), because in Africa it is difficult to distinguish between “material and spiritual.... Hence the distinction of magic and medicine is difficult to make, and the two words can both be used, provided that their wide connotation is borne in mind.” Magic can have medicinal value and can be used for fortification purposes. It can also be used to both protect and harm people. Thus, crimes of sorcery, murder, incest, and bestiality are viewed very seriously in many African societies.

One explanation is that Africans are highly religious and blame every misfortune on either the gods or an enemy (Elechi
Africans blame accidents, sudden deaths, delayed pregnancies, and prolonged labour or illness on the work of witches. Witches and wizards are thought to have supernatural powers, and can wreak havoc at will. Amadi (1982, 22) explains why witches are feared in Africa:

Witches were believed to have the power of metamorphosis; that is, it was thought that they could change at will into non-human creatures like bats, leopards, mosquitoes, crocodiles. While in these guises, they could harm their neighbors. One method of killing that was widely attributed to witches was vampirism or blood-sucking. At night, using their mysterious powers, they were said to pass through closed doors to get to their sleeping victims, whose blood they drank. The victims became progressively weaker and might eventually die unless the aid of an experienced medicine man was sought. Sometimes witches left marks on the bodies of their victims.

The crime of sorcery is understood to be perpetuated through supernatural powers, and as such it is difficult to prove. This accounts for why it is not easy to convict anybody accused of sorcery, and for the resort to oath-taking as a way of establishing guilt or innocence. The punishment for sorcery is also left in the hands of the gods to avenge. In Afikpo, for example, according to Elechi (1999), the community will order someone suspected of sorcery to swear to an oath. But this is the case where the victim is still alive. Where the victim is dead the alleged offender is tried by ordeal, where he or she is persuaded to drink some of the water used to wash the corpse of the victim. The belief is that, if the accused is guilty, he or she will die within a year after drinking this water. If the alleged sorcerer survives after drinking the water, then he or she is presumed innocent. After the oath-taking is administered the case is washed off the hands of those mediating and is placed in the hands of the gods. The understanding is that the gods will vindicate the innocent and punish the guilty by killing them.
Theft

Theft is a very serious offence, and attracts the community’s harshest punishment of fines and ridicule in Afikpo, according to Elechi (1999). Theft leaves a lasting stigma on the offender and his or her family. The victim of theft is not awarded any compensation beyond what he or she lost. This practice is not peculiar to Afikpo. According to Amadi (1982, 16), “for the people of Alanso, Okposi, Afikpo and parts of Owerri it was enough for a thief to return the stolen goods.” It is important to point out, however, that it is not every act of acquiring someone else’s possessions without the owner’s consent that constitutes theft. Food and other commodities taken for sustenance are acceptable, provided the person taking them does not intend to sell them. Describing other Nigerian ethnic groups with similar behavioural ethics, Amadi states that “among the Nupe stealing food was not punishable if the offender consumed what he stole on the spot. The Jawara tribe pardoned an offender if he pleaded hunger as a reason for stealing. In Ikwerre and parts of Igbo it was quite normal for one person to take a few nuts from another’s bunch of palm fruits heaped by the wayside. The quantity of nuts taken was not expected to exceed what could normally be consumed by an individual or, in the case of a woman, what was needed to yield enough oil for a pot of soup” (16).

Elechi (1999) and Amadi (1982) observe that the punishment for theft varied greatly from one African community to another. The penalty for theft in Igara, for example, entailed the offender paying restitution to the victim at double the value of the goods stolen. In Jawara the penalty for theft was five times the worth of the original commodity stolen. In Oratta it was sufficient for the thief to return the stolen goods to the owner, but the thief was also made to pay a fine to the community and to endure public disgrace. The public spectacle included forcing the thief to climb a palm tree where all members of the community could see him or her. The Ohaffia and Ibibio people painted the thief’s face black and paraded him or her through the community. The thief was sometimes forced to dance to a song sung by children and women of the village.
For some communities the punishment meted out to a thief depended on where the theft took place. The Aro (Igbo) would execute an offender who stole in the market instead of imposing the customary penalty of a fine. One explanation of this discrepancy is that the market holds great value for the Aros, for whom trading is the most common vocation. In the same vein, people who stole yams at the farms and barns in Afikpo had one of their hands cut off. The mainstay of the Afikpo economy is agriculture, and the yam is the staple food of the people. Some repeat offenders who were considered a threat to life and property were sold as slaves. Amadi (1982, 17) states that “the people of Arago, Bassa, Awka, Ndoki, Western Ijaw, Ibibio, Igbara, to name but a few, routinely sold off thieves into slavery.”

**Secret Societies in Igboland**

Not every dispute or violation of the norms and laws is amenable to easy resolution. Complex cases are referred to secret societies, which are believed to have supernatural powers, and so are able to tell who is telling the truth and who is lying. When a secret society is invoked it is believed that every litigant or witness will tell the truth, as failure to do so before the masquerade can attract the punishment of death. Umozurike (1981, 12), describing the secret society of the Aro, notes that “the ekpe hardly fails when it is invoked to intervene in a dispute. Its fairness is usually assured because of its mystical powers to inflict evil on lying witnesses as well as on corrupt judges.” In this context spirituality ensures truth in African societies. This is similar to the use of the Bible to swear on in court for witnesses who take the stand. While some of the rituals of African societies and justice models may seem unusual to Western observers, it is important to recognize that all societies have rituals and processes in which members of those societies participate.

In Afikpo the *Okumkpo*, a masquerade organized through the men’s secret society, is a major agent of social control. While its role may be entertainment, the goal is really to address disputes or cases of a complicated and delicate nature. These are cases
that are not amenable to regular court processes, yet they need to be addressed in the interests of village peace and harmony. Cases that the masquerade dramatizes include murder in which the accused may have sworn to the oath and survived, yet public opinion is strong that he or she is guilty of the offence, but was able to escape death through either manipulating the system or possessing other charms (spiritual powers) that counteract the power of the oath. Other cases that the masquerades address include the abuse of power by elders in their administrative and judicial functions. The masquerade performance is a trial in the court of public opinion within a humorous setting. The acts and songs are loaded with moral rectitude. They also play the role of investigating cases, and their evidence cannot be challenged. Because the masquerade performers wear masks they enjoy certain immunity from prosecution in whatever they say or do during the masquerade.

CONCLUSION

This chapter reviewed the Igbo indigenous justice system from restorative, transformative, and communitarian principles. In line with Igbo worldviews, crime is viewed as a conflict between community members. As primary stakeholders in the conflict, victims, offenders, and the community are actively involved in the definition of harm, and the crafting of solutions acceptable to all stakeholders. The quality and effectiveness of justice are measured through the well-being of victims and the community. Conflict creates opportunities for the education, socialization, and resocialization of victims, offenders, and all community members. Conflict is also an opportunity for the re-evaluation of community values and socioeconomic conditions. The Igbo indigenous justice system is process-oriented, victim-centred, and humane, and it applies persuasive and reintegrative principles in adjudicating most cases brought to justice processes. The overall goal of justice is restoration, not only of the victim, but also of the community.
REFERENCES


