Constitutional Role and Relevance of Traditional Rulers in Curbing Security Challenges in 21ˢᵗ Century Nigeria

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Abstract

All the post military constitutions of the Federal Republic of Nigeria i.e the 1979 Constitution and its successor, the present 1999 Constitution did not recognized the role of traditional rulers in curbing security challenges in Nigeria. Before the advent of colonialism to present Nigeria, various pre-colonial societies were having an effective conflict management system under the traditional institution. Though different in their political form of leadership, the then Yoruba kingdoms, Hausa Emirates and the Ibo republicanism had in common a system of conflict prevention, management and resolution. This was also obtainable in other minorities existing in all the area of the Niger Delta and other parts of Nigeria. There were security challenges but not as over-whelming as it is today. The exclusion of the traditional rulers in security issues may be partly blamed. Traditional rulers have always been called upon to participate in security of the nation, but there is no constitutional provisions which clearly spell their legal jurisdiction. This has made the traditional ruler handicap in their effort to assist in curbing security challenges in their respective domains (wards, district, chiefdoms, emirate etc.). The methodology adopted by this paper is the doctrinal research method which is a legal research approach of analyzing texts and instruments on the subject matter. This paper reveals that inclusion of traditional rulers in the security management of the society and communities in Nigeria will go a long way in curbing some security challenges in the country. It further shows that giving them role in security management with a constitutional backing would further solidify their importance and make them committed in security issues affecting the country. The paper recommends amongst others that constitutional role be given to traditional institutions in Nigeria toward stemming security challenges.

Keywords: *Constitutional role & relevance, Traditional rulers, Security challenges,*

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Background to the Study

Nigeria is passing through a turbulent time in terms of security largely because of the insecurity that is bedeviling the country. No part of the country is spared as the insecurity has permeated every nook and cranny in different forms. The militancy in the Niger-Delta, ethno-religious crisis in Plateau, Boko-haram in the North-East with its concentration in states like Borno, Yobe, Adamawa, and Kano, armed robbery on the highways, kidnappings, political assassinations, stand the recent cult related crisis in Nasarawa and Fulani herd-men and farmers crisis in Benue and lately Taraba State are just but the few glaring security challenges in the Country. There is off-course other aspects of security threats that may not be seen on top headline of our national dailies but they are indeed life threatening. The successive governments have adopted several measures to resolve the threat to the wellbeing of the most populous black nation but the stick and carrot principles as proposed by many did not seem to have yielded the desired result. Thus it is expedient to explore many more options among which are the involvement of traditional rulers. The role of traditional rulers however, is not just coming on board as history has shown the active participation of traditional rulers in government (Jacob Y. 2010). The point in issue is the need for constitutional role for traditional rulers. The research examined the importance of constitutional role to traditional rulers in curbing insecurity in Nigeria. The focus was on the Boko-haram in the north and ethno-crisis in the middle belt and probably the kidnapping in the South –East amongst others.

Security Challenges in the Military Era

During the long years of Military government, traditional rulers largely preserve their status except for a major change in 1967-68, their power over judicial affairs was significantly crippled. But with the introduction of democracy in 1999 and the need to establish a more durable constitutional framework, the issue of traditional ruler's role has again come to the fore. Many activists and lawyers are questioning the need for this archaic institution. The high rate of crime throughout the country suggests that traditional rulers have no major role in clamping down on the security challenges facing their immediate community. For this reason it seems appropriate time to review the status and role of traditional rulers. This study is aimed at looking at the role the traditional rulers play in the traditional system as regards security and possible impact they could have in curbing the present security challenges in Nigeria if given the constitutional backing in the Constitution of the Federal Republic of Nigeria. Thus, the argument for constitutional provisions for the role of traditional rulers in Nigeria is one of the major debates in the ongoing constitutional amendment by the parliament. The recent workshop organized for the traditional rulers in Kaduna State on the role they are expected to play in the maintenance of security was clearly one of such efforts. Whether the provisions will help in solving the insecurity challenges is a point of diversion.

Whereas traditional rulers maintained that their constitutional exclusion is detrimental to finding quick and lasting solution to security challenges in the country. Others are arguing that traditional rulers have always being part of the governance and they did not require any constitutional provision to do that. This research is thus to determine whether giving a constitutional role to the traditional rulers and institutions would mitigate the security challenges in the country now and in the future. This research is significant in that it determines the impact of traditional institutions and rulers in security management in the country.

Objective of the Study

The objective of this research is to determine whether given constitutional backing the traditional institutions would positively impact in security management in the country thereby bringing security challenges in the country to the barest minimum.

Security Challenges in Nigeria's Democratic Settings

Before the advent of colonialism, the traditional institutions have been involved in curbing security challenges in Nigeria. These institutions demonstrated executive, legislative and judicial powers. The traditional ruler of Benin Kingdom was in charge of all arms of Government, the institution was quite clear, since law and order were maintained through a normative system that was a part of the general social structure of the society. Though the system was not a complex one but effective in managing state affairs and maintained justice.

In Hausa pre-colonial era, the Emir with his council wield absolute power in the day to day governance, but the Emir based on his ability to appoint the office holders Abdullahi (2007).The political order of the pre-colonial society included the paramount chiefs, council of elders, age grade and religious organizations. The separation of power into the different organs in the pre-colonial era of the old Oyo Empire helped to safeguards against tyranny and made the system democratic. The diffusion of political authority into different group in the pre-colonial administration helped in checking tyranny instead of concentrating all the powers in single hand. Ogu (2011) reckoned that the Hausas, Kanuris, Binis, Nupes, Yorubas, Jukuns had established kingdoms prior to the arrival of the Europeanshowever; other Nigerian communities were either under the leadership of this kingdoms or without established or centralized kingship. Traditional authority in pre-colonial Nigeria whether in the monarchical or associational, type was as good, revered and effective as the authority of the Kings in Europe and other places that had an organized governmental system.

Traditional rulers were in theory and in practice de-facto governors of Nigeria. Lt. Col. Hassan Usman Katsinathen Military Governor of Northern Nigeria- 1966, told a meeting of Emirs and Chiefs at the Lord LuggardHall in Kaduna that it is the declared policy of the military government to maintain the chieftaincy institutions and to uphold the dignity, prestige and integrity of the chief and the same time to save guard the interest of the common man. Before the Military terminated the Civilian government on January 1st 1966, the four regions at that time recognized and approved the role of chieftaincy institutions in the constitution. That was from 1954-1966.

Section 35 (2) of the 1963 Constitution of the Federal Republic of Nigeria, the Constitution gave automatic membership of the Oba of Lagos into the Nigeria Senate and also one of his white cap chiefs and war chiefs of Lagos from among their own numbers. Section 75 of the Constitution of Northern Nigeria State that (1) there shall be a Council of Chiefs for the Region, which shall consist of the Premier, who shall be a chairman; making the premier of the Northern Nigeria Sir, Ahmadu Bello (1910-1966) at that time the Chairman of the house of chiefs. He was the most powerful politician in the land. He was the leader of the Northern People's Congress. S 9 of the Constitution of the Eastern Nigeria states (1) there shall be president of the house of chiefs, who shall be elected by the members of that house. Chapter 2 part one of the Western Nigeria Constitution states that, there shall be a legislature for the region, which shall consist of the governor, a house of assembly which shall have power to make law for peace, order and good government of the region. Section 5 (1) provides that The house of chiefs shall consist of (a) the persons for the time being holding such chieftaincies as may be prescribed by the governor, who shall be ex officio members of the house; (b) 87 chiefs

having such qualification and selected in such manner as maybe prescribed by the legislature of the region. Chapter 2 of the Constitution of the Mid-Western region states that there shall be a legislature for the region, which shall consist of the governor, a house of chief and a house of assembly and which shall have power to make laws for the peace, order and good governance of the region.

Section 5(1) states that without prejudice to the provisions of section 9 of the Constitution, a House of chiefs shall consist of (a) the Oba Benin, the Olu of Warri and the person for the time being holding such other chieftaincies as maybe prescribed by the governor who shall be ex-office member of the house; (b) fifty one chiefs having such qualifications and selected in such manner as maybe prescribed by the legislature of the region; (c) such special members being chiefs as maybe selected by the governor, acting in accordance with the advice of the Premier. While the Constitution of the Northern Nigerian endorsed the Premier as Chairman of the Council of chiefs the Constitution of the Mid-Western Nigeria affirmed in clear terms the supremacy of Oba of Benin and the Olu of Warri.

It is worthy of note that, when the 1979 Constitution was promulgated there was no role for traditional rulers under the Constitution even in the State. Again Under the 1976 local government reforms, local administration was removed from traditional rulers and placed instead in the newly created local government councils. From this analysis of the impact of the 1976 local government reforms of the transitional rules, Egwurube, J. (2000) concludes that it radically altered the locus of traditional rulers vis –a-vis local government.

Security as a basic human need is important to the individual community. According to Alemika (2015) security is a contested concept, it means different things to different people and it also a contested practice, security for a group may constitute insecurity for another group. There are two perspectives on the reality of security. The first perspective argues that security depicts a reality, a feeling and a condition. The second perspective conceives security as a label attached to a condition that someone considers undeniable. Balogun (2004:1) observed that man's primary and engaging concern has been that of survival and protection; from the vagaries of nature, natural disasters and from the ill-intentions and misdeeds of his fellow man. Chapter 2 of the 1999 Constitution of Nigeria provides that provision of security is the Main purpose of government against other things.

Traditional institutions refers to the indigenous political system or arrangements whereby leaders with proven track records are nominated, appointed and installed in accordance with the provisions of their native laws and customs (Malami, 1978, Orji and Olali, 2010). The essence of the institutions is to preserve the customs, traditions and cultural heritage of the people and manage conflicts and violence arising among or between members of the community by the instrumentality of laws and customs of the people.

The concept refers to the indigenous arrangements whereby leaders or persons by virtue of heredity or people with proven track records are nominated, appointed and installed in line with the provisions of their native laws and customs. The essence of the institution is to preserve the tradition, the customs resource, cultural heritage of the people and to manage, settle and resolve disputes/conflict arising within or between members of the community by the instrumentality of laws and customs of the people in that particular community or society. Generally, they are seen and referred to as the custodians of their people's norms, cultural values and practices. Malami (1978:11) has identified three categories of traditional title holders that derive their

titles from and through the traditions of the people, although the traditions vary from time, place and depth of cultural roots. Firstly, those holding literally honorific titles, conferred on them by superior traditional rulers in recognition and appreciation of the service rendered to the society. This category has no schedules or specific functions seen as a good chain of information and agents of conscientizing or mobilizing people when the need arises. The second category are holders of titles or positions due to recent recognition or creation of such titles. In contrast to the above, they may have executive functions but restricted by the same laws that created them or gave them recognition. The last category are full time executive traditional title holders who perform executive functions from traditions largely rooted, revered and recognized and exercise executive functions.

Findings

1. That constitutional role for traditional rulers will help in curbing insecurity in Nigeria.
2. That terrorism is the most serious security challenge in Nigeria.
3. That people irrespective of their communities have some form of dealing with their traditional rulers.
4. That traditional institution should exist.

Conclusion

In conclusion it is very clear that traditional rulers have always been called upon to participate in the security of the nation, but without constitutional back up which has made the traditional ruler handicapped in their effort to curb security challenges in their respective area (wards, district, chiefdoms, emirate etc). This research reveals that the inclusion of traditional rulers in the security management of the society and communities in Nigeria will go a long way in curbing some security challenges in the country. It further shows that giving them role in security management with a constitutional backing would further solidify their importance and make them committed in security issues.

Recommendations

The study recommended amongst others

1. That constitutional role should be given to traditional institution toward stemming security challenges.
2. Those traditional rulers should be backed up by the constitution to resolve conflict in their community and have the power to punish offenders, while other traditional rulers should strengthening community mobilization, safe guarding the cultural values, traditional heritage and natural justice.

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