

## **Challenging Crime and Criminal Justice Systems in Africa: Towards Restoration of Afrocentric Justice.**

**By**

**\*Dr. Don John O. Omale (PhD)**

[djomale@yahoo.co.uk](mailto:djomale@yahoo.co.uk)

*Lecturer/ Head of Criminology & Penology, College of Peace and Social Sciences, Salem University, Lokoja-Nigeria. He is an international research scholar, and experienced Correctional Psychologist and Criminologist, with expertise in international comparative criminology, restorative justice and victimology.*

On the 8<sup>th</sup> of October 2009, I was privileged to be invited to a ‘think tank’ international seminar held in Abuja-Nigeria on ‘Crime and Criminal Justice Systems in Africa-Enhancing Human Security’ organised by the African Human Security Initiative Secretariat, the Institute for Security Studies and the West Africa Network for Peace building (WANEP)-Nigeria.

The seminar organised by a network of African organisations working on peace, security and conflict created an opportunity aimed at influencing reforms in the criminal justice systems in Africa. It also serves as a dialogue forum for drawing attention to the effects of crime and defective criminal justice systems on the sustainability of the democratic and developmental process of Africa. Recommendations from the seminar also aim to complement the formal National Economic Partnership for African Development (NEPAD)-Africa Peer Review Mechanism (APRM) process.

### **Situation Report**

Examining the challenges of studying crime and criminal justice systems in Africa, Prof. Etannibi Alemika of the University of Jos, Nigeria worried about inadequate official attention to academic study of crime, criminology and criminal justice discipline in Africa particularly in Nigeria. As a matter of fact, I am arguing that apart from Salem University, Lokoja (a private Christian university where the author of this essay is affiliated), no university in Nigeria (out of the over 90 accredited universities in the country) offers undergraduate degree programmes in criminology & criminal justice. Whereas, to achieve the much desired criminal justice sector reforms in Africa, criminal justice agencies need regular and updated Afrocentric capacity building programmes through academic research. Hence, Prof. Alemika argues that the challenges with crime and criminal justice in Nigeria (and indeed Africa) is associated with the failure of the criminal justice agencies to recognise that crime is a factor of social relation (which is inherently skewed in Africa), and multiplicity of policing powers by several agencies with an eye at social control. Alemika thus, advocated for Afrocentric theories of crime and justice if the challenges of crime in Africa is to be remedied. He also critiques the way ‘community policing’ concept has been reduced to a mere ‘Police-Community Relations Unit’-a subsidiary of the office of the Police Public Relation Officer. This he argues undermines the true intent of ‘community policing’ concept.

In a related development, Dr. Annie Barbara Chiwanha-a senior research fellow with the African Human Security Initiative Secretariat, and the Institute for Security Studies based in Addis Ababa argues that her finding of a ‘crime survey in 3 West African Countries’ appears to support the need to develop Afrocentric theories of crime and justice. She found that respondents in her study are in favour of restorative justice/Alternative Dispute Resolution mechanism than the Eurocentric model of retributive justice. She also found that domestic violence is underreported in West Africa (perhaps because of fear of secondary victimisation in conventional courts of law or cultural attrition). Her findings support the findings of Omale (2009) in a doctoral research that survey the opinions of victims of crime, and the criminal justice professionals in Nigeria regarding the use of restorative justice as an Alternative Dispute Resolution mechanism in the Nigerian criminal justice system (see Omale, 2009; available at: <https://www.dora.dmu.ac.uk/handle/2086/2411?show=full> ). Dr. Annie Barbara Chiwanha (just like Omale, 2009) advocated for restorative justice and Alternative Dispute Resolution mechanism in constitutional reforms of Africa.

Similarly, Prof. Christophe Kougniazonde of Alouine Blondin Beye Academie, Benin Republic, in his paper ‘Criminal justice systems in Francophone African countries’ notes that Francophone countries operate dual justice systems-customary versus western model. He argues that this judicial dualism generates conflict in the Francophone jurisprudence; and conflict arising from this system is often not easy to resolve which impact on effective administration of justice for parties concerned. He further argues that despite the fact that the western model of jurisprudence is dominant in Francophone countries, most locals prefer the customary justice model to the Eurocentric one. Another challenge for criminal justice administration in the Francophone countries is the incarceration of young offenders in the same cells with female offenders. Prof. Christophe Kougniazonde thus recommends constitutional reforms to factor in ‘Alternative to Prison Reforms’.

In another paper ‘Criminal justice systems in Anglophone African countries’, Prof. Ameze D. Guobadia of the Nigerian Institute for Legal Studies/ University of Lagos argues that the challenges for Anglophone criminal justice systems are that the criminal justice systems are ‘Rulers’ law and not Peoples’ law’; and all the prisons she ever visited in Africa are overcrowded (except Sierra-Leone). For effective criminal justice systems in Africa, she suggests that Africans need to: introduce witness protection programmes, independent ombudsman and accountability, victims’ restitution board, and what she calls ‘therapeutic justice’. She thus recommends Alternative Dispute Resolution/ restorative justice but argues whether other western alternatives to prisons such as: suspended sentence, probation, and community sentence will work in Nigeria for instance.

In a bid to finding remedies to the problems of crime and criminal justice systems in Africa, Dr. David Zounmenou of the Institute for Security Studies, Pretoria South Africa examines the challenges of harmonising Africa’s Francophone and Anglophone criminal justice traditions. He argues that the difficulties are that there are major variations across criminal justice systems in Africa. He further argues that in some jurisdictions the emphases are on the rights of the defendants obscuring victims’ rights. There are also variations in the recruitment, and activities of police and judges (which need to be addressed). Variations in treatment of offenders, access

to justice and independence of the judiciary are other issues that need adequate attention. He however, recommends the harmonisation of customary laws with the criminal law in African jurisprudence.

If Africa must develop Afrocentric theories of crime and justice as suggested by Prof. Alemika and other speakers; and harmonised the Francophone and Anglophone criminal justice traditions as suggested by Dr. David Zounmenou; Dr. Tony Karbo of University for Peace-Africa suggests that Regional Economic Communities (REC) such as ECOWAS, SADC and AU must play important roles. He identified some efforts in the literature which could serve as precursors for REC's response to criminal justice reform issues in Africa. Among these are: the old OAU Acts, the African Charter on Peoples and Human Rights, National Economic Partnership for African Development (NEPAD's) protocols on issues relating to good governance, justice and human rights, efforts of the West African Police Organisation (WAPO), and precedence of ECOWAS's Community Court of Justice based in Abuja.

### **Issues with crime and criminal justice in Africa**

As highlighted in this report, there are lot of issues with crime and criminal justice in Africa which if not properly tackled could hinder Africa's dream to prominence in the 21<sup>st</sup> century. Among the issues that need concerted efforts are:

- The proliferation of local organised crime with international links; and in some cases the use of its proceeds to sponsor politicians.
- How to build up citizens' confidence in the criminal justice system so as to deal with the 'legitimacy crisis'.
- Flowing from the legitimacy crisis, there are issues with members of the public and community to not volunteer information on crime detection and prevention because of fear of "sell out" by the law enforcement agents.
- In view of the reluctance of witnesses and victims to not testify in cases in courts, there are considerable problems in processing of cases; and offenders are unduly incarcerated in detention awaiting trials.
- The delay in prosecution poses serious problems of prison congestion (particularly for the Awaiting Trial Persons (ATPs)).
- Accessing victimisation surveys and crime statistics are problematic due to poor record keeping, classification of crime and under reporting.
- Hence, victims' experience in victimisation surveys often differs from police crime data.

### **Recommendations/Conclusion**

Despite the challenges highlighted above, I am arguing that from the quality of professionals and papers presented at the seminar, Africa's problem with crime and criminal justice sector reforms is not about lack of intellectuals to deliver capacity building, project monitoring and evaluation but about lack of political will, democratic culture and encouragement of researchers in the field of criminology and criminal justice to deliver. I also noticed that there are a few criminal justice professionals who believe that advancing Alternative Paradigm or an Afrocentric theory of crime and justice is a return to 'primitivity'. This viewpoint have been academically researched and challenged in Omale (2006) 'Justice in History: An

Examination of African Restorative Traditions and the Emerging Restorative Justice Paradigm' *African Journal of Criminology and Criminal Justice*, Vol.2 (2), p.30-60. Available at: <http://www.umes.edu/WorkArea/showcontent.aspx?id=7012>

I am arguing therefore, that the earlier Africans begin to look at what works for Africa, the better for Africa's sustainable growth and development. Africa must build on the early warning mechanism like the Africa Peer Review Mechanism (APRM) to identify abuse of power and rule of law, as well as work towards a gradual development of regional government and criminal justice system that challenges anti democratic values to build people's confidence. African researchers and criminal justice agencies must liaise and network to develop capacity building and advance culturally specific theories of crime and justice. Perhaps it is now time for Africa to develop 'Peoples' law and not Rulers' law.' Waiting will simply delays improvement and widens the gap between the people and the rulers.