CUSTOMARY LAW ARBITRATION AND IGBO METAPHYSICS IN PROVIDING A PEACEFUL PLANET

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Abstract  
Custom is the culture, belief, arts, way of life and social organization of a particular country or group of people. It is also music, literature, thought as a group. The social organization of a particular country or group of people is regulated by certain rules or regulations. In all human interactions, there must be conflicts associated with it and these differences are best settled or resolved through arbitration in a judicial manner which affords peace to planet. The resolution of these differences between the parties could be achieved by these parties agreeing and consenting to and submitting to arbitration before the elders and the chiefs of the town or village. Igbo Metaphysics is an anthrop of the Igbo's and their culture, which is the sum total of the attainments and the activities of any specific period, race or people including their implements, handicrafts, language and story. Metaphysics is the systematic study or sciences of the first principles of being and of knowledge, the doctrine of the essential nature and fundamental relations of all that is real. Metaphysics is also a branch of philosophy that deals with nature of existence, truth and knowledge.

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Introduction  
Arbitration is consensual and basically attained by the disputants on agreeing to surrender their differences to an umpire/arbitrator who would adjudicate and resolve the differences in a judicial manner in a way other than a court of competent jurisdiction. Arbitration is succinctly said to be the reference of a dispute or difference between two or more parties to be adjudicated in a judicial manner by person or persons other than a court of competent jurisdiction.

Igbo Metaphysics is an anthrop of the Igbo's and their culture, which is the sum total of the attainments and the activities of any specific period, race or people including their implements, handicrafts, language and story. Metaphysics is the systematic study or sciences of the first principles of being and of knowledge, the doctrine of the essential nature and fundamental relations of all that is real. Metaphysics is also a branch of philosophy that deals with nature of existence, truth and knowledge.

Sociologically, conflict is a phenomenon that is embed in social, political and economical behaviours of man and cannot be totally eradicated from humans, rather it could be resolved, pacified, pampered or shelved in a given time and space. Therefore conflict could be defined as a situation in which people, group or countries are involved in a serious disagreement or arguments, a conflict between two cultures.

Customary Law Arbitration  
Customary Law Arbitration is on African law jurisprudence and Common Law Arbitration is on English Law jurisprudence where proceedings and decisions are not normally recorded in writing.

6 Ibid, p.304
Customary Law Arbitration is one of the sources of arbitration law in Nigeria but is not regulated by the Arbitration and Conciliation Act of Nigeria, 2010, which concerns written agreements to arbitrate. This type of arbitration is still popular among the people in the villages and recognised by the courts. Customary Law Arbitration is an arbitration of dispute founded on voluntary submission of parties to the decision of the arbitrators who are either chiefs or elders of their communities and the agreement to be bound by such decision.

In *Onyenge v. Ebere* - the Supreme Court of Nigeria held that oath taking is a valid process under customary law for establishing the truth of a matter. In the case of *Assampong v. Kweku Amaku & Ors* - West African Court of Appeal held that where matters in dispute between parties are by mutual consent, investigated by arbitrators at a meeting held, which is in all fours with native law and custom and decision given, it is binding on the parties and the supreme court will enforce it. The supreme Court of Nigeria in the case of *Duruka Eke & Ors v. Udeozor Okwaranyia Ors* - enunciated four grounds and ingredients to be proved for a valid customary law arbitration namely:-

(i) Voluntary submission of the dispute to arbitration by the parties.
(ii) Agreement by the parties before hand to be bound by the decision or award of the arbitrator or arbitrators.
(iii) Constitution of the arbitral panel of a decision of the community.
(iv) Pronouncement by the arbitral panel of a decision or an award, which is final and unconditional.

In the case of *Agu v. Ikewibe* and *Ohaieri v. Akabueze* - Supreme Court of Nigeria added two grounds or ingredients within which a valid customary law arbitration could be proved, namely:

(v) That none of the parties would withdraw from the arbitration midstream and;
(vi) That none of the parties rejected the award immediately it was made.

From this judgment of the Supreme Court of Nigeria, it is clear that the validity of customary law arbitration could not be questioned and any award rendered under it, is valid. Where all the ingredients enunciated above are evident in the course of the arbitration and there are no other irregularities, procedurally or otherwise, the parties will be bound by the award rendered by the said customary law arbitral panel and none will be allowed to repudiate same because it does not favour it. However, it shall be more emphatic to state, that the true and probable position of law is that a party to a arbitration agreement under customary law, cannot withdraw midstream and such were the decisions of the West African Court of Appeal, Federal Supreme Court and the High Courts, that a party to customary court law arbitration is not free to withdraw or reject the award where it does not favour him.

Once a party to arbitration proceedings under customary law, who is relying on the same pleads that the dispute was the subject of arbitration in accordance with customary law and that there was an award in his favour and that the party relies on the award to raise estoppel against the other party. It is enough and adequate, as it is so raised, the said party shall at the trial of the suit lead evidence to show that there was a valid arbitration by proving the existence of the necessary ingredients if need be. Whether customary law arbitration award will operate as *estoppel per rem judicatam* or will sustain an issue estoppel will depend on the satisfactory evidence adduced by the applicant, whose duty it is to prove the necessary ingredients and where the award qualifies to operate as *estoppel per rem judicatam or issue estoppel*, the said party will be entitled to the plea.

Common Law Arbitration:

Common Law Arbitration is one of the sources of the Law of Arbitration in Nigeria as a received laws and its award is enforceable only by action at law. It has a similar characteristic with customary law arbitration. It arises from oral agreement between parties in respect of existing disputes but instead of Native law and

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9 [1932] 1 WACA 192 at p. 221 per Deane C.J.
13 Okere v, Nwoke (1991) 8 NWLR (pt.209) 317
custom, the English Common Law, applicable in Nigeria governs it, under received English law. Therefore a written agreement to arbitrate is exclusively governed by statute, while oral agreement are entirely regulated by the common law and continued to be known as submissions. An oral agreement to arbitrate remains so and must be treated as such, even if the award is in writing, or in deed under a seal. Both Customary Law Arbitration and Common Law arbitration have similar characteristics, it may at times be necessary to decide whether a particular arbitration is customary or common law arbitration. It is expected that the courts would most probably have recourse to the rules which have been statutorily worked out to resolve internal conflicts between customary law arbitration and non-customary law arbitration, that is English Law. The conflict would be resolved in favour of either of the two laws depending on the nationalities and the status of the parties, the nature and subject matter of the transaction (is the transaction known to customary law) the express or implied agreement of the parties, location and the place of entering into the contract.

Customary Law Arbitration and Common Law Arbitration proceedings and decisions are not normally recorded in writing. Oral arbitration is predominant to the African Natives in their common belief in the oath taking in resolving all kinds of disputes and differences amongst the parties in the absence of written or unwritten documents. The resulting arbitral award by the arbitrator or arbitrators are recognized and enforced by the courts as par with the judgment of the court, when all necessary ingredients are proved. Arbitration is the reference of a dispute or difference between two or more parties to be adjudicated in a judicial manner by person or persons other than a court of competent jurisdiction. In Ofomata v. Anoka - Arbitration was defined as the determination of dispute by the decision of persons called arbitrators, chosen or appointed in a recognized manner and agreed upon by the disputants. Arbitration on the other hand can be described as a consensual method of resolving dispute by two or more parties in a contract agreeing that, in the event of any dispute or difference, they will resort to one person or persons to consider the issue and make a decision either way.

Therefore, in all kinds of arbitration be it oral arbitration (customary and non - customary arbitration or statutory arbitration) the rule stands to be and mean, that parties involved must have an agreement to arbitrate and a clause for submission to arbitration, if orally made, it shall be proved in evidence and if in a written form by the parties to the arbitration, it shall be relied upon by the party in the cause of trial as a form of estoppel.

The Igbo's before time and the advent of white man had embraced Justice as ordered by God in the Bible, which had a wonderful significant effect and binding on the people and affording permanent peace on them and the planet earth. These elders and chiefs do take oath of office by vaccinating their tongues to speak the truth always, which is known and called "Isa Ile" sometimes oath taking is adopted as a form of arbitration due to the common belief that if any one goes contrary or against the agreement upon the oath shall face a dare/terrible consequence of his/her action. This believe looks fetish to the English people but works for the Africans. Arbitration had existed in much earlier times without records, as Africans do not believe in writing but their oral tradition which gave rise to the claim by the English people as being the source of arbitration. For example in Ogidi - Idemili North Local Government Area of Anambra State of Nigeria, the town of Chinua Achebe - the author of the "Things Fall Apart, the Customary Law Arbitration and Adjudication of the disputes were the duties of the Chiefs and Elders applying the age long culture and folklores to settle and resolve disputes in the way and style of their people as it is known to them. 

Ogidi in those days was governed by the Ezeobodo, Elders, Chiefs, and the Age Grades Groups. It was their sole duty to settle dispute amongst sub-villagers by resolving conflicts between subjects by arbitration processes. With the advent of Igwe OkaaKwochaka Amobi in 1904, the duties of Ezeobodo did not cease or stop, only that they performed the task with the approval and consent of the Igwe. The Igbo society is an egalitarian/republican in nature. There was nothing like an overall crowned leader. The whole village meet at the village square to discuss and deliberate on disputes and matters affecting them. In this context and in Igbo Metaphysics, the Village Head has no prerogative power neither was he superior to other male members.

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15 Talbot v. Earl of Shrewsbury (1873) LR 16 EQ 26
in the meeting. These were done to maintain peace under the rules of natural justices equity and good conscience, in other to be properly guided in the performance of this sacred duty/function of dispensing justice, these elders and chiefs take oath of office and further vaccinate their tongues that would prevent any perversion of justices.

The question is whether the custom/culture of Isa lle - vaccination of the tongues by the chiefs and the elders vis-a-vis bringing up a sound cultural society with peace and in peace devoid of hatred and anarchy is still in practice amongst the Igbo’s. To achieve peace on the planet, our people must stop and desist from committing heinous crimes in the society, such as :=

1. The quest to get rich fast and great dialectical materialism that had crept into Igbo culture and in the world and same has denied human race the fundamental peace in the planet earth.

2. Ritual killings and trading with human parts, kidnappings and the associated killings and paying large sums of money as a ransom and a way/form of getting rich quick syndrome, debasing the sanctity of human life.

3. The master traders (Ndi Oga) refused to settle their servants that served them for many years in the trade against the initial agreement between them. The major aim is to deny these servants traders their fair entitlements as was agreed abinitio and goes further to destroy these boys/servants thereby rendering them useless and unpeaceful.

4. That Igbo’s had neglected and refused to observe the Nso Ani (The Holy sanctities in Igbo Land) and commit all sorts of abomination in the land, such as homosexuality, lesbianism, adultery, idolatry, incest and cultism with its atrocities.

The Bible made us to understand that God at all times, wants Justices and such must be rendered unto men for the peace of mankind. In the Book of Amos chapter 5 v 24- God demands that "Instead let judgment run down as waters that never goes dry". It is equally written in the Bible that Moses, in dispensation of justice to help reduce quarrels, murmurings amongst the people Israel, thereby denying these people a conducive peaceful union and atmosphere, took the advice of his father in law Jethro to appoint elders and men of good character and conscience to administer justice to the Jews. In the Book of Exodus 18 vs. 24-26 - "Moses took Jethro’s advice and chose capable men from among all the Israelites. He appointed them leaders of thousands, hundreds, fifties, and tens, they serve as Judges for the people on a regular basis, bringing the difficult cases to Moses but deciding the smaller disputes themselves." To support this point the more, from the Biblical perspective to maintain peace, in Jeremiah 22 v 3 “Thus says the LORD: Execute ye judgment and righteousness and deliver the spoiled out of the hand of the oppressor and do no wrong, do no violence to the stranger, the fatherless, nor the widow; neither shed innocent blood in the place. Also in Micah 6 v 8 - “He hath showed thee O man, what is good; and what doth the LORD require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?" The Igbo’s were able to articulate over the years before the advent of the white man that justice, love, righteousness, truth must go along and dwell in the hearts of the people and their leaders as twin sisters and twin brothers to maintain peace. In Igbo set-up, it is said for the sake of Nwa - nnem or Nwu - nnem (My sister or brother from the same mother) that there must be great love and peace expected to exist amongst them.

Our Very Rev. Fr. Prof. Emmanuel Edeh CSSp in his Book “Towards an Igbo Metaphysics” - where he conceptualized that Igbo Communities, social and religious units are hardly distinguishable as a social setup, is closely connected with political organization. That the traditional governmental instruments are the family leaders, age grade associations, title - making societies and the dibia fraternities. It is generally accepted that these elders and chiefs are the leaders of the people and are in the governmental bodies that perform religious, political and judicial administration to achieve peace in the world and planet earth, like the Jews as ordained by God through Moses.

The question is whether Igbo’s are Jews or of Jewish origin? The answer could be seen in the Bible where and when God made circumcision covenant with Father Abraham- Genesis 17 v 10 - “This is my covenant which ye shall keep between me and you and thy seed after thee. Every man child among you shall be circumcised.” The Igbo’s like the Jews circumcise their child before the advent of the white man and Christian religion and this is mark of God’s people then and now in Jesus Christ. Also the Jewish observance

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18 The Good News Bible, Amos 5v24, p.931
19 Ibid, Exodus 18 vs 24-26, p. 78.
20 Ibid, Jeremiah 22 v 3.
21 Micah 6 v 8.
23 Good News Bible, Genesis 17 v10 p.17.
of the New Moon, possession and inheritance, marriage custom, social and cultural functions are in all fours with the Igbo's in many ramifications.

**Recommendation**

The Igbo's are dropping from the fundamental basics known to them, in maintaining peace and are now delighted in causing heinous crimes, therefore, its recommended that all those inhumane and debased acts be stopped and Igbo's should go back to respect the sanctity of human life and stop the following abominable acts such as:-

1. The quest to get rich fast and great dialectical materialism that had crept into Igbo culture and in the world and same has denied human race the fundamental peace in the planet earth.
2. Ritual killings and trading with human parts, kidnappings and the associated killings and paying large sums of money as a ransom and a way/form of getting rich quick syndrome, debasing the sanctity of human race.
3. The master traders (Ndi Oga) refused to settle their servants that served them for many years in the trade against the initial agreement between them. The major aim is to deny these servants traders their fair entitlements as was agreed abinitio and goes further to destroy these boys/servants thereby rendering them useless and unpeaceful.
4. That Igbo's had neglected and refused to observe the Nso Ani (The Holy sanctities in Igbo Land) and commit all sorts of abomination in the land such as homosexuality, lesbianism, adultery, idolatry, incest and cultism with its atrocities.
5. I still recommend that customary law arbitration be revived, restored and used more regularly than before in order to maintain peace amongst our people as it was in the olden days.
6. I further recommend that It is right and proper for the Igbo's to embrace the concepts of Igbo culture and Igbo Metaphysics as was conceptualized by Very Rev. Fr. Emmanuel Edeh CSSp in his Book "Towards Igbo Metaphysics".

**Conclusion**

The Basic concept of peace is seen in the Igbo Metaphysics as was conceptualized by Very Rev. Fr. Prof. Emmanuel Edeh CSSp in his Book "Towards Igbo Metaphysics" alerting the Igbo's and the planet earth to shelve off in the sheath; nepotism, violence, racism and tribalism, sectarianism, bigotism, idolatrous practices.

Chi-ukwu - the Almighty God or Chi-na-ake - God the Creator, Who is the only Great God that can return and give man the peace that passes all understanding on the planet earth, then mankind would regain peace, his happiness, joy and love. As Jesus Christ use to say "PEACE BE UNTO YOU - "UDO DILI UNU". This would be dependent on the man wearing the clothe of peace, selflessness, righteousness, love, truth towards man and God.

Finally customary law arbitration be revived, restored and used more regularly than before in order to maintain peace amongst our people as it was in the olden days, as this would checkmate the delays and long adjournments of cases in ordinary law courts of the land.

**References**