
THE FUNCTIONS AND CONSTITUTION OF OHAFIA IGBO OF NIGERIA, TRADITIONAL LEGAL STRUCTURE.

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ABSTRACT.

In Ohafia Igbo of Nigeria, the traditional legal structure was such that everyone understands the rules and regulations guiding the societal norms and ethics from birth. Legal concept is further structured with the assignment of judicial duties to every leadership position. The privilege of leadership position in Ohafia land therefore comes with the responsibilities of having sound knowledge and clear understanding of the societal rules, and sound interpretation of the ethics and norms of the people. In that respect, every leader as a matter of fact, was expected to be averse with the legal rules of the society of people under his control. In other words, since the exhibition of high sense of morality, formed among the basic requirements of attainment of a leadership position in Ohafia land, age therefore is believed to grow with the knowledge of sound morality among the people. Leaders in that respect are the flag bearers and custodians of the traditional laws. The reliance on age as panacea, for the appointment or assignment of judicial functions in Ohafia land is strong. On that strength too, the knowledge of traditional laws is equated with affluence. It is therefore incumbent to say, that in Ohafia land, traditional legal structure conferred remarkable authority on old age and level of wealth acquired. The paper therefore, attempts to allude the importance of morality, age and wealth as determinant factors to the occupation of the position of a judge in Ohafia traditional courts. In addition, it is thus, an insight to the usefulness of the Elders to the development and interpretation of Ohafia traditional laws.

KEYWORD: NORMS, ETHICS, BELIEF SYSTEM, COUNCIL OF ELDERS, LEADERSHIP AND KINDRED.

INTRODUCTION.

In Ohafia traditional legal structure, everyone has societal assigned responsibilities at a given stage of development, and he or she is expected to uphold it at all time. Since moral etiquette of the people are inherent in their norms and belief system, it is apparent that people of Ohafia people, very easily understands the 'dos and the dons' of the society very early. To further enhance sense of judgment, social responsibility assigned to the parents, the moral right to maintain peace and tranquility at the lowest legal unit, the family. Whereas in the olden days, African legal constitution is unwritten, however, the parents start at early formative years of the children to inculcate morality in them. The sense of commitment to the traditional laws and their responsibilities to the rules and regulations guiding the society is taught at the formative age by every adult. Since the failure of the children is seen as the failure of the entire society, the burden of upholding the rule of law is heavier at the lowest level. In that respect, the Ohafia traditional legal structure encourages the elders to assume collective responsibility in educating the young people about the laws of the land irrespective of any relationship and at no cost. By so doing too, the elders initiate communal sense of responsibility to the child's knowledge about the traditional laws.

The Obu (Community rest house) which initially served as a meeting place or sacred house where the masquerades costumes were kept gradually became a closed door meeting houses, where serious cases are examined and matters involving kindred trashed. In some neighboring communities to Ohafia, the

Obu houses were converted to initiation houses and places to discuss the welfares of the compound. In effect, the Obu gradually became converted to court houses where matters are often considered before being referred to the elders by various kindred. In effect, the process to it conversion began, when Elders began to gather or meet in every market day to socialize and to deliberate on communal matters.

As noted, Judicial function in Ohafia land flows from the family unit, in an ascending form to the kindred (Ikwu).The next after Ikwu is the Umudi, then the compound (Ezi), and finally the Village Ama-ali. The following serves as court houses in ascending order. In the family unit (Obi), that is the central Parlor of the father of the house. In the case of Kindred (Ikwu), the Obi of the oldest family member formed the court. The Umudi is the next, and the court house is the Obu, the general rest house. The highest court house is the Village square where the Ama-Ali usually gathered to hear very serious cases. The team of judges in this case, is the Ndi-Ichin.

The family in Ohafia judicial system settles matters involving family members. 'If family is well disciplined and well organized, the Umunna group will have less to do'. In addition, kindred are made up of a number of territorial kin, based on extended family. Here as earlier stated, every case is settled by the oldest person of each lineage. In a case involving different kindred, the case is referred to the Umunna or Umudi at the Compound Council (Ezie-Ezi). It is the Ezie-Ezi that represents the Compounds at the Ezie-Ogo-in-Council the Ama-Ali. Ezie-Ezi Elders equally belongs to the Ndi-Ichin (the aged) in Ohafia land, or the council of Elders. In Ohafia legal structure, it is the Ama-Ali that settles very important cases. The layers in stages of Ohafia judicial structure made it very unique in the sense that, the ethics and belief system of Ohafia people is not only closely monitored, but is made strong by strictly adhering to the tenets which are anchored on strong moral background, which of cause plays very important role in Ohafia judicial system.

OHAFAIA TRADITIONAL LEGAL STRUCTURE.

In Ohafia land, Eldership position is venerated, and much respect accorded to the status. This ideology is reflected on their traditional legal institution, as well as the Political and Social Organization. Njoku alluded in support of this school of thought, thus, 'it was gerontocracy in the sense that leadership came from elders, and age attracted considerable respect'. In other words, the segmentary and Republican sense, that characterizes the Ohafia Socio-Political and Economic life, meant that, there are delegated authority in every level of rule, be it Political, Social and otherwise. In view of that, Basden recaptured Njoku's statement, thus 'each village or ward has its own chief who enjoys the dignity and rights of a Patriarch'. He takes lead in all Public affairs, Religious, Social and Political disputes are settled by him, and he used to Preside at the trials of criminal offender.

In Ohafia legal tradition, there are laws guiding the moral lives of the people, likewise, laws stipulating steps toward ascending Political and Social hierarchies. There are also laws delegated to organizations or groups. One noticeable aspect of all bodies of traditional rules in Ohafia, is once a case is established and judgment passed after cross examination, no appeal is made or expected. In the Unwana tradition just like other Igbo groups, to be caught in moral law violation like incest, it is as good as one not belonging to any age group or the Community, this is because violation carries a sort of open wound which could be transferred from generation to generation.

In the aspect of law regulation, in Ohafia land, law and order are regulated from Onu Ulue (Family unit). Similarly to the Western concept, but with minor accommodation of "a man, his wives and unmarried children, domestic slaves, clientele, pawns, and relatives of the husband or wives are added under Onu Ulue in this set-up'. Since the man who is the head of the household is expected to exercise control over the members, and in general, regulate the conduct of her affairs, he represents the family to the higher level of legal administration, reproving and handling complaints, in addition to frowning at any violation of the tradition by any member, which could bring shame to all. Likewise he praises a glorious feat recorded by any family member. In addition, Cases often handled by the head of the family include offences mainly from quarreling among members or the use of obscene words against one another, fighting and act of disobedience to Elders, are all offences which the family heads could settle.

In ascending form, after On- Ulue is Utug- Ezi. This is a set of paternal households claiming descent from a common father. The father or leader of Utuga-Ezi, could be the founder of the Compound or one of his sons. In law adjudication within this Unit, there is a council of elder, made up of heads of the Component Nuclear families. In the Council Membership, successful endeavor by younger family member of the Utuga-Ezi could translate into being admitted into legal team or team of judges in charge of cases heard by Utuga-Ezi. The head of the Utuga-Ezi is usually by the oldest member of the unit in whose house the meeting holds. The Council of the Elders at this level has dual responsibilities; they make laws and also adjudicate some of the laws made. They closely enforce the law and regulate the conduct of the members in the Community. They also mediate to restore cordial relationship between members of the unit with the aid of the young men; the council enforces its decision. Some of the cases settled involved offences committed within the Utuga-Ezi by the member.

Ezi, that is the Compound is another unit; it is higher than the other two, unlike Onu-Ulue where cases are settled in the homes of the family heads, in Ezi, it is the Obu where the ancestral shrines and the Compound artifacts are kept. "The Obu also serves as the judicial and legislative forum". Like the other two levels of judicial administration, the Council of the

Elders at the level of the Compound (Ezi) also known as the Council of the Ndi-Ichin Ezi (that is the Council of the aged within the Compound), “they make laws which regulate the actions of the members of the Compound. Some of the laws enacted by the Council of Elders, included laws pertaining to the use of Communal land, and exploitation of other Communal resources’. Ndi-Ichin Ezi, also settle cases brought to them by members of the Compound, and set dates when paths to farm and streams are to be cleared. They equally announce dates for repair work on the Obu (the house that served as the legislative house). At this level too, matters that could not be resolved at the Utuga-Ezi, could be referred to the larger Ezi (Compound). The verdicts of the Ndi-Ichin Ezi over the lower courts here is final. An indication is that some cases could receive appeals to higher courts in some cases. Just like the Ohafia Igbo group, the Unwana people, also a branch of Cross River Igbo group, like the Ohafia people, have five identifiable political and judicial functions, these include, ‘the Family, Umunna, Umudi, the Compound, the Village and the Council of Ndi-Ichin or Ama-Ali’. The judicial function in all these are related and equally one could serve as appellate court, and up to the Ama-Ali which is the supreme court within Ohafia judiciary system.

In Agha’s submission about traditional courts, he opined in support of Njoku, thus, ‘if the family is well disciplined and well organized, the Umunna group will have less to do, and this will go a long way to create an effective and well organized Community’⁸. Family discipline is therefore very important in entrenching, generally sound moral etiquette in the Community. Meanwhile, the growth and expansion of families have the tendency of increasing need for delegation of traditional legal power that is why the age-grade has been delegated to handle mostly matters involving the age-grade in Ohafia land.

As we consider the judicial functions of the two remaining levels of judicial bodies in Ohafia land, the Isi-Ogo and Mba, in that order, we should also note, ‘that the traditional conciliar system of justice minimizes the chances of miscarriage of justice not uncommon in the western system in which an individual or group of judges are given the authority to decide judicial cases’. In Isi-ogo court, members of this group are people who could trace their ancestry from one of the sons of the founding father of the Village. In addition, to neighboring Community of Unwana, the leadership in Isi-Ogo is made up of the heads and Elders of the Component Compounds. The head of the most senior of the Compounds serves as the head of the Isi-Ogo judicial council. The major legislative and judicial work of the Council of Elders in Isi-Ogo is to entertain cases referred to it from the lower courts and to make laws guiding the conduct of their members.

The Ama-Ali is the highest court or legal body in Ohafia Igbo. The council also adjudicate for the entire Village, (Mba). Membership to the Council of Ama-Ali are selected from the various Isi-Ogo, Eze Nmoo and Compound leaders in the Village. In the Ama-Ali council, the Ezie-Ogo is the leader or the chief judge. In addition, in order to straighten the judicial power of the the Ezie-Ogo, his position assigned to him the supretendency of the sacred symbols of the ancestors, as well as the communal land. Ama-Ali Council which he supervises also performs some judicial functions like, the setting of dates for opening the farming season, the celebration of important festivals. They also, make rules about the conduct of the citizens of the village and mediate in advent of sour relations with other villages. ‘As a judicial body, Ama-Ali settles a dispute which has defied solution at the lower levels of political and administrative arrangement’. Any decision taken by Ama-Ali on any matter from the lower level is final.

Apart from the Ezie-Ogo being the leader of the Ama-Ali, membership to this body also included the Ukeru-Abuo. In some Igbo group, the Ukeru-Abou is referred to as ‘the red cap chiefs’. Membership to this group is determined by age. The age grades normally parade the

streets with two fork headed stick (Nkpa-Abaa) as a symbol of authority. They are regarded as men of wisdom and affluence, and seem to be above the law because of their versatile knowledge of the Societal Norms and belief system.

THE TRADITIONAL METHODS OF JUDGEMENT ADMINISTRATION IN OHAFIA LAND.

At the lowest level which is the family unit, cases are heard and judgment administered at the family Obi by the family head. Obi is the rest house of the son to the oldest male child of the family. From the family Obi, the next is the kindred, made up of the families that reside in Onu-Ogo shared compound unit. There is the Obu- Ezi, a house built for resting, meeting and also serve as court. It is also in this house that the Masquerade Costumes, initiation rites and artifacts are kept. In Ohafia land, the highest court and judgment is presided in an open field, at the spot believed to have been the first place where the founder of the Community has settled on arrival. In the judgment seats (fallen old wooden trunk) are the representatives of the various Compounds, the leaders of the Isi-Ogo and Mba (Village). Since the court is conducted in an open field, every member of the Community is allowed to witness the proceeding. In addition to the Ezie-Ogo-in-council's Court is the 'Ukera-Abou' (the Council of Elders) or Ndi-Ichin. When offence is against the gods of the land, the presiding officers are selected by the Ezie-Ogo-in-Council among the Ezie-Ogo's cabinet and few knowledgeable elders among 'Ndi-Ichin' (the Council of Elders or the Red Cap Chiefs). In effect, being an aged does not often time guarantee automatic ticket to preside as judges because it is not every that interpret the traditional laws. At the highest level of traditional Court consideration is also extended to one who is knowledgeable of the Community History.

This is however, a clear departure from the Efik people of Nigeria, where such authority was entrusted to the Ekpe Society. According to Aye 'Ekpe court '... was the be-all and end-all of Efik judicial and political system'. Like in the case of the Ohafia Igbo people, the judgment of Ndi-Ichin (Council of Elders) is final, among the Efik, Ekpe Society's decision is final. Membership constitution to Ekpe Society was open to wealthy individuals who could afford the huge initiation rite. In the case of Ohafia membership to Ndi-Ichin the highest court is earned by age, wisdom or knowledge of the societal history. While the Council of Elders preside over important cases involving individuals and the Community, and matters involving the Isi-Ogo (the integral Village units), the Ekpe Society of Efik do the same. However, while the Council of Elders served as the appellate courts, Ekpe Society have well spelt out rules guiding every member and the Community in general, which nobody in the Community is expected to violate. In the case Council of Elders in Ohafia, such rules are entrusted in people's norms and belief system and to be identified and obeyed by all.

Meanwhile, the Ohafia and Efik people of Nigeria shares a lot in the development and structures of the traditional legal system. For instance, at the lower level, family authority in Ohafia is headship emphatic, among the Efik people the same apply. The 'Onu-Ulue' (Family legal unit in Ohafia) is Ufok in Efik. You thus have Obong Ufok in Efik standing for Ezie-Ezi. In Ohafia the first son to the eldest family member usually acted as both the Political and Administrative leadership. The same apply to the Efik 'Etennyin' (the family or house leader). Cases handled by 'Eze-Ezi' or 'Etennyin', as the case may be, are those cases related to family matters. Cases against the gods of the land and the ancestors are handled by the Ekpe in Council and the Council of Elders respectively among the Efik and Ohafia people.

In Ohafia land, cases are assigned to specific days. There are generally four days in Ohafia Igbo week. These are Eke, Orié, Afor and Nkwo. Market day to specific Igbo group, could fall into any of the market days in Igbo week, which is equally recognized as resting day. In

Amangwu Ohafia, Nkwo is chosen as market day for the Council of Elders to hear cases of Ama-Ali. It is on that day, that serious cases are heard in Amangwu. In another Community, it could be on a different market day. On the slated day, cases are presented with cross-examination administered by the Council of Elders. Difficult cases could be adjourned to give room for further investigation. When adjourned, it could be slated for continuation in the next market day.

Typical court room is under huge tree that serves as shades during dry season and the Community Obu during rainy season. Old hewn dry tree usually serves as seats of judgments. The age of the seats, usually tell with smooth slippery body surface, made so due to long exposure to the rain and sun. Intermittently, the Elders usually retire to a nearby small hut to deliberate more on matters arising. On conclusion, one of the Council of Elders is usually nominated to deliver judgment on behalf of the Council, in what is called (Ikwopuntu) of Ndi-Ichin. Such judgment when delivered is final.

OFFENCES AND PUNISHMENT IN OHAFIA TRADITIONAL LEGAL SYSTEM.

Stealing of farm produce is a serious offense in Ohafia land. The punishment depends on the type of produce stolen. Meanwhile, yam which is regarded as the Chief crop, usually attract severe punishment than other crops. For cassava regarded as women chief crop, the culprit is usually stripped naked and paraded round the street with stolen item. Meanwhile, this act has stopped with imposition of fine rather preferred. Abortion in the Community is seen as a big crime. Since it falls under immorality, parents of the culprits are not exempted from punishment. Other crimes that fall under immorality are listed below, thus:

- (a) Incest.
- (b) A widow having sexual relationship with another man, while living in her husband's house.
- (c) Holding and pulling the husband's penis during a fight.
- (d) Poisoning.
- (e) Alteration of ancient land mark or boundary.
- (f) Sleeping with daughter.

In effect, most crimes are now reported to government agency or left unreported. Others no longer attract punishment. For instance, the birth of twins is no longer an offence. The destruction of individual farm products, no longer attract Community punishment, but the owner and the culprit could report to Ezie-Ogo- in council for payment claims. In that sense, Community group land clearing still exists with fines imposed when violated.

In Ohafia Community and the entire Igbo land in general, justice has to do with the behavior of oneself or to another. In that regard 'justice is all about oneself and the people he interact with'. In that respect, in Ohafia land, to administer good justice is to approve the uprightness of societal moral ethics beyond every reasonable doubt. In other words, every Igbo Community has approved norms and ethics, likewise some anti-social behavior, which could attract judgment and punishment.

CASES HANDLED BY THE FAMILY HEAD.

S/N	OFFENCE	THE JUDGE	RECOMMENDED PUNISHMENT
1	Stealing a property of family member.	Family head	Replacement.
2	Quarreling.	Family head	Apology.
3	Fighting a family member.	Family Head	Apology with two bottles local Gin.
4	Incest.	Referred to Amali	Banished from the Community.
5	Insult to an Elder by a family Member	Family head	Life Goat and a bottle of local Gin.
6	Collection a share before an Elder of the same family.	Heads at various levels.	A bottle of local Gin.
7	Non participation to a family assigned project.	Family Head	Two bottles of local gin and five hundred naira.
8	Fighting a family member that resulted shedding of blood.	Ndi Ezie-Ezi	One live goat and two bottles of local gin.
9	Pulling or throwing down a husband by his wife during fight	Ndi Ezie-ezi	One bowl of meat and two bottles of gin.
10	Deliberate destruction of crops in the farm.	Family Head	Two bottles of local gin and payment of crops destroyed.
11	Wrong Dispossession of late Father's Property	The Council Ezie-Ezi	Immediate Return.
12	Usurpation of Family Headship	The Council of Ezie-Ezi	One life goat, two bottles of gin and Bundle of tobacco.

CASES HANDLED BY THE HEAD OF THE KINDERD.

S/N	OFFENCE	THE JUDGE	RECOMMENDED PUNISHMENT	REMARK
1	Refrain from Participating in Nuclear Paternal Households work.	The Utuga-Ezi Council of Elders	Two bottles of local Gin and a Plate of Meat.	In Practice.
2	Poisoning	Council of Ezie-Ezi	Banishment from the Community for 7 years	In Practice.
3	Stealing Farm Products of a Member	Council of Ezie-Ezi	One he Goat and two bottles of local gin.	"
4	Pulling or throwing down a husband by wife during a fight	Council of Ezie-Ezi	One Goat and two bottles of local Gin	"
5	Setting on fire to another Member's thatch house	Council of Ezie-Ezi	One Goat and two bottles of Gin	"
6	Deliberate destruction of crops in the farm of Kindred.	Council of Ezie-Ezi	Payment of claim and one Goat and two bottles of local Gin to the Council of Ezie-Ezi	"
7	Suicide especially by hanging	Council of Ezie-Ezi	Reported to the Police	Civil Case.

CASES HANDLED BY COUNCIL OF ELDERS.

S/N	OFFENCE	THE JUDGE	RECOMMENDED PUNISHMENT	REMARK
1	Stealing of yam	Council of Elders	Pay the owner whatever he or she demand.	Still in Practice.
2	A Death that Occurred as a result of taking oath	Council of Elders	Payment of fine as Prescribed by the Council of Elders in olden days	No more Punishment.
3	Giving birth to twins	Council of Elders	No more Ostracized	Now Celebrated.
4	Giving birth to abnormal Children	Council of Elders	Pitied and Encouraged	No longer Ostracized.
5	A Child born with the legs coming out first	Council of Elders	Pitied.	No longer Condemned.
6	A New born baby talking or speaking at birth	Council of Elders	Nil	Nil.
7	Adultery	Council of Elders	One Goat and two bottles of local Gin.	Abhorred.
8	Abortion	Council of Female Elders	Befitting burial for the aborted baby, in addition to huge fine to the womenfolk	Women frown at it.

CASES HANDLED BY THE PRIESTS OF DEITIES.

S/N	OFFENCE	THE JUDGE	RECOMMENDED PUNISHMENT	REMARK
1	Killing of Animal dedicated to the gods	The Priest and Ndi-Ichin	Payment of huge fine, in addition to according it a befitting burial.	Observed in some Igbo Communities.
2	Eating of food dedicated to the gods.	The Ama-Ali Council	Sacrifices and fines (fowl and one bottle of local Gin.	In Practice.
3	Violation of totemic articles.	Ama-Ali and the Priest in Charge	Sacrifices of Appeasement	Still in Practice.
4	Eating meat sacrificed or offered to gods by women	Ama-Ali and the Priest in Charge	Sacrifice as Prescribe by the Priest	Very rare in Practice.
5	Murder	Ama-Ali	Sacrifice to Earth goddess	Government now handles it.
6	Disclosure of Secret of the deities	Ama-Ali	Goat or Fowl	Rarely Practiced.

CONCLUSION.

The Ohafia people of Nigeria are among the Igbo groups with streamlined legal concept. The Ohafia traditional judicial system is built around the moral, belief and ethics of the people. The culture of the people reverences old age and the ancestors. The same is extended to the gods or deities. During the pre-colonial era serious matter could be resolved by the priest of

the deities who often act as intermediary judges. In that respect, certain offences committed against a particular deity could only be mediated by a given priest who equally acts as the judge. In addition, since the gods are venerated, his judgment is believed to be impartial. In Ohafia land, such deities like Warri, Akpang, Igwe-ka-Ali, Uduma-Nmini, Ekpekwum, Ibina-Ukpabi etc are some of the reputable deities with assigned judicial functions. For instance, among the Aro people, a neighboring community with the Ohafia 'Ibina-Ukpabi, the famous fertility and judicial oracle which is consulted and referred to as something of a highest court of appeal in the area and around', was very influential to the point of being visited votaries from far and near.

In Ohafia traditional legal system, cases involving individuals or an individual against a group are handled from the family head, through the council of Elder (Ndi-Inchin). In other instance, crime could be committed against the gods or goddesses, in which case, the matter could be referred the concerned priest. In a case involving murder 'no matter what form it takes except an authorize murder or retaliation murder, was considered an offence against Ali (the earth god). In that regard, certain murder case could be exonerated.

In effect, one noticeable fact about the Ohafia traditional legal system is the tendency to appeal judgment is very limited, more so, when a case has been established. Another point to note in the traditional legal system of Ohafia people is the difficulty of securing a witness to exonerate an offender who committed an offence against the gods or deities. Immediately a case is established against a victim, coming out to defend such an offender when it is between him and the gods or deities is seen as a taboo. In other words, the stigma of having committed an offence against the gods and also appearing to testify in favor of an offender who will most probably lose the case is beyond what anyone can take in a society that venerate ancestors represented by the deities in the olden days.

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