

OVERVIEW OF CHIEFTAINCY INSTITUTIONS IN NIGERIA

BY

PROF. A. TORIOLA OYEWO*

ABSTRACT

Chieftaincy Institution has suffered a great deal of setback in Nigeria. The institution which is established by tradition and hallowed by custom has started to wane on the altar of politics and neglect notwithstanding the fact that traditional rulers still constitute the bastion of hope, security, stability and effectiveness in government – which factors still glue together as bulwark against politics of mutual exclusion and disintegration. This paper traces the importance of the institution from the pre-colonial era to date and noted some unwarranted onslaughts and incursions made against it hence ended up by recommending that the traditional rulers should be given some functions to perform in the constitution of Nigeria. Their obtaining roles should not be slighted/curtailed nor circumscribed in the art of nation building since the institution still represents the focal point of the people and stability of government.

INTRODUCTION

No institution in Nigeria has suffered tremendous setback than the Chieftaincy institution and no institution has ever survived the onslaught of victimization and annihilation than the Chieftaincy Institution in Nigeria. That is why Major General David Jemibewon¹ had this to say:

“In spite of the eagerness and grim determination to make the old order change and yield to the new, there is a particular institution which has stood its ground and which, rather than yield place to a new modernizing influences, has continued to dig its roots deeper into the life of the people.

This is the Chieftaincy Institution. In the history of Nigeria particularly in the Northern and in the Western parts, the Chieftaincy Institution is as old as the history of the people themselves. It is established by tradition and hallowed by custom”

Thus, traditional rulers still constitute the bastion of hope, security, stability and morality which factors still glue them together as bulwark against politics of mutual exclusion and disintegration and that is why they are still held in high esteem by the generality of the people.

This paper integrates the historical evolution of the Chieftaincy Institution in Nigeria by focusing on its importance since the pre-British era to the present date.

Thus, it will consider the effect of the traditional institutions in the period of democratic governance on grassroots development in Nigeria, the changing pattern of

*Dean of Law, Bola Ajibola College of Law, Crescent University, Abeokuta, Nigeria.

¹ Jemibewon, David Major General - A combatant in Government, Heineman, Education books, Nigeria, Ibadan 1979 at p.131

their involvement in Local administration and argues that the Chiefs roles are becoming nebulous within the spectrum of modern politics.

The paper will also address the issues whereby the politicians toy with the institution in order to subdue it to suit the politicians whims and caprices and will conclude that despite many incursions made to wipe out and demean this institution, the institution still represents the focal point of the people. Thus, the paper will recommend that the institution should be overhauled for the community participation in modern governance.

CONCEPTUAL CLARIFICATION AND THE POLITICAL ROLE OF THE TRADITIONAL RULERS IN PRE-COLONIAL NIGERIA:

The title of the paper is an overview of the Chieftaincy Institution, but the discussion is based on traditional institution interchangeably. This is because the word “Chieftaincy” signifies the position of dignity and honour occupied by the traditional rulers like the Emir, Alaafin, Ooni of Ife, Obi and other Obas. Traditional rulers per se means the traditional activity on the incumbent since the time before the beginning of the British ruler. G. O. Orewa² defined traditional rulers as follows:

“The Term “Traditional ruler” refers to an Emir, Oba, Chief, a paramount Chief who, before the advent of the colonial government in Nigeria, had complete sovereignty over his territory and was not subject to any other higher authority within or outside his domain while Odenigwe defined it.

In the words of Odenigwe, a traditional ruler is:

“One who possesses inherent traditional authority. In parts of Nigeria, the posts of paramount chiefs, the Oba and Emir continue to be highly prestigious and command the respect of Nigerians in those areas. It would be administratively convenient to associate these paramount rulers with Local Government Councils”.

However, by the official document No. 14 of 1926 the Bendel State Government made a distinction between a Traditional ruler and a Chief per se and simpliciter. Thus, only a clan head, the Head of an Ethnic Unit who is the holder of the highest primary executive authority in an indigenous polity can and should now be referred to as a Traditional Ruler, other office or specific title holders will be referred to as Chief. Therefore, the honorary Chieftaincy title holders do not fall within the ambit of discussion in this paper.

THE PRE-COLONIAL ERA:

In the pre-colonial Nigeria, traditional rulers ruled in every sense of the word. They were highly respected and the elevated “symbol of God on earth” put on them among the Yoruba was very spectacular. As a matter of fact, nobody could query or dare to disobey an Oba, then in any form or shade, for their words connoted passive obedience without any resistance. This is because many of the traditional rulers then

² Orewa G. O. - The Role of Traditional rulers in Administration. The quarterly Journal of Administration Volume XII Number 2, January 1978 at p. 151

were believed by their subjects to be living gods or divine kings or at least descendants of such divinities who themselves were former Kings.

And according to Llyod³, the Yoruba King was more than a Chief, he was a divine King and the personification of the whole town. Thus, in the pre-colonial era, traditional rulers used to exercise Legislative, Executive and Judicial powers and functions. They are the custodians of law and order in their various communities as they were believed to possess some magical powers. Consequently, according to Bello-Iman they were highly respected if not feared and held in high esteem by their subjects.

Various forms of tributes and taxes were paid by their subjects to them; while fines and levies were also extracted from erring and unruly subjects and paid to them.

Thus, traditional rulers were the respective Lords of their different communities. In the adjudication of disputes, they played predominant roles by dispensing justice effectively without fear or favour but in accordance with the custom associated with their respective communities.

There is usually no delay of any time in the process of adjudication unlike what prevails under the English System of adjudication while effective machineries for compliance with any decision of the Chief's Court were put in place. The ordeal system, the stigma associated with judicial devices aid quick dispensation of justice and enforce the status of truth and nothing but the truth.

In the making of laws, we have legislation by the Chief's decree or command, legislation by the Chiefs in Executive Council and of course both institutional legislation and that of the public assembly.

What is equally noticeable is the fact that traditional rulers also played predominant roles by mobilising people towards the undertaking of meaningful projects for the development of their domain before the British incursion in the administration of Nigeria.

THE ROLE OF THE TRADITIONAL RULERS IN THE COLONIAL PERIOD

The roles of the Traditional Rulers began to wane and became destabilized with the advent of colonial administration in Nigeria. The British introduced the 'indirect rule system of administration which made the traditional rulers subservient to them. Traditional rulers now get orders from their respective District Officers and or Residents. Thus, they became accountable to the Colonial residents. They became accountable to the Colonial Masters who then assumed the executive, legislative and judicial powers.

³ Lloyd PC - The Traditional Political System of the Yoruba South Western Journal of anthropology volume 10 number 4, 1954 at pp. 366 - 384

This change from a king to an underling uncomfortable, odious and unpalatable and therefore unacceptable. It is an abhorrence of the highest order and a serious blow on the institution. Thus, by the 'indirect rule system' the political power and authority of these traditional rulers became waned and seriously compromised. The political fortunes of the rulers became affected by the political changes which became tantamount to a serious erosion into the powers and function of a once coveted traditional institution.

TRADITIONAL RULERS DURING THE CIVILIAN REGIMES

It should be observed that immediately after the colonial exit in the government of Nigeria, the Chieftaincy Institution came under the chopping and changing manoeuvrings of political leaders. For instance, the Action Group of the then Western Region accorded recognition to the institution and used it not only to catch votes but to win and lead in all elections. Thus from 1955 upwards the Action Group through the Obas and their traditional Chiefs sought to control Local Government Councils and according to Chief Awolowo.

It is the traditional prerogative of an Oba to have the last say in recommending chief under him to government for appointment, suspension and deposition. He is entitled to be maintained comfortably in office and to be paid salaries and remunerations commensurate with his status – he has absolute powers also in respect to minor chieftaincies.

Thus, a great majority of minor Chiefs followed the Obas political lead because of their expectations for perquisite of office, promotion and good treatment on the thrones. It should be recorded also that Chiefs were made Ministers without portfolios as at this epoch in history while many of them were equally made portfolio councillors in some Local Government Councils in the region.

However, beginning from 1966 and beyond up to 1976, the roles of the traditional rulers within the Local Government system were not adequately resolved. This inadequacy was reflected in, and even went beyond the 1979 Nigerian Constitution. As a matter of fact, the Constitution failed woefully in this perspective. One feels like Dr. Emezi⁴ that in addition to their traditional ceremonial roles, further authoritative responsibility should be assigned to the traditional rulers. Their being left out of the system may create in our communities "a government outside the government". This is more so where traditional rulers are powerful and revered by the local people.

Instead of taking caution, both the States and Federal governments, side-stepped these good pleas as left-handed compliments and instead of toeing the path of honour and rectitude made Chairmen of Councils Executive Chairmen thereby producing a scenario whereby the Executive Local Government Chairmen became rivals of the Traditional Rulers. To add insult to injuries, Traditional Rulers became objects of unwarranted whereby the retention or otherwise of the institution became an object of public debate and outcry.

⁴ Emezi - The Nigeria Local Government in perspective paper delivered at a conference in the University of Nigeria, Nsukka 27th June 1980.
See also National Concord May 1, 1980 at page 11

For instance, Abubakar Rimi⁵ had said in time past, that the institution should be disbanded, and that Nigeria can do better without it.

Olufemi Johnson⁶ was in fact very vocal when he said that these traditional rulers have, no job description and that they should be done away with. He said – “these traditional fathers had no job description, traditional significance and relevance to the local government”.

In his own contribution to the raging debate, Col. P.C. Tafa⁷ argues that traditional rulers are economic wastes in the local government administration and he attributed lots of atrocities that are associated with them. He alleged for instance that kidnapping and the killing of many people during coronation ceremonies, the seduction of other people’s wives and the parade of power over confiscation of other people’s properties with forced marriages on girls of underage are predominant among the institution and the existence of some paramount traditional rulers.

Adegboye⁸ “has also advanced the view that the abolitionists are of the opinion that with modern training the police force can better handle the function of Obas, emirs and Obas”.

Some abolitionists also argue that the ideas of allowing the traditional people to be in local government is against the principle of democracy embedded in the local government administration itself.

In the protagonists views all agreed that traditional rulers are of extreme importance to the successful implementation of local government duties. They argued that the respect we have for the institution with the heritage of passive obedience without resistance, the loyalty we give them, and their stock of wealthy experiences go a long way in helping the growth and spread of local administration.

In short, they argued that without the traditional rulers, law and order may break down, the peace of any locality may be disturbed, contumely without settlement may ensue and local victimization leading to a near – anarchy may become the order of the day, while a blow will be made to the growth of community development under the alter of local mobilisaton. They also argued that the traditional institutions are the hubs around which the successful manipulation of party supremacy revolves hence they should be preserved in growth.

INSULATION OF TRADITIONAL RULERS FROM POLITICS

⁵ Abubakar Raimi - Daily Times, Tuesday, January 29, 1980

⁶ Olufemi Johnson - See Nigeria Herald of July 1, 1978 at page 3

⁷ P.C. Tafa - See the Punch January 7, 1980 where he said that the traditional rulers are economic waste in local government administration

⁸ Adegboye M. B. - The “Pros” “Cons” - being a paper delivered at the seminar on the New Local Government held at Nnsuka in 1980

The Federal Government has not been able to take this institution from the muddy water of politics, despite its intention as contained in the 1976 White Paper on the Uniform Local Government in Nigeria.

Shehu Yar'Adua⁹ in order to protect the institution had this to say:

“Nothing in these reforms could be construed to mean an attempt at reducing or abolishing the traditional functions of our Emirs, Obas and Chiefs. On the contrary the reforms recognize the council nature of the position of traditional authorities and care has been taken to preserve the organic unity of our traditional institution and societies”.

As salutary as this provision is concerned, the whole wishes and intention were not practicable because there was no provision made to enforce compliance to the wishes of the Federal Government and it is a well-known fact that any law made (as in this perspective) without enforcement gadget is usually a sterile law. The reality of the situation is that each state has its own law which the state government does apply many a times at its own discretion without any caution. The local government pays the salaries of the Chiefs and he who pays the piper dictates the tune, hence, absolute loyalty is expected from these Chiefs to their respective State Governments at the risk of their salaries, promotion and deportation mechanisms.

As a matter of fact, the Daily Times¹⁰ of Monday, January 24, 1983 at page 7 asserts that other than insulating traditional rulers from politics, they have become interwoven and candidly connected with the entire fabric of politics. Instances were mentioned where an Oba in the then Oyo State (now in Oshun State), the Ataoja of Osogbo was made a commissioner. This was deemed as alleged to compensate him for his political activities and loyalty to then UPN Party.

Equally in Borno State, the confusion then that surrounded the appointment of Emir of Bedde has been described by many political analysts as the politicising of traditional institutions.

In Anambra State disagreement between the then Governor Jim Nwobodo and Igwe of Oghunike, Chief Joh Umenyiorah could be totally divorced from politics; and in Ogun State, the Awujale of Ijebuode, Oba Sikiru Adetona had lots of problem with the Late Governor, Chief Bisi Onabanjo on political grounds. The fact is that the two personalities were from Ijebu-Ode and while the then Governor was from the UPN Party, the Awujale believed strongly in the NPN ideology, hence, trouble was not far to see, and disunity was at the door step which led to the obnoxious and futile attempt to expel Oba Sikiru Awujale from the throne.

Many other factors which had rendered our revered chiefs to be plunged into muddy water of politics were prevalent. These include issues such as asking an Oba, Chiefs or Emir to take permission from the governor of the state before a traditional ruler can travel out of his state thus political differences prompted Abubakar Rimi, the

⁹ Shehu Yar'Adua - Forward to the Guide lines on Nigeria Local Government Reform Kaduna Printers 1976

¹⁰ Daily Times of Monday, January 24, 1983 at page 7

then Governor of Kano State to have queried the Emir of Kano in July, 1982 and which led to open clashes, confrontation and destruction of properties with the chanting of war songs like “we do not want a Governor, we want a Chief”.

Similarly, when the Assembly in Gongola State wanted to promote a bill for the dissolution of the traditional council trouble escalated and the Waziri of Adamawa mounted the rostrum and spoke in figurative terms against such a bill that will engender a breakdown of law and order.

Therefore, it may be remarked that the then statutory provisions on the institution did not cover the loop holes in victimization that can be meted on to a traditional ruler. We have seen instances where an Obas was regarded as a civil servant and therefore expected to take permission before he could travel out of his state and we have equally noted when an Oba was regarded as committing an offence by leaving his palace to visit a nearby chief in a village. However, Oyewo reiterates the position of the traditional rulers in Nigerian politics and he is of the opinion that they should be more involved in local government. He backed up his contention by stating that traditional rulers have more effective ways of communicating and enforcing members of their community to do certain things proposed as beneficial by the local government. This is because, among Nigerians and particularly the Yoruba, great respect, absolute loyalty and passive obedience without resistance operate predominantly¹¹. Maddick shares this view on why traditional rulers should be left in government of most African States as follows:

- (a) Loyalty to the Chiefs are still strong and that they are in the position to promotion local government on problems before their council;
- (b) The Chiefs often have varied experience in government;
- (c) In some countries, the Chiefs have functions in matters of customary law and chieftaincy;
- (d) To have the traditional authority out of the government could possibly generate a more powerful centre of loyalties outside the council.

In fact, Orewa believed the educated traditional Chiefs should be made chairmen of council (local governments)¹² and of major local government committees so as to improve their functional administration with the following adduced reasoning.

- (i) The traditional rulers would not engage in irregular use of funds because they would fear to lose their thrones; and

¹¹ Oyewo A. T. - The Administration and management of Ibadan Municipal Government 1954 - 1979

MPhil Thesis University of Ife 1983

¹² Daily Times, Monday 24, 1983 at page 7

See Sunday Times December 16, 1979 page 17 and the daily Sketch Monday 17, 1980 at page 7 for various discussions and opinion

- (ii) Because traditional rulers generally command the respect of their subjects and cannot therefore afford to set aside the people's in the administration of the council.

All these are also supported by Alhaji Murtala who also advocated the retention of the system since the State Governments will now have the advantage of benefiting from the cultural and historical experiences of these rulers before making realistic and acceptable policies.

The Alhaji pointed out how effective the institution became during the 1966 crisis, when all hopes were lost in the judiciary, the legislation and the executive when the institution played the important roles of maintaining peace and stability in the entire country. He however, cautioned against the politicization of the institution which he felt will be counterproductive, because in situation of intercommunal strife, traditional rulers would no longer be respected as impartial arbiters.

From the above discussions and many more, it would appear that the position and roles of the traditional rulers are still trembling in the balance and not positively resolved yet. Something realistic and concrete should be done, and statutory provisions should be made emphatically to clear the air.

THE CHIEF'S LAW

Each state in Nigeria has its own Chief's law but we shall be contented with the Chief's laws in the South Western Nigeria among the Yoruba people for this discussion. What is noticeable is that the Chief's law does not any longer confer absolute freedom on any Oba as he used to do in the past, and that Chiefs or our Obas can no longer be thought of as the first citizen in their different communities.

The chiefs power for the determination of disputes have been greatly eroded upon, while an Oba in the real sense cannot be installed without a warrant of authority from the State Government. It is alarming to say that Obas can now be prosecuted in court whereas the Governor of a State and his deputy has immunity from law suits while in office.

Nowadays, the existence of a Chieftaincy stool can be terminated as a result of the abolition of such stool, either by agreement of the people who are subjects of the customary law pertaining to the stool, or by a legislation duly passed by appropriate authority. See the case of *Kimdey and ors vs. Military Governor of Gongola State (1988) 2NWLR (pt.33) 445*¹³.

Provisions also prevail for such a removal if such chief

- (a) abuses his position, e.g. by seducing the wives of his subjects or selling the community land without authority of his subjects or grabbing of land privately owned by his subjects and fiddling with the community funds.
- (b) fails to perform the duties pertaining to the stool as required by the custom of his community;

¹³ *Kimdey and ors vs. Military Governor of Gongola State (1988) 2NWLR (pt.33) 445.*

(c) violates the customary law and usage of his people;

(d) engages in conducts unbecoming of a traditional ruler.

For instance, in the case of *Oba Orioge vs. the Governor of Ondo State and another*¹⁴, the Obas was removed because since his appointment as an Oba his subject proved that he had been drinking in bars, hotels and other public places and in addition behaving on numerous occasions in a way unbecoming of the holder of the traditional office as an Oba.

In addition, any Oba who engages in criminal conducts, rules his subjects in high handed manner or in a manner detrimental to the progress, development and the peace of his domain may be removed and replaced.

Apart from statutory regulations, it has been established that by Yoruba custom, a traditional ruler may be called upon to abdicate the throne and or may be dismissed from his chieftaincy by means of “drumming out” under the custom of the Yoruba. See the case of *Ademola and another vs. Thomas & or*¹⁵.

Deposition under the Chief's Law

Both the Chief's law of Oyo, Ogun, Ondo, Ekiti and Kwara States respectively contain provisions to depose or suspend any traditional ruler if they are satisfied that such suspension or deposition are required according to customary law or necessary in the interest of peace, or order or good government.

The law however provides that the Government or the executive council of a state must before exercising his power or its statutory power under the Chief law to either depose a chief or withdraw recognition of a chief as was done in *Chief Oyeyemi vs. Commission for Local Government*¹⁶ or issue any deposition approval as was done in *Exparte Adebo* 24 is bound to act judicially by affording the person to be affected by such power adequate opportunity of hearing the complaint against him.

Failure to give such a person a hearing will vitiate the order of deposition or withdrawal of recognition. This is good law, but sometimes flouted with impunity on the altar of politics, victimization and abuse of power.

It means that if a Governor did not like the look and activities of a particular chief (who did not agree with the political ideology of the government in power) that chief could be deposed without any effective resistance.

¹⁴ Oba Onoge v. The Government of Ondo State (1982) 3NCLR 349

¹⁵ Ademola and anor v. Thomas xor (1950) 12WACA 81

¹⁶ Oyeyemi v. Commissioner for Local Government exparte Ishmael Adebo (1962)

This is not only unconstitutional but draconian. See such cases like *Ishamael Adebo (1962)*¹⁷, *Oba S. K. Adetona vs. The Governor of Ogun State and Sultan Ibrahim Dasuki of Sokoto*¹⁸ during the terrible reign of Abacha.

As a matter of fact, Ibrahim Dasuki's case is pitiable that it deserves writing on in this paper. It shows elements of callousness, tyranny and an abuse of power coupled with the exercise of inhumanity against a fellow exalted Nigerian by the government.

The facts of the case are as follows:

No charges of any offence were preferred against Ibrahim Dasuki, the then Sultan of Sokoto who was invited on 20/4/1996 by Brigadier Yakubu Muazu the then Military Administrator of Sokoto State to his office.

Ibrahim was very obedient, easy going and thinking that it was for an official discussion went to the administrator without taking anything along with him.

On getting to the Administrator's office Brigadier General Muazu handed to Alhaji Ibrahim Dasuki a letter terminating his appointment forthwith (with immediate effect) and without reasons. Alhaji Dasuki was neither hinted beforehand nor was any allegation made against him previously to defend.

He was dump funded, given no permission to say anything and was dumped into a waiting car. He was driven straight to the airport and in a waiting aircraft.

He was first of all flown into Yola in Adamawa State and later to Zing in Jalingo.

Nobody, not even members of Dasuki's family was privileged to know the where about of this renown eminence. Thus, he was put in detention and kept strictly in incommunicado for the whole period of 26months.

Abacha did not consider the age, health and status in life of Dasuki and like a waste paper in a dustbin or a fag to be seen and not heard, Dasuki was sent into a solitary confinement which is terrible to relate and despicable in the circumstances.

Little was thought of Dasuki's survival and happiness and as far as Abacha was concerned, Dasuki must not be pitied but to be in the suffering and agony of his life for no just cause. Dasuki became helpless and dejected in the hands of this military junta. He has thus encountered unexpectedly this odious event. What then can Dasuki do? He could do nothing but to rely in the Lord, the giver of all things for guidance and safety. And thus, with a heavy heart Dasuki was muting or muffling this song:

Thy way not mine O Lord,
 However dark it may be
 Lead me by thine own hands,
 Choose out the path for me.

Dasuki believed in god and realized that people who win over tough times are people who never stop believing. Thus, he prayed to God regularly and at the tail end his

¹⁷ Ishmael Adebo case - (1962) WNLR 101

¹⁸ *Oba Sikiru Adetona v. Governor of Ogun State*

scars were turned into stars. Dasuki always says that God/Allah is in the faith by which we overcome the fears of loneliness or helplessness, of failure and death. God is the hope which like a shaft of light, clears the abysmal of sorrow. Dasuki was released after the sudden and inexplicable death of Abacha.

CONCLUSION

This paper has shown that our exalted chieftaincy institution has been terribly assaulted, moribund, and subdued in modernity. The kings or chiefs are now glorified royal fathers or glorified effigies in the fulcrum of decadence. They at present have no constitutional roles to play in the governmental scheme of things. And because the institution remains archaic and unutilized, there is therefore the urgent need for integrating the traditional rulers with their respective local governments. Chieftaincy institution is now a semblance of a horse and a rider where the state governments as dominant partners ride the chiefs/obas/kings to any destination they like and like civil servants the state/federal/governments can fire the chiefs with deportation order at their own whims and caprices as exemplified in this paper.

The paper therefore concluded that in spite of the waning popularity of the institution, chieftaincy institution in the Nigeria must be given specific roles to play in the government while such roles must be properly articulated in the constitution because the institution represents the focal point of the people collective activity that must be respected and protected in terms of socio-economic, cultural, political and spiritual emancipation of the people.

