

## TRADITIONAL DISPUTE RESOLUTION MECHANISMS IN OGBA AND IKWERRE - NIGERIA AND THE INFLUENCE OF CHANGE

***Obodoegbulam, Agi Otto, Ph.D***

*Department of Religious and Cultural Studies  
Ignatius Ajuru University of Education Portharcourt  
obodoagi@yahoo.com*

&

***Amadi, Stephen Egwuatu***

*Department of Religious and Cultural Studies  
Ignatius Ajuru University of Education Portharcourt  
Stephen.amadi05@gmail.com*

### **Abstract**

*Throughout the world, dispute is a common phenomenon in human relations. Covertly or overtly, humans have the tendency for vested interest. Therefore, at any point one individual or group crosses the prescribed boundaries of accepted cordial relationship, dispute ensues. Without over stating the obvious, the concept of dispute resolution is predicated on the assumption that an equitable society can only be brought about by an equitable decision. According to (Otto 2015) dispute is one of the inevitable phenomena of every human society. However, what exemplifies the greatness or quality of life in any society is how such society is able to administer their affairs. Merely looking at the face of the lion, a fickle mind will not be able to draw it. However, with courage, a great mind can tame the lion. To adjudicate on disputes, requires courage, forthrightness and selflessness, since an unbiased mind will not border whose odds in gods. Perhaps, this is why it is often said that "to be firm, is to be prudent". In the administration of justice, there is no doubt that parties may like to tempt adjudicators so as to win their sympathy, however, a good knowledge of the rules and traditional mechanism of dispute resolution, will make for efficient performance. The preference for nonviolence informs in dispute or conflict management, informs the traditional mechanism for dispute resolution (Ogoloma 2013). In most cultures, it is noted that order cannot be obtained through disorder. In corroboration, Iheanachor*

*contend that in traditional societies, law and justice prerequisites and holding blocks of every society. Ogba and Ikwerre are progenies of a common ancestry. Their forebears Akalaka and his half-brother Ochichi having traced their origin to the ancient Benin Empire. Ogbaland and Ikwerre are situated in the northern margins of the Niger Delta. They live in village clusters. Ogba and Ikwerre are patrilineal cultures. The family is the smallest unit of administration. This extends to the bound family which stretches to minor and major lineages. Next is the kindred and community. Each of these, exercise a degree of administrative powers as shall be further explained in the course of this exposition. In Ogba and Ikwerre common ownership of property is one of a common experience. At the death of a progenitor, decedents and share whatever wealth or liability that may be left behind. Unfortunately, some deviants dispute the formula of property disbursement. Often times, this leads to intractable dispute. The purpose of this study is to identify the causes of dispute resolution in the areas. It further examines the different mechanisms adopts the ethnographic and historical method in the discussion. It notes the need to maintain order and equity in the society. It concludes that traditional means of dispute resolution mechanism which have been eroded owing to western style of legal system should be revived for a more peaceful co-existence.*

## **Introduction**

Throughout the world, dispute is a common phenomenon in human relations. Covertly or overtly, humans have the tendency for vested interest. Therefore, at any point one individual or group crosses the prescribed boundaries of accepted cordial relationship, dispute ensues.

Peace as a social reality is invaluable and an inevitable human need in any given society. According to Iheanacho (2013), it is 'essentially the order of human subjects, in which human consciences are free from all the fragmentation, open to the true, good and drawn to the awareness of common destiny and interdependency existing among members of the human family'.

Without over stating the obvious, the concept of dispute resolution is predicated on the assumption that an equitable society can only be instituted by an equitable decision. According to (Obodoegbulam, 2015) dispute is one of the inevitable phenomenons of every human society. However, what exemplifies the greatness or quality of life in any society is how such society is able to administer their affairs.

The preference for non-violence informs in dispute or conflict management, informs the traditional mechanism for dispute resolution (Ogoloma 2013). In most cultures, it is noted that order cannot be obtained through disorder. In corroboration, Iheanachor contend that in traditional societies, law and justice prerequisites and holding blocks of every society.

Ogba and Ikwerre are progenies of a common ancestry, their forebears Akalaka and his half-brother Ochichi having traced their origin to the ancient Benin Empire (Ellah 1995, Osia 1999, Erediauwa 1995). Ogbaland and Ikwerre are situated in the northern margins of the Niger Delta. They live in village clusters. Ogba and Ikwerre are patrilineal cultures. The family is the smallest unit of administration. This extends to the compound family, minor and major lineages, the kindred and community. Each of these, form a layer of administrative authority as shall be further explained in the course of this exposition.

In Ogba and Ikwerre, joint ownership of property is a common experience. At the death of a progenitor, progenies share whatever wealth or liability that are left behind. Unfortunately, some deviants dispute the formula of property inheritance. Often times, this leads to intractable dispute.

It is in this regard that this paper x-rays the approaches adopted in the alternative dispute settlement among the Ikwerre people of Rivers State as against the conventional methods, using the time tested approaches of customary laws and values in tandem with the social realities of the people for the purpose of achieving forgiveness, reconciliation, healing, re-integration and harmonious living.

### **Dispute resolution mechanism in Ogba**

In Ogba, disputes are of different types, there settlements equally vary. The cause and magnitude of a particular dispute determines how or which solution will be sort.

Major causes of dispute include but not limited to ownership of land and landed property, boundary adjustment. Marriage incompatibility and the care of dependent members of such aborted relationship equally results in dispute. Ideological differences on public matters none the less give rise to dispute. Any challenge to the vested interest of an individual on matters of general interest often leads to misunderstanding. Inheritance and issues concerning bequest, also result in dispute. In some instances, relatives

seek interpretation from outside. Here, the fact is that Ogba society, like other part of African relies on traditional dispute resolution mechanism to maintain society in equilibrium.

Among Ogba people, many avenues serve as the center for dispute resolution. This is determined by the gravity of the offence and the parties to the dispute. The compound family, daughters of the lineage or kindred, age grade, maternal kinsmen, council of elders and the shrine are usually approached by an aggrieved person or party to seek redress. In this regard, Newington (1930/31) "Observes that among the Ogba, council of elders serves both legislative and judicial functions". According to Ogba tradition, when a matter is brought before the elders, the offending person or party is usually invited to explain his own side of the matter. After listening to both parties and witnesses, a pronouncement which represents the opinion of the elders is made. The disputing parties are asked to express their feeling concerning the pronouncement whether they accept the verdict of the elders or not. In most cases, positive response follows. However, were any of the parties feels otherwise the party has the option to appeal the judgment elsewhere.

The shrine is another important centre of dispute resolution in Ogbaland. In Ogbaland like many parts of Nigeria, deities are recognized as impartial adjudication of justice. According to Okafor 2013, people make petition to shrines of deities whenever they are aggrieved. According to Ogba custom, shrines of deities are located at entrance of the living room of elders. The family halls are used as meeting places to listen to aggrieved parties for amicable resolution.

When a dispute appears irreconcilable practical steps are taken to obtain settlement. Okafor (2013) avows that oath taking maybe the next option. Several incidents may call for oath taking. For instance, where one of the parties refuses to accept a simple resolution, where a party fails to admit guilt, where a party is unable to accept responsibility or insists on his stand, the adjudicating audience may recommend oath taking. Again, where none of the parties refuses to shift ground or come up with the simple truth, oath taking may be contemplated to get a settlement. (Obodoegbulam, 2003).

Possible locations where oaths are administered include the shrine, water ways, and center of a family compound, the farmland, or the T-junction. Normally, a particular case at hand, determines where an oath will be

administered and who will administer it. It also determines the items of oath. Some oaths are reversible while others may be for a life time. If a person is accused of murder he may swear an oath for a period of six months to one year, within which he is expected to die if at fault. However, where he survives the period of suspension, the oath will be revoked to mark his innocence (Okafor, 2013). Disputes relating to land ownership or boundary adjustment are often resolved this way.

Among Ogba people, deities and other spirit forces is unbiased umpire. Where a dispute cannot be resolved by words of mouth the spirit is called into play. At such instances, everyone merely watches.

According to Ohia and Onyedibia (2003), the life stick "Oko-ekru" is a significant symbol of boundary demarcation in Ogba. Obodoegbulam (2002) holds that where ever the life stick is planted, everyone automatically recognizes such a place as a demarcation. Any trespasser commits an infringement.

Another significant ritual object commonly applied in dispute resolution is the ritual staff (owhor). This is usually in the custody of the eldest male of every lineage. At any time, there is mediation of a dispute the eldest male uses the object to make his final pronouncement and once he strikes it on the ground, it marks a seal on the conclusion of the matter. (Stanfield, 1935).

Minor disputes are resolved differently. A formal complaint is made to members of one's age grade, in-laws, maternal kinsmen, the compound family, kindred, or council of elders as earlier stated. Both parties will be invited and given the chance to state their case once again, to the hearing of the audience. When the parties have stated their case, they are excuse from the audience who consults among themselves to arrive at a reasonable and acceptable verdict. After agreeing on a final decision, the feuding parties are invited once again while the spokesperson delivers the decision of the adjudicators. This is a very important way of resolving conflict among some parties in Ogbaland.

### **Ikwerre as a people**

The Ikwerre ethnic nationality properly called Iwhnuroha, is among the tribes that inhabit the Niger Delta formally known as the Oil River (Okajile, 2009 in Ogoloma, 2013). Ikwerre constitute one of the major

ethnic groups in Rivers State of Nigeria, with estimated population of about 1.5 million people and, inhabits at present four Local Government Areas namely, Emohua, Ikwerre, Obio/Akpor and Port Harcourt (Ogoloma 2013). Ikwerre is a small but distinct tribe in Nigeria having its linguistic, social and cultural practices, values, norms, customs and formation that distinguishes them from the neighboring tribes like the Ijaws and the Ibos though not without some intercultural influences.

### **The Ikwerre people and dispute settlement**

The Ikwerre people like many other tribes in Nigeria are very religious. They believe in God as the supreme judge and with all seeing eyes, rewarding good and evil accordingly. God as the Supreme Being alongside many other deities, exist. Who are believed to be guardians of morality and social order in their own immediate environment. While serving as the intermediaries to the Supreme Being, they are believed to be dependent on the Supreme Being in order to function effectively. These deities serve as the watch dogs of the communities, detecting crimes and punishing same as they also serve as medium for seeking redress on alleged infringements (Iheanacho, 2013).

The Ikwerre traditional dispute settlement are the outcome of the understanding that humans' need to symbolically understand and appreciate who they are, their experiences and social realities and their immediate environment. Until the advent of the European with the colonial and missionary enterprise, the Ikwerre ethnic nationality like other nations had their own institutions, customs, values and ritual that guaranteed social harmony between the various groups and components of the villages, clans and the tribe. However, the foreign invasion of the traditional system distorted the value system and sought its suppression and even outright extinction from the psyche of the indigenous people. Until then, the Ikwerre people had a well-organized institution and mechanisms for resolving disputes using their norms, customs and rituals which embodied moral authorities without resorting civil courts.

Iheanacho (2013), Mbennah (2001), Ntabona (2001) and Kagabo (2001) have shown the propensity of the African indigenous methods of peace building and reconciliation mechanisms. The efficacy of this approach goes further to show its inclusive nature. Traditional African societies sought active players in the society who included the family and clan

heads, chiefs and elders, age grades, women groups, spiritual leaders.

Ikwerre dispute settlement approaches include rituals which are very vital to the process of reconciliation in three ways. Ritual can transform people's identities, create new or shared identities for people in conflict, and heal the wounds that may result from disputes (Schirch, 2001). Moreover, rituals regulate relationships in communities between individuals and among groups. They serve as ways of defining identity and providing the social lubricant to relate to others and to the surrounding world. Therefore, rituals are special contexts conducive to the symbolic transformation of identity and reframing of dispute towards sustainable and harmonious relationships. The approaches so applied in dispute settlement are dependent on the nature and their causes. In any case, most disputes are between individuals, groups, communities and so on.

Bob-Manuel (2000) while relating on conflict transformation in Africa avers that as a matter of practicality social realities within societies should be taken seriously and viewed as non-isolated events in their social contexts. The elders from a family, clan or tribe see their traditional objectives in dispute settlement as moving away from accusations and counter-accusations, to soothe hurt feelings and to reach a compromise that may help to improve future relationships. They also dwell on values, aspirations, perceptions and visions. In many of the disputes, this cultural heritage plays a decisive role (Bob Manuel, 2000). The family ties and community networking are constantly respected, maintained and strengthened. When there is a dispute among various parties, priority is given to restoring relationships. During dispute settlement, which would normally involve supporters of the disputing parties and the elders meant to talk the matters through. Here, relationships are given prime attention. Indirect relationships are analyzed along with direct ones to see cross-stitching potentials. For example, if both of the disputing parties happen to be wrestlers, this commonality may be utilized as a converging factor. The fear of sorcery or divine punishment is also used to show what the breach of peace would bring upon the society and the conflicting parties (Iheanacho, 2013, Bob Manuel, 2000).

Unlike a western mediator who may begin the exploration by retracing the steps of the parties to the point of the initial dispute. But an experienced Ikwerre elder, taking cognizance of the socio-cultural milieu start from a vintage point further back and try to form a frame of social

reference. In this instance knowledge of the disputants' identity may be sort like their family, clan, and other personal history within the community. In doing so, clues are got on the proximate and remote causes of grievances and dispute. Often times, it is discovered that parties have similar needs where in conflict of interest arises. Critical questions may include: Who are you, and where are you from? Explain your family link. Where did you grow up? What do you like doing? These may provide clues, not only about immediate causes, but may reveal long-standing grievances, thus offer a wider and deeper insight into the differences and similarities among the parties. Parties often have fairly similar needs, but rather different interests. They may also have similar or different ideologies and beliefs. The age and power differences must also be considered. All these help the Ikwerre elder in the discussion to get at the remote and immediate causes.

In the traditional society, mediators play active roles in dispute settlement by suggesting an agreement and get as far as pressurizing the parties into accepting it. Pressurizing can be done through talking, shaming and ridiculing. This method can be used in contexts where it is acceptable and in instances where the cause of the dispute is self-evident. In an effort to change the behavior of troublemakers, through ritualized or ordinary conversations, anti-social and conflict-causing conducts are put to shame.

### **Forms, Mechanisms and Procedures of Dispute Settlement**

The common types or forms of dispute in Ikwerre as in many other tribes in Nigeria and beyond are Family dispute, Intra-community and Inter-community dispute, Boundary and Land dispute, Marriage dispute (childlessness, infidelity, divorce) Age grade dispute, Chieftaincy and Ancestral leadership dispute among others.

The mechanism for dispute settlement among the Ikwerre people includes; prophecy, divination, and consultation of oracles which has the ability to obtain knowledge of hidden realities by transcending into the metaphysical realm to get answers to questions and problems beyond the reach of ordinary mortals (Iheanacho, 2013). It also involves the appeal to the divine power through oat taken to determine the falsity and veracity of claims by the disputants. This however, is usually among the last resort when appeals and other forms of negotiations fail. According to (Isokun and Ezeaku, 1990 in Iheanacho, 2013) oat taken is 'a solemn affirmation of

truth involving the pledging of one's conscience or life to the cause of truth so affirmed'. In this instance, the divine entities are employed as the final arbiter to foster justice on peace.

The stages and procedures of dispute settlement among the Ikwerre people in which cases can be established as outlined by Ogoloma (2013) includes; summon by the aggrieved individual or group seeking for justice through family or clan head, Chiefs, Elders in Council.

The second involves payment of token that is, a summoning fee which may include other material requirements like cola-nut, dry gin and other edibles. The third is the invitation to the accused party which may also indicate the venue and time of the hearing and settlement.

Other stages are information on the requirement for hearing from parties, prosecution and cross examination, investigation and evaluation of the mater so presented by the disputants and finally, the procurement of judgment / verdict.

### **The influence of change**

Introduction of the Pinal code in Nigeria cum Ogbaland and Ikwerre, unleashed devastating blow on the traditional dispute resolution mechanism in the area. The above, coupled with the collapse of some traditional institutions associated with dispute resolution mechanism in the area made the situation worse. Comparing this with what happened to Ikwerre, the experience is not better. Ogbaland and their Ikwerre brothers with a common ancestry witnessed the denigration of traditional institutions. Worse still is the sighting of police stations and court complexes in and around various communities in Ogba and Ikwerre. Matters which used to be tabled before the council of elders or the other traditional institutions are now reported to the police. Lawyers have also been trained to represent client on cases involving them in the court of law even without the parties being physically present.

At such representation, emphases are placed on the logicity of cases instead of the simple truth. Emphases are also placed on verifiable evidence instead of observable truth. In some cases, offenders are set free because they presented a logical argument.

Unfortunately, while the court can give judgment, they cannot give peace

which used to be the concern of traditional societies. Thus, many litigants have judgment but not peace. Aggrieved opponents harbor grudges for years despite court rulings. This scenario makes some to take laws into their hands by employing on orthodox means to vent their anger. Today, criminals hide under the erroneous belief that their ability to put up a logical defense can set them free if they are not caught at the scene of crime. Murder which was one of the worst offence any man can commit, is common with headless bodies found in many corners in Ogba and Ikwerre. Land dispute is common with some getting up to the Supreme Court for years without attention.

### **The way forward**

The indigenization of the judicial process in Nigeria will go a long way in ensuring efficient dispute resolution in Ogba and Ikwerre. On this note, the following are necessary:

1. The age grade system should be revived as no member no matter his personal achievement is considered greater than his age mates when they are together.
2. Communal ownership of property should be upheld. This is the bond that holds indigenous people together.
3. Some traditional laws should be incorporated into the Pinal code.
4. Kindred and community heads should be given sti-pence for supervising the traditional dispute resolution system at the local level.
5. Centers for the teaching of traditional laws should be established and trainees issued certificates as is the case with those who attend conventional university to study law.

### **Conclusion**

The desire to institute order in the society is the under guarding factor in Ogba and Ikwerre concept and philosophy of dispute resolution. It is understood that a society that desires peace, must encourage equity and fairness in its administration of justice. To achieve fairness, impartiality and open mindedness stands very tall.

Owing to the fact that peace comes through compromise and consensus, Ogba and Ikwerre societies should encourage their indigenes to be their brother's keeper. To this end, the spirit of give and take is important. Obviously, peace will remain elusive in any society where every

individual claims to be right. In as much as we insist on our right, the fact that others equally have theirs should be remembered. In this regard, the spirit of live and lets live ought to override all relationship.

Customary Law and Judicial System has been an effective institution that has helped in the maintenance of law and order in the society. This is sequel to the fact that the communitarian system predicated on the people social realities – their value orientations and cosmology are put to play. Dispute settlement in the system is not intended to produce a victor and award charges, but rather to entrench harmonious relationship. Their verdicts are not dependent on the legal logic of the conventional court system where the outcomes are essentially based on evidence and ability to hire the services or the best legal counsel. Unlike the civil system, the traditional court is concerned about forgiveness, reconciliation, healing, re-integration and harmonious leaving in the society.

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