

LITERATURE AS LEGAL HISTORY:
UNDERSTANDING THE COLONIAL ROOTS
OF THE NIGERIAN POLICE FORCE

Abstract:

This paper responds to the question: “*what insights can literary traditions and narratives provide for a study of the history of law enforcement in Nigeria?*” It makes the case that Indigenous literature hold peculiar value for the legal historian of precolonial society. I read Chinua Achebe’s *Things Fall Apart* as an account of Igbo precolonial history that helps our understanding of police dysfunction in Nigeria, an account that can also inform the country’s police reform ambitions.

Keywords: *Chinua Achebe, Legal History, Policing, Oral Traditions, Law and Literature, Nigeria, Police Violence, Indigenous systems.*

1. INTRODUCTION

On August 5, 1861, William McCoskry, then acting governor of Lagos colony, wrote a letter lamenting the absence of suitable “police,” “jails,” or “other efficient modes of punishment for offenders” in Indigenous society.¹ McCoskry would go on to establish a police force for the colony, populating it with men of Hausa ethnicity from the northern region of the territory that would become Nigeria. This police unit, the Armed Hausa Force, were trained in military tactics and provided weapons which were used to establish and secure colonial rule both within Lagos and in other parts of Yorùbáland.²

Similarly, in 1890—in what was the Oil Rivers protectorate, now in southern Nigeria—George Annesley as acting Consul for the region established “‘a small police force’ armed with shot-guns and drilled ‘as well as possible in such a short time.’” While Annesley urged the “establishment of a ‘consular-constabulary’ consisting of 200 men, he was however willing to start with a nucleus of twenty Hausas.”³ This police force was used to support military operations against non-compliant local chiefs. Subsequent colonial administrators would tread the same path: they maintained, extended or established militaristic police forces tasked with ensuring Indigenous peoples complied with the mandates of the colonial regime.⁴ The modern Nigerian police force, which is operative throughout the country by virtue of constitutional provisions vesting exclusive federal competence,⁵ claims these colonial acts as “establishing” policing in Nigeria.⁶ But there is a different history of policing in Nigeria.

* Oláolúwa Òní is a PhD candidate at Osgoode Hall Law School. This paper is extracted from my LLM thesis completed in 2022 at Osgoode Hall Law School. I am grateful to Prof. Ben Berger, who supervised the thesis. I am thankful to Prof. Kate Sutherland and Prof. Annie Bunting who served as members of my LLM committee. I am also thankful for the feedback I received on draft manuscript as part of the 2024 cohort of the Institute for Global Law and Policy, and especially for the generative discussions with members of my small group. Finally, I am thankful to the team at *Law and Literature* for their support with this article, and especially to Marco Wan for patience and guidance. Any errors or omissions are mine alone.

¹ Tekena N Tamuno, *The police in modern Nigeria, 1861-1965: origins, development, and role* / by Tekena N. Tamuno. (Ibadan: University Press, 1970). Page 14.

² *Ibid.* At 17-18. See also: Etannibi E O Alemika, “Colonialism, state and policing in Nigeria” (1993) 20:3 Crime Law Soc Change 187–219. Okemuyiwa Akeem Adedeji, *State Police in Nigeria: Issues and Challenges* (Rochester, NY, 2012). Page 2-3.

³ Tamuno, *supra* note 1. Pages 4-5.

⁴ Adedeji, *supra* note 2. An excerpt from a speech by Governor Denton, a colonial administrator in Lagos notes, “In our Hausa Force we have a body of men dissociated from the countries immediately around Lagos both by birth and religion, and who are as a matter of fact the hereditary enemies of the Yorubas. This is such an enormous advantage in any interior complication that I should be sorry to see it abandoned if it be possible to obtain a supply of recruits in any other way.” Page 3.

⁵ The constitution provides that “provides that “there shall be a Police Force for Nigeria, which shall be called the Nigeria Police Force and, subject to the provisions of this section, no other police force shall be established for the Federation or any part thereof.” Constitution of the Federal Republic of Nigeria, 1999 (as amended). S. 214(1).

⁶ <https://www.npf.gov.ng/history/display> Although the official account by the Nigerian Police Force claims a colonial police force established in 1820, historians have noted that “there is no recorded evidence that either the Foreign office or the Colonial

In *Things Fall Apart*, Chinua Achebe offers an account of life in precolonial Igbo society, which today mostly constitutes south-eastern Nigeria.⁷ The text contains many incidents of rule enforcement (or policing) in precolonial society. While *Things Fall Apart* is a work of fiction, its substantial worth as historiography is beyond doubt. It is not surprising that Achebe's stories are valuable historical texts because he worked as a historian.⁸ The picture of policing in precolonial Igboland that Achebe paints coheres with scholarly accounts of the same subject.⁹ Achebe's novels have been particularly valuable for critical scholars writing against colonial narratives that presented unduly simplified accounts of life in Indigenous societies.¹⁰ One such problematic claim is the idea, presented by McCoskry and reinforced by the account of history provided by the Nigerian police, that precolonial peoples did not have efficient systems of policing.

In this article, I read Achebe as a legal historian and *Things Fall Apart* as a historical account of precolonial Igbo peoples, including their systems of law enforcement. The central question that organizes my inquisition is: *what insights can literary traditions and narratives provide for a study of the history of law enforcement in Nigeria?* I make the case that writers like Achebe who work within Indigenous story telling traditions of precolonial society allow for a unique approach, which embodies the praxes of decolonizing methodologies,¹¹ to law and literature scholarship. Texts like *Things Fall Apart* are not only great works of literature, they are also great works of Indigenous history that reinscribe important perspectives which are often elided from official accounts of the socio-political and legal evolution of postcolonial states. The literary traditions of Indigenous peoples communicate important information about them and their societies beyond mainstream

Office sanctioned the establishment of a Consular Guard in Lagos before 1861." Tamuno, *supra* note 1. Page 14. In fact, Tamuno emphasizes that the 1861 police force was the first in the territory designated as Nigeria. Page 15. To be clear, the official account does not dispute the colonial origins of the police and is largely consistent with the historical account except on the question of the year the first force was established. The official account claims an unsupported much earlier date.

⁷ Chinua Achebe, *Things fall apart*, 1st anchor books ed ed (New York: Anchor Books, 1994).

⁸ In a 1994 interview with Jerome Brooks for *The Paris Review*, Achebe says, "There is that great proverb—that until the lions have their own historians, the history of the hunt will always glorify the hunter. That did not come to me until much later. Once I realized that, I had to be a writer. I had to be that historian. It's not one man's job. It's not one person's job. But it is something we have to do, so that the story of the hunt will also reflect the agony, the travail—the bravery, even, of the lions." Interviewed by Jerome Brooks, "The Art of Fiction No. 139" (1994), online: <<https://www.theparisreview.org/interviews/1720/the-art-of-fiction-no-139-chinua-achebe>>.

⁹ Generally: Emmanuel Chudi Onyeozili, *An examination of social control and policing in Nigeria: A theoretical and evaluative analysis* (The Florida State University, 1998). Philip Terdoo Ahire, *Imperial Policing: The Emergence and Role of the Police in Colonial Nigeria, 1860-1960* (Open University Press Buckingham, 1991).

¹⁰ Terri Ochiagha, *Achebe and friends at Umuahia: the making of a literary elite*, African articulations (Woodbridge, Suffolk: James Currey, 2015). Pages 1-2.

¹¹ Generally, Linda Tuhiwai Smith, *Decolonizing methodologies: Research and Indigenous peoples* (Bloomsbury Publishing, 2021). Smith notes that a decolonizing framework involves both deconstructing the colonial narratives as well as foregrounding Indigenous knowledges, praxes all with a goal towards improving the contemporary situation of Indigenous peoples. Page 3.

(and even official) narratives. When we allow Indigenous literature to inform our study of legal history, we can get to the stories, experiences, and histories of Indigenous peoples that may be absent from or misrepresented in traditional sources.

My primary task is to locate a history of law enforcement in Nigeria beyond the colonial account. This precolonial context may provide useful insights into the persistent dysfunction that characterizes the Nigerian police today. I have organized this article into five sections. The first section is this introduction that sets up the law and literature inquisition of this work. In the second section, I locate this work within the unique traditions of law in *Indigenous* literature and make a case for why this narrow tradition should be read as a decolonial strain within the broader field of law and literature. In the third part, I discuss *Things Fall Apart* as Indigenous literature that enables a decolonial historiography of precolonial Igbo society. In the fourth part, I explore the colonial roots of the contemporary police force, including the colonial origins of violence by and dysfunction within the institution. In the fifth and final part, I draw on the novel to offer a different historical account of policing in Nigeria and offer this history as a vision that can inform current attempts at police reform in the country.

2. LAW IN INDIGENOUS LITERATURE

The storyteller provides great value to the legal historian. In 1927, William Holdsworth delivered the seminal series of lectures, *Charles Dickens as a Legal Historian*.¹² In these lectures, Holdsworth takes the attitude of a legal historian to the world presented in Dickens's novels, to demonstrate the value that the study of literature can hold for the study of law. *Charles Dickens as a Legal Historian* garnered wide acclaim, both because of the quality of the work and, undoubtedly, because of its author's stature as a scholar and professor of law. But Holdsworth was not the first to navigate the entanglements between literature and legal history,¹³ and many scholars after him continue to draw from literature to inform projects in legal history, and in the study of law generally. Even scholars like Posner, who have expressed skepticism about the possibility of "fruitful analogizing from literary to legal interpretation,"¹⁴ nonetheless acknowledge that legal

¹² William Searle Holdsworth, *Charles Dickens as a legal historian*, The Storrs lectures, Law School, Yale University, 1927 (New York: Haskell House Publishers, 1972). (*Dickens as a Legal Historian*)

¹³ "Reviews and Notices" (1929) 45:2 L Q Rev 242–278. Page 253.

¹⁴ Richard A Posner, "Law and Literature: A Relation Reargued" (1986) 72:8 Virginia Law Review 1351.at 1361

representations and commentary contained in the “great works” of literature can be valuable to the legal historian.¹⁵

This article is situated in “law in literature” scholarly traditions and takes a decidedly decolonial studies approach to the literature-informed account of Indigenous legal history it offers. Early in his article on the disciplinary connections between law, literature, and history, Ian Ward notes the historian’s interest in “provenance,” by which he means that many historians (and lawyers) attach significant value to evidencing their claim through “the primary texts, the chronicles, and ‘histories.’”¹⁶ Most literary forms, especially the “playful texts,” allow for some (or much) whimsy. So, it comes as no surprise that many legal historians would rather draw from traditional legal texts than from literature.¹⁷ Posner, for example, wrote that “in a culture that has nonliterary records, those records generally provide more, and more accurate, information about the legal system than does literature.”¹⁸ But if this attitude were taken to a project about the history of policing in Nigeria, for example, the narratives contained in colonial records (such as created by McCrosky) would be privileged over the literary accounts which tell the stories of Indigenous peoples.¹⁹

Obviously, not all legal historians share(d) Posner’s skepticism. Holdsworth, for one, certainly did not. Neither did Dunbar Barton.²⁰ Nor do a host of contemporary law and literature scholars.²¹ Indeed, Ian Ward puts forward a convincing argument that the so-called “playful texts,” such as works of poetry which give much license to the writer, hold the distinct advantage of “raising...quieted voices; those hitherto cut out of the ‘conversation.’”²² The argument here is that when we source our legal history in literature, we get access to important experiences, stories, and

¹⁵*Ibid.* At 1356-7

¹⁶ Ian Ward, “Law, Literature and History” (2023) 35:2 Law & Literature 327–347. 328

¹⁷ Bernadette Meyler, “Law, Literature, and History: The Love Triangle” in Elizabeth S Anker & Bernadette Meyler, eds, *New Directions in Law and Literature* (Oxford University Press, 2017). Meyler remarks that, “The status of the knowledge derived from literary disciplines remains much less exalted within legal institutions.” Page 166. See also at Page 377, where she notes that “for at least the past half-century, legal history has been characterized by an avoidance of normativity.”

¹⁸ Posner, “Law and Literature”, *supra* note 14. At 1357.

¹⁹ Tamuno, *supra* note 1. Tamuno notes that “the precolonial machinery for law enforcement in Lagos was thrown hopelessly out of gear by [colonial administrative interference]” so Indigenous rulers “relied heavily on the support of the British consuls...to govern...and keep order amongst them and the European residents.” Page 11.

²⁰ D Plunket Sir Barton, *Links between Shakespeare and the law, by the Right Honourable Sir Dunbar Plunket Barton, bart. with a foreword by the Honourable James Montgomery Beck* (England: Faber & Gwyer limited, 1929).

²¹ See generally: Ayelet Ben-Yishai, *Common Precedents: The Presentness of the Past in Victorian Law and Fiction*, 1st ed (United Kingdom: Oxford University Press, 2013). Ward, *supra* note 16. Meyler, *supra* note 17.

²² Ward, *supra* note 16. 330, 332. Ward also writes that, “The aspiration of a literary jurisprudence being to refine a ‘new ethics’ of ‘otherness’.” Page 331.

contexts that might be missing from primary texts; literature supplements the primary texts.²³ This is one, certainly important, application of law and literature praxes. And while it resists the claim that literary texts do not have much to offer where nonliterary accounts are available, it does not much trouble the value that historians attach to primary texts. It adopts a “yes-and” posture: yes to the primary texts and yes to the literary texts for the missing pieces/contexts. The primary texts remain an important center for the historical account.

This posture is evident in how Holdsworth frames Dickens’s texts “as a very valuable addition to our authorities, not only for that period but also for the earlier periods of our legal history.”²⁴ Holdsworth reads Dickens as providing interesting and even important *additional* perspectives of the legal system: “Dickens left us pictures of the court of chancery at Lincoln’s Inn.”²⁵ And throughout the text Holdsworth draws from traditional legal sources to validate Dickens’s literary account.²⁶ Another example: in his 2023 article, Ward makes a similar case for reading literature to recover the (legal) past—“Contract in Shakespeare, equity in Dickens, murder in Melville.”²⁷ Literature serves in these instances to provide “an account of the human side of the rules of law and their working, which is essential to the legal historian.”²⁸

This turn to literature for the “human side” is definitely valuable, but it also presumes that literature is not where the formal rules of law reside; the “formal side” resides in the statute books, the texts of courts’ decisions, and other primary or doctrinal sources. For many Indigenous communities, however, literature is the very form that embodies the rules of law. The Igbo folktale of the snake-lizard²⁹ does not just present the “human side” of the law: one will not find doctrinal or textual sources from which the law, which prescribes like punishment for like offences, derives.

²³ *Ibid.* 332.

²⁴ Holdsworth, *supra* note 12. Page 1.

²⁵ *Ibid.* Page 18.

²⁶ On page 27 for example, after presenting Dickens’s account of the office of the Judge’s clerk as dingy and “of specially dirty appearance,” he then compares it to an account provided by a witness who was a witness before the common law procedure commissioner at about the same time. *Ibid.* Pages 27-29.

²⁷ Ward, *supra* note 16. 332. In this vein, to explain the value of Coleridge’s *Rime of the Ancient Mariner* to legal historians of British slave abolition, Ward connects the poem to doctrinal legal texts on the slave trade and its abolition. Pages 332-335. Ward writes that, “Coleridge would certainly have read many of the contemporary treatises on the abolition cause, in which accounts of The Zong could be found.” Page 335. Ward’s analysis of *Vinegar Tom*, similarly emphasizes the “range of primary and secondary sources, including original accounts of the Chelmsford witch-trials of 1645” that Caryl Churchill consulted to call attention to the experience of “women who have the misfortune to exist at the “edges of society.” Page 340-342.

²⁸ Holdsworth, *supra* note 12. Page 7.

²⁹ Achebe, *supra* note 7. Pages 83-84.

Rather the folktale itself—and the (re)telling of the story—communicates the rule of law.³⁰ The literary form is the legal form.

On a separate but related note, the legal historian must attach much skepticism to the accounts and narratives produced by colonial powers about Indigenous peoples. It is now beyond doubt that an important component of the project of colonization was fashioning justification for empire. Examples abound of colonial sociologist, anthropologists, and storytellers—both professionals and hobbyists—presenting problematic images of Indigenous peoples and society to help confer some moral sanctity on the project of colonization.³¹ These colonial accounts were produced in formal written texts. On the other hand, many Indigenous peoples presented and preserved their lived experiences through oral and, later, written literary traditions.³² So, Indigenous literature serves not only to provide additional (or contextual) information as it customarily serves within law and literature analyses, but to correct (and counter) misrepresentations contained in traditional sources.

Accordingly, the law and literature scholar working with Indigenous literature and within the traditions of Indigenous scholarship must take a distinct posture to their inquiry. Here, we embrace the role that literature served in Indigenous communities, which is to say its function as the primary form by which legal rules were communicated. In *The Legal Within Folktales: Embedded Law in Indigenous And French Canadian Oral Stories*, Xavier Focroulle Menard makes a compelling argument in favor of studying the literary traditions—especially folktales—of Indigenous (and Francophone) communities in Canada as legal texts.³³ His argument presents law, following the work of Robert Cover, as constituting part of a robust system of normative prescriptions that, in their totality, regulate social conduct.³⁴ In these communities, legal norms

³⁰ In the folktale, the snake-lizard killed his mother because after cooking the seven basket of vegetables she gave him, she was left with only three baskets. Thereafter the snake-lizard cooked seven basket of vegetables himself and was left with only three (because vegetables shrink in the cooking process) so he killed himself. The rule of law being communicated here is same consequences for similar “offences.”

³¹ Smith, *supra* note 11. Page 8. See also: Patrick Wolfe, *Settler colonialism and the transformation of anthropology the politics and poetics of an ethnographic event*, Writing past colonialism series (London ; Cassell, 1999). Joseph Conrad, *Heart of darkness & selections from The Congo diary*, modern library pbk. ed. ed (New York: Modern Library, 1999). F D Lugard, *The dual mandate in British tropical Africa*, [5th ed.-- ed (Hamden, Conn: Archon Books, 1965).

³² To be sure, as English literacy spread among colonized peoples, these Indigenous people leaned to use written text to represent their experiences and advocate for better conditions. It is also worth emphasizing that many Indigenous peoples, especially communities of the Muslim faith already had developed writing traditions prior to colonial encounter.

³³ Xavier Focroulle Menard, “The Legal Within Folktales: Embedded Law In Indigenous and French Canadian Oral Stories” (2021) 7:1 *Anamps* 5–38.

³⁴ *Ibid.* Page 7-9

were both communicated and preserved through the oral storytelling traditions, as were accounts of the history and evolution of these societies. Menard notes, correctly, that folktales (and other Indigenous literature) “constitute integral parts of their respective jurisgenerative community.”³⁵ Literary traditions thus emerge as an indispensable source for any inquiry into the history and evolution of these societies, including their legal history. Yet, he notes that “making...folktales the focal point of our law in literature inquiry is not only bold it is also unprecedented.”³⁶

There is a tendency, which is easily observed, for most law and literature scholarship to focus on the traditional (often written) “great”³⁷ texts of literature.³⁸ Text produced by authors great enough to be identified by a mononym: Austen. Dickens. Kafka. Milton. Shakespeare. While such texts certainly hold much value for legal scholarship, they nonetheless cohere with the (legal) historians’ inclination towards provenance.³⁹ Provenance, in the context of law and literature analyses, does not come more authoritatively than the works of these writers. Indigenous literature is not often so tidily organized or warehoused. The folktales, proverbs, and lore of the precolonial Igbo people, for example, are not tidily collected into an anthology or volume, waiting to be mined by a legal historian. In fact, there are often different versions of the same story, changes occurring as the stories are told and re-told across generations and millennia.

Yet, the legal historian who hopes to access an account of rule making and law enforcement in precolonial Igboland must turn to these stories. What this means is that legal scholars working with Indigenous literature must endeavor to read them in the functional contexts in which they operated.⁴⁰ The researcher must appreciate that folktales and oral histories are not merely precursors to, qualifiers for, or inspiration for written or “great” texts, but are themselves authoritative sources of legal history.⁴¹ Admittedly, *Things Fall Apart*, the text that I propose to

³⁵ *Ibid.* Page 9.

³⁶ *Ibid.* Page 7. See also: David Babcock & Peter Leman, “Introduction: Law and Literature from the Global South” (2019) 7:1 *Journal of Global Postcolonial Studies* 1–10. Page 3.

³⁷ Posner discusses for a “Darwinian” test to measure literary greatness: “As Orwell used repeatedly to say, 2nd literature is judged great by a strictly Darwinian test: its ability to survive in the competition of the literary “marketplace” (a word I put in quotation marks to make clear that I am speaking not of commercial profitability but of reputation).” Posner, “Law and Literature”, *supra* note 14. Page 1355

³⁸ Babcock & Leman, “Introduction”, *supra* note 36. Pages 2-3.

³⁹ Indeed, Babcock and Leman make the case that this approach to law and literature has played some part in diluting the “the radically disruptive and counter-hegemonic character of law and literature, which we find in its early stages.” *Ibid.* Page 3.

⁴⁰ Menard, “The Legal Within Folktales”, *supra* note 34. Page 14. See also: Simeon Edosomwan & Claudette M Peterson, *A History of Oral and Written Storytelling in Nigeria* (Commission for International Adult Education, 2016). The authors note that, “As Edosomwan and Peterson note of Nigerian precolonial storytelling, “folktales [and] stories kept the history of Nigerian people alive, and people learned significantly from the narratives.”

⁴¹ Menard, “The Legal Within Folktales”, *supra* note 34. Page 12.

use to ground my analysis of precolonial policing qualifies as a “great work” of literature;⁴² its author is even identified, both in Nigeria and internationally, by a mononym—Achebe. I will explain this choice in the third section. However, for the rest of this second section, I will discuss how my approach to law and literature connects to scholarship on decolonization and decoloniality.

2.1. Law, Literature, Decolonization, and Decoloniality

In *Law and Literature from the Global South*, Babcock and Leman ask: “What would it mean to think of law and literature *from* the post-colony?”⁴³ The authors speak of “methodological possibilities” that attend producing law and literature scholarship from the Global South.⁴⁴ One interpretation of this provocation is that it is a call to understand literature in a precolonial register, which is to say to understand how it served precolonial Indigenous peoples which now constitute the postcolonial states of the Global South. To be sure, the authors do not quite make the argument that Indigenous literature be read as a source of legal histories for precolonial societies. Yet, in foregrounding a foundational postcolonial critique—“eurocentrism is baked into the categories and practices of western knowledge”⁴⁵—they inevitably lend themselves to a project that seeks to locate legal history outside the frames of western knowledge.

The law and literature analysis I present in this work locates its account of policing in Nigeria outside the colonial narrative. It proceeds from a position which recognizes that literary traditions were (and remain) central to the systems of communicating, producing, and keeping (legal) record in many Indigenous communities in Nigeria. So, these literatures must be consulted if one hopes to produce an account of legal history outside Euro-colonial epistemes. The turn to literature in this work is therefore not only a useful and important supplement, as extant scholarship in law and literature suggests, it is also a necessary corrective that connects to the ambitions of decolonial theory.

As Mignolo and Walsh remind us, at the heart of decolonial theory is a commitment to “constructing paths and praxis toward an otherwise of thinking, sensing, believing, doing, and

⁴² Ruth Franklin, “Chinua Achebe and the Great African Novel” *The New Yorker* (19 May 2008), online: <<https://www.newyorker.com/magazine/2008/05/26/after-empire>>.

⁴³ Babcock & Leman, “Introduction”, *supra* note 36. Page 2.

⁴⁴ *Ibid.* Page 3. They explain that this approach would require that we “understand southern sites on their own terms” and that we use “the acquired vantage point to reconceptualize our shared contemporary global modernity.”

⁴⁵ *Ibid.* Page 5.

living.”⁴⁶ The aim is to offer new ways of seeing and understanding the world outside of the “colonial matrix of power” which organizes modern thought, especially scholarship. In the context of historical research, decolonial sensibilities move the scholar away from sources that are privileged by western epistemes and towards sources that reflect a non-colonial understanding of the world. The sites where scholarly (legal) knowledge is produced and disseminated are important locations in the quest to offer a decolonial vision of the future.⁴⁷ So, legal researchers and historians are key players in the project of dismantling the colonial ideals that continue to undergird modern knowledge. No where is the coloniality of modern systems of knowledge more evident than in the research on Indigenous peoples and their pre-colonial systems.

Most primary texts and documents about precolonial Indigenous societies were produced under colonial influence: colonial administrators made (biased) observations about inadequate law enforcement mechanisms and these observations have over time become the official account that the Nigerian state holds out as fact. Accordingly, any account of policing that takes its perspective from these formal sources will inevitably replicate the colonial perspective. However, Indigenous literature preserves the experience of Indigenous communities. Law and literature analyses that center such accounts hold the distinct advantage of resisting coloniality in the historical account of policing in Nigeria. But to succeed in this decolonial ambition, such analyses must read these Indigenous literatures in their precolonial contexts thus implicating decolonizing methodologies.

Linda Tuhiwai Smith opens her influential text, *Decolonizing Methodologies*, by prompting researchers and scholars to recognize that colonial research on Indigenous peoples are often deeply flawed.⁴⁸ Smith emphasizes that such colonial research enables a “collective memory” shaped by western colonial knowledge that informs both western account of Indigenous peoples as well as Indigenous peoples’ contemporary sense of self.⁴⁹ Scholarly research that embraces Indigenous perspectives and methodologies therefore necessarily offer an alternate account of colonial narratives—they do not merely supplement mainstream accounts, they also dismantle stereotypes, biases, and assumptions that constitute the mainstream narrative. Smith emphasizes that the need to embrace decolonizing methodologies applies “as much to Indigenous

⁴⁶ Walter Mignolo & Catherine E Walsh, *On decoloniality: concepts, analytics, praxis*, On decoloniality (Durham: Duke University Press, 2018). Page 4.

⁴⁷ See generally: Folúkẹ Adébisi, *Decolonisation and legal knowledge: reflections on power and possibility* (Policy Press, 2023).

⁴⁸ Smith, *supra* note 11.

⁴⁹ *Ibid.* Page 1.

communities in First World nations as it does to Indigenous communities in developing countries.”⁵⁰ While the text avoids presenting a “how to manual,”⁵¹ it prescribes that the researcher approach their subject with a keen eye to seeking out and centering Indigenous pedagogies.⁵² What this means is that we, as academic researchers who have been trained in the formal (Western) ways of producing knowledge, must overcome an internal conditioning that draws us towards interpreting Indigenous traditions through Western lenses.

In the context of law and literature analyses, the praxes of decolonizing methodologies require that we understand and foreground how Indigenous literary traditions served to educate, socialize and keep record. An important aspect in this regard is to understand that the storyteller is not a sole author but a participant in a collective act of sense and memory making.⁵³ The storyteller and the audience perform the story together, enabling a high degree of reflexivity such that the collective truth emerges. One example of such participatory storytelling is contained in how a mother and daughter pair in *Things Fall Apart* relate the story of the snake-lizard which I mentioned earlier. I will set the scene: mother and daughter are preparing a vegetable dish and, to explain the culinary fact that vegetables shrink in the cooking process, the pair recall the tale of the snake-lizard. The daughter stops at the point where the culinary lesson is established, but her mother urges her to go on:

“Yes,” said Ezinma, “that was why the snake-lizard killed his mother.”

“Very true,” said Ekwefi.

“He gave his mother seven baskets of vegetables to cook and in the end there were only three. And so he killed her,” said Ezinma.

“That is not the end of the story.”

“Oho,” said Ezinma. “I remember now. He brought another seven baskets and cooked them himself. And there were again only three. So, he killed himself too.”⁵⁴

We see the process of collective sense making operating here. Both mother and daughter know the tale of the snake-lizard as a shared truth. When the daughter ends the story prematurely, the mother reminds her to complete it. This performance works because both parties hold the same or similar knowledge of the subject, which indicates a cohesive record. By completing the story, the daughter is reminded not only of the fact about vegetables, but also of a legal norm around

⁵⁰ *Ibid.* Page 4.

⁵¹ *Ibid.* Page 10.

⁵² *Ibid.* Page 15.

⁵³ Menard, “The Legal Within Folktales”, *supra* note 34. Page 16.

⁵⁴ Achebe, *supra* note 7. Page 83-84

punishment. The content of the law is communicated, and the fact of the legal norm is preserved in the record of the oral literary form. The conversation demonstrates the functional aspects of literary traditions for legal communication and socialization.

I should note that it would be wrong to regard the storytelling and oral traditions of precolonial polities as evidencing some form of primitive exoticism that is irreconcilable with civilized systems of education. Indigenous peoples did not just tell themselves fantastic tales all day. In *Things Fall Apart*, we experience the conflict of a young boy who is aging out of childhood and the “stories of the tortoise and his wily ways, and of the bird eneke-nti-oba who challenged the whole world to a wrestling contest and was finally thrown by the cat,” which his mother told to young children.⁵⁵ While Nwoye, our young man, still preferred these children’s tales, he was at the age where he had to sit with this father and learn “stories of the land—masculine stories of violence and bloodshed.”⁵⁶ The precolonial storytelling praxes was a carefully developed and virtually systematized approach to socialization. It was adapted for various contexts, and as with any system of education, the vehicle for delivering lessons evolved with the age of the student. This precolonial approach to education was, like our contemporary systems, imperfect. Even the novel shows that children did not always understand the stories, or the lessons contained within them.⁵⁷ Whatever the shortcomings of the precolonial system, however, it was a largely effective method of teaching and learning. So effective, in fact, that its lessons remain with us till present time.

The law and literature scholar working with Indigenous traditions must be attuned to this functional aspect and translate it into their analyses. In the following section, I make the case the *Things Fall Apart* is a text of Indigenous literature that implements the storytelling praxes of precolonial Igbo communities to present its account of history. Thus, for our purposes, reading the account of policing in the text enables scholarship that offers an Indigenous perspective and embraces decolonizing methodologies to achieve a decolonial vision.

⁵⁵ *Ibid.* Page 53.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.* Page 35.

3. THINGS FALL APART AND INDIGENOUS STORYTELLING

The discussion above foregrounds two primary aspects of Indigenous literary traditions that are of interest to the legal historian: communication and record keeping. The storyteller within Indigenous traditions both preserved the history of the community and communicated this history to subsequent generations. In this section, I will demonstrate how *Things Fall Apart* embodies these aspects. The text presents Igbo literary traditions (including folklore) and is also part of the canon of Igbo literary traditions. It is, if I may be so bold to claim, not unlike traditional Igbo folklore itself.

Folktales are, of course, just one category within the much broader genre of folklore; the genre consists tales, myths, fables, or legends amongst others.⁵⁸ Folklore is, in turn, just one genre in the broader field of literary traditions. While literary scholars have dedicated time to figuring out the internal and external boundaries of the field, these distinctions are not particularly important for our inquisition in this project. It is enough, for our purposes, that the literary account—whether they are presented as folklore or poetry, or in much more concise forms such as proverbs and witticism—is jurisgenerative.

It is important, at this point, to acknowledge and offer some explanation for curiosities that no doubt attach to my decision to work with *Things Fall Apart*. I am, after all, using a text written in English language and published in the colonial era as source for information on the precolonial oral history era. Indeed, Achebe was educated in the British curricular and described himself as a “British protected child.”⁵⁹ *Things Fall Apart* was written and published during the period of British colonization, by Heinemann publishing, a London-based publishing house. Yet, it is this colonial (and postcolonial) era literature I hold out as giving an account of the precolonial era. My decision to so employ *Things Fall Apart* is informed by how Igbo communities, indeed Nigeria as a country, evolved their traditions of English literacy.

Colonial intervention into precolonial Igbo communities impacted the oral traditions of those communities, both through the translation of Igbo language to English as well as the use of the

⁵⁸See generally: Dan Ben-Amos, “Toward a Definition of Folklore in Context” (1971) 84:331 *The Journal of American Folklore* 3–15.

⁵⁹ Chinua Achebe, *The Education of a British-Protected Child* (Penguin Books Limited, 2011).

English phonetic symbols and English alphabet to spell out Igbo words.⁶⁰ The British missionaries, through their schools and educational system, set themselves the task of supplanting Indigenous belief and social systems with Christian and anglicized beliefs.⁶¹ But the fundamental traditions that have been passed on through generations, and which have calcified into an innate identity, survived the manipulations of colonial education. Accordingly, while the British could, through the force of brute strength supplant Indigenous institutions with their own systems, they could not, try though they did,⁶² eradicate the knowledge systems and practices that continued to be passed from generation to generation.

The result was a generation of Nigerians who were literate in English language and knowledgeable in Indigenous systems and practices. Some Nigerians of this generation, such as Achebe, growing increasingly discontent with the colonial agenda, and realizing the need (and urgency) to preserve Indigenous traditions, began to record Indigenous Igbo traditions and history.⁶³ The resultant texts from this process—such as *Things Fall Apart*—while written in English, and produced as a result of British education are in fact historical representations of precolonial societies, narrativized in a literary style patterned after Indigenous storytelling and oral traditions.⁶⁴ Accordingly, these postcolonial literary texts, although written in English language, should be understood as Indigenous texts.

Things Fall Apart presents, and in many ways preserves, important aspects of Igbo precolonial literary traditions. The text reproduces Igbo folklore, proverbs, myths and legends that have been

⁶⁰ Stephen Ney, “Samuel Ajayi Crowther and the age of literature.” (2015) 1:46 *Research in African Literatures* (2015): 37-52 at page 41. See also: Ernest N Emenyonu, *The Literary History of the Igbo Novel: African Literature in African Languages*, 1st edition. ed, Routledge African Studies (United Kingdom: Routledge, 2020).

⁶¹ *Ibid.* 42-43

⁶² *Ibid.* Emenyonu notes that the British teachers recorded the Indigenous folktales that the children told in school and either revised the folktales towards Christian ends or patterned their own stories after these folktales. The missionaries also supplemented their collection of revised and manufactured folk stories and essays with translations of European classics such as *The Arabian Nights*, *Grimm’s Fairy Tales* and *Tales from Shakespeare* and attempted to teach have these corrupted versions replace the original Indigenous accounts. For example, an essay about the importance of farming to the Igbo people ends, “When God created the first man, the occupation he bequeathed to him was farming, as we learn in the Bible.” Pages 42 and 43.

⁶³ Brooks, *supra* note 8. Achebe speaking about the type of education he received under British education notes, “Then I grew older and began to read about adventures in which I didn’t know that I was supposed to be on the side of those savages who were encountered by the good white man. I instinctively took sides with the white people. They were fine! They were excellent. They were intelligent. The others were not . . . they were stupid and ugly. That was the way I was introduced to the danger of not having your own stories.”

⁶⁴ Franklin, *supra* note 42. This profile of Achebe, reproduces two quotes that capture how Achebe approached postcolonial writing as a homage to Indigenous history. Achebe writes that his English texts are carrying the full weight of African experience and are written in “a new English, still in full communion with its ancestral home but altered to suit its new African surroundings.” His later explanation of this venture is a personal favorite of mine, “Let no one be fooled by the fact that we may write in English because we intend to do unheard of things with it.”

passed down as oral history, thereby giving useful information about Indigenous Igbo society. The novel also represents a continuation of Indigenous storytelling traditions into postcolonial society. In the text, we see how a colonially inherited language system can work in service of non-colonial ends, and within the context of our law and literature analyses, work to further decolonial ambitions.

3.1. Indigenous Igbo Literary Traditions within *Things Fall Apart*

The world presented in *Things Fall Apart* is organized around Igbo precolonial society, including the early days of colonial contact. One benefit that flows from this setting (and the demands of verisimilitude) is that the text reproduces a good number of Igbo literary traditions that can serve a robust law and literature analyses. It is worth emphasizing that the language culture of precolonial Igbo society (and many Indigenous polities in Nigeria and around the world) weave literary traditions into every-day speech.⁶⁵ These literary traditions hold a rhetorical appeal and can serve to communicate important nuance. Indeed, Achebe captures this sentiment in the novel when he notes that “among the Igbo the art of conversation is regarded very highly, and proverbs are the palm oil with which words are eaten.”⁶⁶ This culture has survived till present time and is easily observed in traditional ceremonial activities such as marriage rites, burial rites, and coronation rituals.

In the account of the folktale of the snake-lizard discussed above,⁶⁷ *Things Fall Apart* provides a glimpse into the legal norms of precolonial society and the process by which members of that society were socialized into the norms. Another popular folktale, which has survived till present time, tells the story of how/why tortoise has a broken shell⁶⁸ and similarly demonstrates the interconnectedness between Indigenous literature and the precolonial social-legal system. In this tale, the earth is experiencing a bout of famine, and the birds are invited for a huge feast in the sky. Tortoise, upon hearing of the invitation, convinces the birds to lend him a feather each so he could accompany them to the feast. The birds oblige. When the animals get to the sky, tortoise mischievously persuades the hosts to serve him all the food intended for their animal guest. Only

⁶⁵ See generally: J N Orij, “The Ngwa-Igbo Clan of Southeastern Nigeria: An Oral History Overview” (1981) 9 *The Oral History Review* 65–84. See also: Oyebade O, (2004) “Reconstructing the past through oral tradition” in N.S Lawal, M.N.O Sadiku & A. Dopamu, *Understanding Yoruba Lige and Culture*, pages 51-61, African World Press, Trenton.

⁶⁶ Achebe, *supra* note 7. At page 7.

⁶⁷ Footnote 31.

⁶⁸ Achebe, *supra* note 7. At pages 96 to 99.

after tortoise has eaten to his fill does he permit the birds his leftovers. Angry, the birds take back the feathers they donated and fly back to earth, leaving tortoise stranded. Before the birds take off, tortoise makes one request of them—that they ask his wife to bring out mattresses, cushions, and other soft items. She is to lay them out in front of the house so he can be assured of relatively safe landing when he jumps back to earth. Instead, the birds ask tortoise’s wife to bring out the pots and pans and other hard objects. When tortoise looks down on earth, he sees his wife laying things out on the ground and, trusting that the birds have relayed his message accurately, jumps. He lands on the pots and pans, breaking his shell.

Beneath the lighthearted veneer of this fantastical children’s tale is remarkable insight into the rules that regulated the community, and in the process of telling and re-telling, children are socialized into appropriate conduct. The story communicates that tortoise’s actions are proscribed conduct. The story also communicates the gravity of the offense in that the negative consequences of tortoise’s actions (i.e. his broken shell) are permanent. The folktale makes clear that an offender will be stripped of social support (the birds taking back their feathers) and no one can function without social support (tortoise needed the birds to take a message to his wife). In the performance of this folktale, children are made to understand proscribed conduct, and the punishment that attend a breach of the rules.

Beyond folktales, the proverbs reproduced in the novel also provide insights into the norms of precolonial society. For example: “Let the kite perch and let the eagle perch too. If one says no to the other, let his wing break.”⁶⁹ The norm here is equality regardless of class status. Another: “if a child washed his hands he could eat with kings,”⁷⁰ which suggests that hard work and achievement were more revered than established hierarchies.⁷¹ *Things Fall Apart* also demonstrates how folklore served in precolonial societies to preserve history. The people of the village of Umuike in the story have a tale about an old woman with a fan who beckons neighboring clans to trade at the village’s market, thus making the market the greatest amongst the other villages.⁷² While the fact of a “powerful medicine in the shape of an old woman with a fan,” may

⁶⁹ *Ibid.* Page 19.

⁷⁰ *Ibid.* Page 8.

⁷¹ *Ibid.*

⁷² Achebe, *supra* note 7. At page 113.

be dismissed as lore, the performance of the story through telling and re-telling preserves the historical fact of the significance of Umuike for trade and commerce among neighboring clans.

It is important to emphasize that these stories, proverbs, and fables are not authoritative accounts of Igbo precolonial society because Achebe, who is undoubtedly a literary “great” set them to text. Rather, they are authoritative because many historians and scholars of Igbo society and many people of Igbo ancestry have affirmed this text as cohering with shared knowledge.⁷³ *Things Fall Apart*, as its own narrative, similarly coheres with shared knowledge about the precolonial Igbo society and their experience of early colonial administration. In this sense, it works as folklore (albeit contemporary and set into written text) that achieves the same objectives as precolonial folklore: it uses storytelling to both communicate and preserve the history of Igbo people.

3.2. Things Fall Apart as Folklore

Things Fall Apart is not just a text of fiction. Its place in Igbo (and Nigerian) history, its didactic ambitions,⁷⁴ and its literary style elevates it to a status akin to folklore, even if it may not quite qualify as folklore in the strict sense of the genre.⁷⁵ The claim I make here is that the novel can be read in the same way and for the same purposes as precolonial folklore even if it is not technically folklore. Folklore scholars tend to define the genre along the grain of society’s relationship to the message contained within it. While there are different types of relationships which scholars argue define the genre in the context of collective knowledge—“an abstract construct based upon the collective information” or more narrowly, “only that knowledge shared by every member of the group”⁷⁶—the crucial point is that folklore should communicate shared knowledge.

The book has, through the years, been subjected to close reading and scrutiny and it continues to hold as an expression of shared knowledge of precolonial life in Igbo communities.

⁷³See generally: Ochiagha, *supra* note 10. Onyeozili, *supra* note 9. See also: Chukwuma Azuonye, “Achebe’s Igbo Poems: Oral Traditional Resources and the Process of ‘Deschooling’ in Modern African Poetics” 21. In fact, Azuonye takes some issue with “the closeness of Achebe’s two Igbo poems to their raw oral traditional sources” due to concerns around intellectual property exclusivity rights over common literary traditions. Page 3.

⁷⁴ “The Novelist as a Teacher” in Chinua Achebe, *Hopes and impediments: selected essays, 1965-1987* (London: Heinemann, 1988).

⁷⁵ Ben-Amos, *supra* note 58. The author notes that “No matter how defined, [folklore’s] existence depends on its social context, which may be either a geographic, linguistic, ethnic, or occupational grouping. In addition, it has required distillation through the mills of time. Folklore may be “old wine in new bottles” and also “new wine in old bottles but rarely has it been conceived of as new wine in new bottles. Finally, it has to pass through time at least partially via the channels of oral transmission. Any other medium is liable to disqualify the material from being folklore.” Page 5

⁷⁶ *Ibid.* Page 6.

While some readers and critics have, unsurprisingly, disagreed with some plot points in Achebe's novels,⁷⁷ there is much agreement, especially among Igbo people and scholars that the world presented in these novels is true to the reality of precolonial peoples and their experience of colonization.⁷⁸ Indeed, scholars and writers of the precolonial era have turned to *Things Fall Apart* as source for their research. In this sense, the novel has undergone the process of communal sense-making that characterizes folklore; the community it represents (i.e. Igbo people) have affirmed the truth of its representations and claimed it as theirs. Of course, within the context of our modern intellectual property regime, Achebe "owns" the story. Yet even Achebe acknowledges, as I have noted earlier, that he worked as a historian drawing from collective memory to produce the work.

The characters in *Things Fall Apart* are situated in the context of the social relationships of the community in which they lived and the socio-legal systems that regulated those relationships. The reader should understand that Okonkwo, the protagonist, is not just a citizen of Umuofia, the fictional Igbo village in the text. He represents Indigenous peoples in eastern Nigeria, perhaps even Indigenous peoples in Nigeria generally. It is in this respect that the novel becomes particularly meaningful for the legal historian who hopes to understand colonized peoples in their distinct Indigenous context. For this project specifically, our interest is in sifting out details of precolonial rule enforcement. *Things Fall Apart* offers much in this regard: it presents vignettes that show the norms of precolonial society and how the norms were enforced in instances of breach. We see the institutions of rule enforcement in operation and get a sense of the ideals and values that undergird precolonial policing practices. We also watch how colonial administrators supplanted these ideals and values with a distinctly colonial conception of policing. Thus, we can better appreciate policing in Nigeria today as a site of colonial continuum.

4. THE COLONIAL CONCEPTION OF POLICING IN NIGERIA

The violent disruption that was British colonization was especially severe in acephalous communities, which did not have a sole individual or office at the apex of political hierarchy. These communities did not have a top-down structure that could be manipulated for colonial rule, and to

⁷⁷ Achebe, *supra* note 74. Anene Ejikeme, "The Women of Things Fall Apart, Speaking from a Different Perspective: Chimamanda Adichie's Headstrong Storytellers" (2017) 15:2 *Meridians* 307–329.

⁷⁸ See generally: Uzochukwu J Njoku, "Colonial Political Re-Engineering and the Genesis of Modern Corruption in African Public Service: The Issue of the Warrant Chiefs of South Eastern Nigeria as a Case in Point" 18. See also: Onyeozili, *supra* note 9. Ochiagha, *supra* note 10.

apply its indirect rule policy, the British administrators invented hierarchies and placed strangers or outcasts in positions of authority.⁷⁹ Within the context of policing specifically, British indirect rule policy favored the recruitment of strangers as policing agents into Indigenous communities because “colonial police forces were organized and oriented to behave as occupation forces—ruthless, brutal, corrupt, dishonest and prone to brutalizing the colonized peoples.”⁸⁰

In an essay published during the heat of the 2020 #ENDSARS anti-police brutality protest in Nigeria, Ayo Sogruno, a Nigerian human rights lawyer and legal scholar, draws on literary representations from Achebe’s *Arrow of God*,⁸¹ to demonstrate this character of colonial policing:

The result of this recruiting tactic was the alienation of police officers from the communities they policed. They served the colonial state and not the Nigerian people. In his novel *Arrow of God*, Chinua Achebe vividly describes the frustration of two policemen who had been sent by the white District Officer to arrest an influential community leader. The officers were both strangers to the community and so they had to constantly ask for directions: “But now they were convinced that unless they did something drastic they might wander around Umuaro till sunset without finding Ezeulu’s house.” So they slapped the next man they saw when he tried to be evasive. To drive the point home they also showed him the handcuffs. This brought the desired result.⁸²

The British administrators often fabricated new crimes—defined by anti-imperialist sentiments—to effectively administer the new political and governance system. They also established and institutionalized police forces and constituted the force with officers mandated to act purely in service of the new, violent, and strange colonial legal order. As Killingray, a scholar of Nigerian colonial history notes:

⁷⁹A E Afigbo, “The Warrant Chief System In Eastern Nigeria: Direct Or Indirect Rule?” (1967) 3:4 *Journal of the Historical Society of Nigeria* 683–700. Afigbo notes, “The fact is that in spite of three centuries or more of European contact with the coast of Eastern Nigeria, the British had little reliable knowledge in 1900 about the nature of the social and political organisation of the peoples in question...In this circumstance the British formed their opinion of the political system of the various peoples of the region from what they saw and overheard along the coast. Without proper investigation they assumed firstly that the heads of houses and sections whom they met with along the coast were chiefs of considerable standing and secondly that the house system existed in the whole region...when discussing the political organisation of the peoples living there.” It was this misconception that predisposed the British to ‘find kings and chiefs’ wherever they went in Eastern Nigeria and to seek to govern through them. With regard to the formation of the courts and the choice of the chiefs who compose the courts”, wrote Mr R. Raikes one of the officers in question, “it is incorrect to say that the members were chosen hap- hazard,”” Page 690- 691. See also: Onyeozili, *supra* note 9. At Page 188. Onyeozili notes, “The warrant chiefs appointed by the British were chosen from what Achebe (1959) called the efulefu (worthless) stock of the society. Their ascendancy to the position of authority was therefore bound to the hatred and rejection of anything associated with them.

⁸⁰ Alemika, *supra* note 2. Page 204

⁸¹ Chinua Achebe, *Arrow of god* (Penguin UK, 2013).

⁸² “Why #EndSARS won’t quit | African Arguments”, (15 October 2020), online: <<https://africanarguments.org/2020/10/why-endsars-wont-quit/>>.

Colonial rule created new 'crimes', many of which were offences against the imposed structure of colonial management. Certainly, colonial government did seek to curb and punish wrongful acts by one person against another but an essential feature of colonial law and policing was enforcing colonial rules and punishing those who breached them.⁸³

The colonial administrators empowered their police officers to clamp down against Indigenous criticisms of colonial policies, even when such criticisms were levied by British-installed authority figures such as warrant chiefs. For example, in the early 1920s, the police arrested Etak Eto, who was a warrant chief in Southern Nigeria. Eto was subsequently stripped of his warrant authority and charged with sedition for criticizing British disdain of Indigenous legal, religious, and administrative norms.⁸⁴ I highlight how police officers were turned against dissenters like Eto to make clear that the British administrators presupposed that the police—and other colonial rule enforcement institutions—would work primarily in service of the government in force. Where the will of the government and the popular will of the people were at odds, then the police would work against the latter and in service of the former.

Put differently, colonialism introduced a practice of policing where the mass of people did not see themselves reflected in, or their will protected by, the policing apparatus. Instead, colonial administrators instrumentalized the police against civilians protesting the regime, including protests by Aba women in Igboland, Akpanya women in Igalaland, and Egba Women in Yorùbáland respectively.⁸⁵ Under colonialism, policing became mercenary (in the sense that officers were hired guns) and militarized. Policing agents were mercenaries of the political and social elites, and in this role as mercenaries, they were trained as militarized forces.

⁸³ David Killingray, "The Maintenance of Law and Order In British Colonial Africa" (1986) 85:340 *African Affairs* 411–437. At 413

⁸⁴ A E Afigbo, "Revolution And Reaction in Eastern Nigeria: 1900-1929: (The Background to the Women's Riot of 1929)" (1966) 3:3 *Journal of the Historical Society of Nigeria* 539–557. Afigbo quotes a portion of Eto's "seditious" speech, "In plain words we are dissatisfied with British rule and want the Government to leave us so that the country may be governed by Ekpo and like societies. We shall then once more gain complete control over our people. I repeat my statement that the British are not fit to govern this country." At page 546.

⁸⁵ See generally: Judith A Byfield, "Taxation, Women, and the Colonial State: Egba Women's Tax Revolt" (2003) 3:2 *Meridians* 250–277.; Ben Naanen, "'You Are Demanding Tax from the Dead:' The Introduction of Direct Taxation and Its Aftermath in South-Eastern Nigeria, 1928-39" (2006) 34 *African Economic History* 69-102.

4.1. Mercenary Policing Under Colonial Rule

The British did not merely recruit hostile people into Indigenous communities; recruits were mercenaries of the British empire.⁸⁶ Officers represented the colonial government and protected their interests. They served as a visible presence of colonial occupation of these communities. The police, as mercenaries, also served non-political elites, the “petit bourgeois”, who were in favor with the colonial government.⁸⁷ A 2005 Human Rights Watch report on police violence in Nigeria emphasized the character of colonial police agents as mercenaries in aid of the British agenda:

The primary purpose of the police during this time was to advance the economic and political agenda of the colonizers. In many areas, the police engaged in the brutal subjugation of communities and the suppression of resistance to colonial rule.⁸⁸

The new colonial class of social and economic elites could call on the police to protect their interests against the interest of the masses, blurring the lines between private enterprise and government.⁸⁹ Some private companies were able to, through policing powers vested in them by the British crown, exercise political power and exclude Indigenous social systems from the territories under their control.⁹⁰ Armed agents of the state were reduced to the personal servants and guards of the individuals, companies, or institutions that were in good standing with the government.⁹¹ They were also used to keep persons that were considered undesirable from accessing “elite” locations.⁹² The police thus acted as mercenaries of the colonial government and its elites, deployed to serve the interest of these individuals in their relations with the local community.⁹³

⁸⁶ Alemika, *supra* note 2. Alemika notes that the British recruitment of police agents “revealed the preference of the colonial government for mercenary police system: a police force whose personnel are alien to, alienated from and hostile to, the population among who they are deployed.” Page 203

⁸⁷ Ahire, *supra* note 9. Page 22

⁸⁸ “Nigeria: ‘Rest in Pieces’: XI. Police Reform”, online: <<https://www.hrw.org/reports/2005/nigeria0705/11.htm>>. Page 9

⁸⁹ Ahire, *supra* note 9. Page 22

⁹⁰ Ibid. Pages 9 & 10. Ahire notes that the British merchants were allowed to establish private political structures that functioned with the authority of the government. The charter granted to the RNC to establish The Constabulary was another example of this blurring of the lines between government and private business.

⁹¹ Etannibi EO Alemika, “Policing and perceptions of police in Nigeria” (1988) 11 *Police Stud: Int’l Rev Police Dev* 161. Page 165.

⁹² Killingray, *supra* note 83. Page 5.

⁹³ Ahire, *supra* note 9. Pages 78 – 79; 84, 99, and 137.

4.2. Militarized Policing Under Colonial Rule

The British also combined military and civil policing powers to capture and control Indigenous territory.⁹⁴ In his book, *Imperial Policing: The Emergence and Role of the Police in Colonial Nigeria*,⁹⁵ Ahire notes of the education in the colonial police training depots:

. . . emphasis is put on drill as the means of instilling obedience, discipline, and self-control. Officers and men are required to model their drill standards on those for the military infantry, as the force is itself a semi military organisation . . . It is essential that every constable should be able to use his rifle with a fair amount of accuracy, for if a man is totally unable to shoot, he is useless to the force.⁹⁶

A 2010 report by the Human Rights Watch emphasized how brutal and militaristic policing methods secured colonial occupation and note that “the use of violence, repression, and excessive use of force by the police has characterized law enforcement in Nigeria ever since.”⁹⁷

Colonial rule thus re-defined the landscape of rule enforcement in the precolonial communities. The police became a force imbued with enough capacity to make it suitable for military expeditions, and one that worked domestically in primary service of the political, economic, and social elite. This mission necessarily set them against the interest of the every-person. Where in colonial times, the British were the elite, in modern times, they are the Nigerians in governance, politics, and society whose interests are so misaligned with the will of the people they continue to use the police to maintain power in the country.⁹⁸ This colonial ideal of a militarized police force working as mercenaries of the rich and/or powerful has continued into present day.

4.3. Colonial Continuums and the modern Nigerian Police Force

The police force in Nigeria claims a colonial origin,⁹⁹ and it is evident that the colonial conception of policing informs the contemporary understanding of what it means to “police” in Nigeria. The #2020ENDSARS protests and the state’s massacre of the protesters tell a tale of a militarized police

⁹⁴ *Ibid.* Page 29.

⁹⁵ *Ibid.*

⁹⁶ *Ibid* at page 57. via Onyeozili, Supra Note 4 at page 325.

⁹⁷ Eric Guttschuss, “*Everyone’s in on the game*”: corruption and human rights abuses by the Nigeria Police Force, Human Rights Watch (New York, NY: Human Rights Watch, 2010). At page 14.

⁹⁸ Sogunro, note 82.

⁹⁹ Footnote 6.

force that works primarily in service of the political and social elites of the country.¹⁰⁰ In this section I use two incidents to highlight the common features at the heart of the colonial and postcolonial systems of rule enforcement. I juxtapose these incidents to expose the colonial roots of police dysfunction in Nigeria. I hope to make clear that colonial and postcolonial policing are in a continuous relationship, with the former ushering in the latter, and the latter remaining faithful to the impetus that underlay the former.

The narrative of colonial policing is culled from *Things Fall Apart*, while the postcolonial narrative is the story of the massacre of the people of the Odi community in Bayelsa state. The account of the Odi massacre comes from interviews and eye-witness reports conducted by the Human Rights Watch.¹⁰¹ So, I have chosen to use a literary source for the colonial narrative, instead of culling from official or scholarly accounts, because I want to tell the story from the view of the peoples who experienced it. Achebe's historical account in the novel contains the experience of Indigenous peoples as passed down through oral tradition.

The story of the people of Abame grounds our discussion of colonial policing in this section.¹⁰² When a "white man" arrived in the clan during the planting season, the people of Abame, who were yet to encounter the British colonizers, consulted the oracle for guidance on how to handle the strange phenomenon. It was divined that "the strange man would break their clan and spread destruction among them." Consequently, they killed the stranger and tied his bicycle to their sacred tree. For a long time, nothing happened and then one morning, when most of the clan had gone to their farms, three white men arrived, led by "a band of ordinary men like us," that is non-Europeans who had joined colonial service, often as interpreters.

The strangers waited until the big market day when the whole clan would be present. They surrounded the market and "they began to shoot. Everybody was killed, except the old and the sick who were at home and a handful of men and women whose chi were wide awake and brought them out of that market." The clan was left "completely empty. Even the sacred fish in their mysterious

¹⁰⁰ On 21st of October 2020, the world woke to images and video clips of the bloodied, broken bodies of Nigerians shared across social and traditional media. The night before, young Nigerians protesting police brutality were met with a government-sanctioned, combined police and military onslaught. Nigeria's decades-long struggle with police dysfunction was brought to a head with the massacre of its citizens at the Lekki toll gate on the evening of October 20, 2020.

¹⁰¹ "Background Report: The Destruction of Odi and Rape in Choba", online:
<<https://www.hrw.org/legacy/press/1999/dec/nibg1299.htm>>.

¹⁰² Achebe, *supra* note 7. Page 137-140

lake have fled and the lake has turned the color of blood. A great evil has come upon their land as the Oracle had warned.” The story of the people of Abame captures the oral histories of several Indigenous communities such as Obosi, Aguleri, Umukoroshe who attempted to resist colonial laws and had their communities destroyed by the British.¹⁰³ It is worth emphasizing that this story of mass destruction of whole communities is not without foundation in colonial texts of the era.

In *The Dual Mandate in British Tropical Africa*, Frederick Lugard, who served as colonial administrator in Nigeria, offers a “hypothetical” to explain the challenges of maintaining law and order in the colonies under his command.¹⁰⁴ In this hypothetical, “the British officer, hating to ‘mow down’ the brave savages who expose themselves so unknowingly, reserves his fire, and in the encounter, only two or three are killed.”¹⁰⁵ Lugard argues that such “brave savages” would fail to appreciate the might of colonial officers: “‘What is this white man,’ they retort, ‘that we should fear him?’ Had he not fifty soldiers, and he only killed three of us?’” The purpose of this story is to make a case for collective punishment and mass killing as a useful strategy for pacification. This strategy, it should be noted, was already well in use by the time Lugard’s text was published.¹⁰⁶ Although Lugard, whose account would likely be considered an authoritative source of history of the era, presents a clinical version of the experience, the oral traditions of Indigenous communities (distilled into the tale of the Abame people) records the Indigenous experience of such pacification.

The colonial tactic of collective punishment—including mass killing—against non-compliant communities has continued in contemporary Nigeria. The #ENDSARS massacre, mentioned earlier, is one example of mass killing to maintain the regime of government.¹⁰⁷ Also consider the incident of the Odi Massacre ordered by the democratic presidency of Olusegun Obasanjo.¹⁰⁸ Odi was an oil-rich community in the Niger Delta area of Nigeria. The community was in fraught protestation against government-backed petroleum extracting corporations whose activities violated the Indigenous and environmental rights of the people. Pockets of conflict between the community on one hand and the Nigerian government, corporations, and police

¹⁰³ Uzochukwu J Njoku, “Colonial Political Re-Engineering and the Genesis of Modern Corruption in African Public Service: The Issue of the Warrant Chiefs of Southeastern Nigeria as a Case in Point” 18. Page 107.

¹⁰⁴ Lugard, *supra* note 31. Page 580.

¹⁰⁵ *Ibid.* Page 579-580.

¹⁰⁶ Lugard’s text was published in 1922. However, Tamuno records that by the 1890s the colonial force was already used for pacification in the southern oil protectorates. Tamuno, *supra* note 1. Pages 3-6.

¹⁰⁷ Footnote 102

¹⁰⁸ Andrew Oselora Sawyer, “Oil and Conflict in the Niger Delta: Revisiting the Odi Genocide” (2010) *Marginality and Crisis: Globalization and Identity in Contemporary Africa* 239. See also: note 101.

officers on the other hand had become routine. However, these conflicts escalated and led to the death of twelve members of the Nigerian police, allegedly killed by a local gang. The government of Nigeria ordered the military destruction of the community in response. Reports about the incident note that every building except one bank, an Anglican church, and a health care center, were burned to the ground. A 1999 Human Rights Watch report concluded that, “the soldiers must certainly have killed tens of unarmed civilians and that figures of several hundred dead are entirely plausible.”¹⁰⁹

These stories, cast side-by-side, offer an identical account of how policing powers are conceived: to help a powerful, even if unpopular and unwanted government, erode the will and Indigenous rights of a community, to erode the will of the people. Many other comparable stories exist, such as the arrest by ambush and subsequent torture of the elders of Umofia,¹¹⁰ and the arrest and torture of #ENDSARS protesters.¹¹¹ These incidents demonstrate the shared features of colonial policing and modern policing, including the colonial character—and roots—of policing in Nigeria today. The tactics that are routinely employed by the police today, the tactics that we identify as feeding the culture of police impunity and dysfunction are identical to the tactics that characterized colonial policing.

Accordingly, implicated in the current construction of what it means to “police” is a colonial ideology that sets the police as the violent mercenaries of a hostile government and elite class against the will of the people. This is the colonial root of sustained police violence and impunity in Nigeria. However, the oral and literary traditions of Indigenous peoples offer a different vision of what policing has looked like (precolonially) and perhaps may look like again in the future. In the next and final part, I draw on *Things Fall Apart* to offer an account of precolonial rule enforcement in Igbo society.

5. Things Fall Apart and Precolonial Rule Enforcement

As I noted at the top of the preceding section, precolonial Igboland was famously constituted of different communities, each with its own distinct political authority, and typically without the

¹⁰⁹ note 101.

¹¹⁰ Achebe, *supra* note 7. 194-195

¹¹¹ *Sister Narrates Arrest Of #ENDSARS Protester*, Eromosele Adene (2020). The sister of an arrested #ENDSARS protester narrates how the police ambushed their family through deception to eventually arrest him. Adene was subsequently detained and tortured in police custody until bail conditions were satisfied.

control of any central government.¹¹² The precolonial Igbo society has been described as “broken into small polities”¹¹³ that were “democratic but... tended to develop similar answers to the problems of governance and social control.”¹¹⁴ Achebe’s description of Umuofia, the primary setting of his novel, as a clan made up of nine villages, and as one of several other clans¹¹⁵ reflects this structure of precolonial Igboland as a multi-polity. Values and belief systems were closely shared at the clan level, yet the different villages that made up the clan also shared values that distinguished them from other clans.¹¹⁶ The homogeneity of values at the clan level meant that taboos could be, and often were, defined differently by different clans. Accordingly, the consequences of an offence committed in one clan did not always carry over to other clans. Two incidents in *Things Fall Apart* illustrate these points.

The first is when Okonkwo accidentally kills a kinsman.¹¹⁷ This is a taboo and Okonkwo must be banished from the community. However, he can go to Mbanta, a village in another clan, and re-establish himself and his family while waiting out the period of his banishment. The consequence of his taboo is circumscribed to the village where the taboo occurs, and an offender is able to live as a free man while on exile in another village/clan. The second incident involves the ritual killing of an “ill-fated lad” from a neighbouring clan.¹¹⁸ Ikemefuna was given to the people of Umuofia to atone for the neighbour’s killing of a “daughter of Umuofia”. Okonkwo’s family fostered him for three years until it was divined that Ikemefuna had to be killed in ritual death. Although Okonkwo dealt the killing blow, this killing was not regarded as taboo because Ikemefuna, having come from another clan, and thus having no ancestral connection to Okonkwo, was not a kinsman, even if he had effectively become a part of Okonkwo’s family.¹¹⁹

¹¹² There are some differing opinions to the claim that the precolonial Igbo Society was acephalous. Some scholars have noted that there existed in precolonial Igboland some — admittedly few — communities with a hierarchy of political authority with a Eze/king at the top. However, it is agreed that these communities were the exception to the rule. Onyeozili, *supra* note 9. Page 74

¹¹³ *Ibid.* Page

¹¹⁴ Onyeozili page 88.

¹¹⁵ Achebe, *supra* note 7. Page 3.

¹¹⁶ Other authors such as Chukwuemeka Ike in his book *The Bottled Leopard* have reflected this Village-Clan structure of Igboland. Ike’s Ndiikelionwu was a village in the larger Aro clan, based on the author’s own ancestry in the Ndiikelionwu. Vincent Chukwuemeka Ike, *The Bottled Leopard* (: University Press, Nigeria, 1994). Onyeozili also discusses the Village/Clan structure. Onyeozili, *supra* note 9. Page 53.

¹¹⁷ Achebe, *supra* note 7. 124 -125.

¹¹⁸ *Ibid.* Page 57 – 62.

¹¹⁹ After the declaration that Ikemefuna was to be killed, Ezeudu, Okonkwo’s friend visits him and cautions, “Yes, Umuofia has decided to kill him. The Oracle of the Hills and the Caves has pronounced it. They will take him outside Umuofia as is the custom and kill him there. But I want you to have nothing to do with it. He calls you his father”

The construction of taboos around the shared belief system of a clan and to protect members of the clan translated into a community-centered approach to policing, which was an important praxis for policing in the precolonial society. Rules were construed primarily for the welfare of the community and were enforced by community-constituted institutions regardless of the offender's class status. The policing of offences against these rules similarly centered the collective will of the people. Thus, in the precolonial Igbo rule enforcement system, we can appreciate a non-colonial approach to policing as one that is: (a) community-centered and; (b) community-constituted.

5.1. A Community-Centered Approach to Policing in Precolonial Igboland

The systems of policing in precolonial Igbo society evolved around the idea of the supremacy of the collective will of the people, and the equality of every person in the community. The acephalous nature of these societies translated into a democratized system of rulemaking and rule enforcement. The will and assent of members were prioritized through communal decision-making processes. Onyeozili notes that the *Oha*, which is “at the apex of Igbo political culture...is used synonymously with *Obodo* (the state) [and] can be extended to mean the people, an assembly, a sovereign body, an authority, government, and a way of life affecting a community.”¹²⁰ In *Things Fall Apart*, the concept of *Oha/Obodo*—the collective will—is practiced in clan meetings where decisions on important matters of clan administration, from planning ancestral feasts¹²¹ to taxation/levies¹²² were settled through discussion and agreement.

The *Oha* was also at the center of rule enforcement and policing, and meetings were held to discuss how to handle breaches of the rules, especially unprecedented offences. For example: in one incident, an adherent of the new Christian faith in Mbanta killed a sacred python, a taboo so severe and exceptional that “no punishment was prescribed for a man who killed the python knowingly because nobody thought that such a thing could ever happen.”¹²³ The clan convened a meeting to discuss how to handle this development. Or, in other words, how to *police* the offence. While Okonkwo and some members of the village were in favor of chasing the “abominable gang” out of the village with whips and guns, the collective decision “to allow the gods fight for

¹²⁰ Onyeozili, *supra* note 9. Page 75.

¹²¹ Achebe, *supra* note 7. Page 26

¹²² *Ibid.* Page 196 – 197.

¹²³ *Ibid.* Pages 156 - 157

themselves,” prevailed.¹²⁴ In another incident, after a neighbouring clan kills a child of Umofia, the people hold a meeting to decide on whether to go to war with the offending clan. The popular view that the village first attempt a peaceful resolution to avoid fighting a “war of blame” prevailed over contrary opinion.¹²⁵

Achebe emphasizes the centrality of the *Oha* in precolonial rule enforcement by making a clan meeting the setting for the climatic confrontation between agents of the colonial administrators and the members of the community.¹²⁶ After the colonial administrators released the elders of Umofia from prison, the community gathered in a general meeting to discuss how to handle the threat that colonial occupation posed to their lives. The court messengers, acting on the mandate of the “white man” ambushed the villagers and ordered them to end the meeting.¹²⁷ The significance of this incident, which exemplifies one value of this work’s law and literature approach, is that by juxtaposing the precolonial approach to policing with the colonial approach in one incident, it offers a vivid picture of the experience of colonisation. In this scene, the villagers who are participating in a moment of community-centered policing are violently displaced by colonial policing agents who represent the abrogation of the will of the people.

5.2. Community-Constituted Policing Institutions in Precolonial Igboland

Under precolonial policing, rules were enforced by institutions and groups already existing within the social structure. The “police” were not a differentiated class of people, specially designated to wield enforcement powers as in colonial and postcolonial policing. Rather, groups and institutions that performed other social functions within the society also served to police offences. Scholars have noted that institutions such as the age-grade,¹²⁸ the Umuada,¹²⁹ and the Umunna¹³⁰ —all social groups—were also used to enforce the rules in precolonial society. Importantly, these institutions were also peer-groups.¹³¹

¹²⁴ Ibid.

¹²⁵ Achebe, *supra* note 7. Page 12.

¹²⁶ Ibid. Page 203.

¹²⁷ Achebe, *supra* note 7. Pages 203 – 204.

¹²⁸ The age-grade was a union made of people within the same age bracket and they undertook social activities within the community. They also took complaints, mediated disputes and where necessary intervened as policing agents where one of their members committed an offence.

¹²⁹ Achebe, *supra* note 7. The Umuadas is a union consisting of the women in a family, village or clan. They performed similar responsibilities as the age grade. Page 212

¹³⁰ Ibid. The Umunnas are the male equivalent of the Umuadas.

¹³¹ Onyeozili, *supra* note 9. Pages 74-76. See also: Femi Adegbulu, “FROM WARRANT CHIEFS TO EZESHIP: A DISTORTION OF TRADITIONAL INSTITUTIONS IN IGBOLAND?” (2011) 2:2 25.

Things Fall Apart offers examples of how these institutions functioned. In one incident the Umunna converge to enforce consequences against Okonkwo for killing a kinsman. Within the group of policing agents is Okonkwo's best friend Obierika, who with other members of the Umunna stayed up all night helping Okonkwo pack and store his belongings. In the morning, according to the dictates of custom, they arrive at his compound, which Okonkwo and his family have now abandoned, and destroy it, neutralising the effect of the taboo.¹³² Community-constituted policing—policing by peers, friends, and well-wishers—ensures the humaneness of the policing process and the policing agents. The offender sees themselves in the police and the police see themselves in the offender.

Similarly, members of the clan constituted the institution of the *Egwugwu*, regarded as masked spirit of the ancestors.¹³³ The society's normative system prescribed that *Egwugwu* be regarded as dead ancestors who return to earth to, among other functions, police especially grave offences, and this belief is central to Igbo spirituality. However, the community also understood that "ordinary men" were beneath the *Egwugwu*'s masks. Achebe shows the operation of this belief when the *Egwugwu* gather to settle dispute in the community.¹³⁴ When the masked spirits emerge from the earth, Achebe notes that,

Okonkwo's wives, and perhaps other women as well, might have noticed that the second *Egwugwu* had the springy walk of Okonkwo. And they might have noticed that Okonkwo was not among the titled men and elders who sat behind the row of *Egwugwu*. But if they noticed these things they kept them within themselves. The *Egwugwu* with the springy walk was one of the dead fathers of the clan.¹³⁵

We see, then, how the ethos of community-constituted policing is maintained even at the level of the most revered policing institutions of the community. The literary account, by showing us what members of the community observe about their policing system offer crucial details about precolonial policing that may not be captured in scholarly accounts of the same subject. The text also shows that other spiritually grounded policing institutions, such as the office of the priests and priestesses, were similarly represented by people who lived ordinary lives outside of their police

¹³² Achebe, *supra* note 7. Pages 124 – 125. The night before destroying Okonkwo's compound, some of the men in the group worked tirelessly to help pack-up and store Okonkwo's belonging in anticipation of the destruction that was to come in the morning.

¹³³ *Ibid.* Page 89.

¹³⁴ *Ibid* at Page 89.

¹³⁵ *Ibid* at Pages 89-90.

duties. For example, the priestess of the Agbala deity, a revered institution in the community, was Chielo who, “in ordinary life was a widow with two children. She was very friendly with Ekwefi and they shared a common shed in the market.”¹³⁶

This precolonial approach to policing—that is, community-centered *and* community-constituted—directly contrasts with the colonial (and postcolonial) approach that centers the interest of government and its loyalists and is enforced by strangers (or persons unaccountable) to the community. The precolonial approach, tailored as it was, around communal values and the society’s institutions, is characterized by three observable features: policing was nuanced and specific to the offence committed, policing agents remained bound by the norms of society, and finally the goal of policing was to preserve the legal and social order.

5.3. Policing was Nuanced and Specific to the Offence Committed

The community-centered approach adopted in precolonial times translated into a policing apparatus that was guided by the circumstances and context within which an offence was committed. Also, the use of social groups to police offences meant that the officer or institution that acted as police in any given instance of breach was specific to the nature of the offence committed. Scholars of Igbo precolonial policing system have noted that different social institutions “kept social ills in check,”¹³⁷ and the stories in *Things Fall Apart* coheres with this claim. When a minor offence such as a cow breaking free and destroying a neighbour’s crop occurred, the Umuada acted as police.¹³⁸ Where it was a graver offence such as beating one’s spouse in the week of peace (thereby exposing the community to the wrath of the gods and the possibility of a bad harvest) the priests enforced the rules.¹³⁹ And where the more severe desecration of *Egwugwu* happened, then police authority rested in the masked spirit of the ancestors.¹⁴⁰

The details offered by the novel show that the differentiation in policing institutions was connected to the community’s sense that offences should be policed according to their level of severity. Thus, the amount of state authority that should be brought to bear against an offender was

¹³⁶ Achebe, *supra* note 7. Page 48 and 49.

¹³⁷ Onyeozili, *supra* note 9. Page 92

¹³⁸ Achebe, *supra* note 7. Page 114.

¹³⁹ *Ibid.* Page 31.

¹⁴⁰ *Ibid.* Page 188-189.

tailored to the perceived seriousness of the offence, and this nuance informed the approach to policing. The novel also shows that maintaining nuance in policing was so important that it reflected poorly on the character of an individual who violated the norm. When a complainant invites the *Egwugwu* to preside over a familial misunderstanding, which dispute is considered too trivial for the intervention of the masked spirits, this intemperate decision reflects poorly on his character:

“I don't know why such a trifle should come before the Egwugwu,” said one elder to another.

“Don't you know what kind of man Uzowulu is? He will not listen to any other decision,” replied the other.¹⁴¹

The precolonial policing apparatuses were effective because citizens accepted the socio-legal norms of the community. The role of the police was not to compel citizens to accept state authority but to maintain an already accepted normative system. Different institutions, based on their sphere of influence in society, intervened in instances of rule violation. We should understand, then, that policing in the precolonial society operated as persuasive authority to maintain the social and legal order, and not as an imposing force to establish (as in colonial policing) or preserve (as in postcolonial policing) an illegitimate system.

5.4. Policing agents remained bound by the norms of the society

Another important feature of precolonial policing, which flowed from the community-constituted character of the institutions, was that policing was not “status conferring.” In other words, precolonial policing did not install a class of powerful people that were above the normal prescriptions of law and were able to wield power to oppressive ends. Policing agents had to observe the society’s normative prescriptions when they exercised enforcement powers. They could not, under the guise of rule enforcement, engage in tabooed conduct. Where a taboo was construed as grave enough to warrant ritual death, the rule against the killing of a kinsman circumscribed policing to acts necessary to ensure the expulsion of the offender from the community and nothing further.¹⁴² Achebe offers one example of how this inviolability of social

¹⁴¹ Achebe, *supra* note 7. Page 94.

¹⁴² For example, Unoka—Okonkwo’s father—contracted a tabooed disease that was to be met with a ritual death, his age-grade carried him to the evil forest and left him there. He was free to either to move on to another community or remain in the forest until his death. *Ibid.* Pages 5-7. When another member of the community, who had contracted a similar disease and was also carried to the evil forest, returned to the village in defiance of the society’s norms, the police simply returned him back to the forest and tied him to a tree to prevent his re-return to the village. See also: Onyeozili, *supra* note 9. Page 90

norms informed the policing practices in the community: rule enforcement around the taboo of breaking the peace evolved from the previous practice of ritual killing—which was abandoned because the policing agents were themselves committing a taboo in the process of rule enforcement—to the more palatable payment of fines.¹⁴³

By contrast policing powers in the (post-)colonial regime vests powers on policing agents to deviate from standard legal prescriptions in the exercise of their duties. The constitution of Nigeria makes individual rights, including the right to life, subject to the police powers of arrest, and the use of force “for the purpose of suppressing a riot, insurrection or mutiny.”¹⁴⁴ Police officers are thus empowered to do things that average citizens cannot.

5.5. The primary goal of policing was to preserve the social and legal order

The final feature I will discuss here is that precolonial policing was defined to preserve the community’s social and legal order. This feature is connected to centering the will of the people in the rule enforcement apparatus. Rules and the methods of enforcing them were tailored to secure the restoration of the offender back to good standing in society, and to reconcile the society back to the gods and ancestors.¹⁴⁵ In *Things Fall Apart*, Okonkwo, described as “provoked to justifiable anger” beat his wife heavily during the week of peace, despite pleas and caution from family and neighbours, because he was “not the man to stop beating somebody half-way through, not even for the fear of a goddess.”¹⁴⁶

When the priest of the goddess visits Okonkwo after the incident, he emphasises the gravity of Okonkwo’s offence:

You know as well as I do that our forefathers ordained that before we plant any crops in the earth we should observe a week in which a man does not say a harsh word to his neighbor. We live in peace with our fellows to honor our great goddess of the earth without whose blessing our crops will not grow. You have committed a great evil...The evil you have done can ruin the whole clan. The earth goddess whom you have insulted may refuse to give us her increase, and we shall all perish.¹⁴⁷

¹⁴³ Achebe, *supra* note 7. Page 31 -32.

¹⁴⁴ Section 33 of the constitution of Nigeria.

¹⁴⁵ Onyeozili, *supra* note 9. Page 79.

¹⁴⁶ Achebe, *supra* note 7. Pages 29-30.

¹⁴⁷ Ibid. Page 30

The priest then goes on to prescribe the fine to be paid to forestall *Ani's* wrath and,

Okonkwo did as the priest said. He also took with him a pot of palm-wine. Inwardly, he was repentant. But he was not the man to go about telling his neighbors that he was in error. And so people said he had no respect for the gods of the clan. His enemies said his good fortune had gone to his head. They called him the little bird nza who so far forgot himself after a heavy meal that he challenged his chi.¹⁴⁸

In the excerpts above, Okonkwo's offence is defined by the impact it has on the community and his punishment is circumscribed to the sacrifice required to placate the deity. By complying with the priest's prescriptions, Okonkwo ensures that the community is reconciled back to the gods.

Importantly, the democratized nature of rulemaking and decentralised nature of the institutions of rule enforcement translated into a policing system where members of the community saw themselves and their welfare prioritized, thus vesting legitimacy on the policing agents. Put another way, because the villagers were permitted the freedom to participate in governance, the regulations and decisions that came out of these general meetings reflected the will of the people as was necessary for the wellbeing of the community at large. Thus, even offenders against these rules understood and often agreed with the consequences that attended violation, and themselves participated in the process of rule enforcement, through self-policing. The translation of legitimacy into self-policing is especially illuminated by the accounts in *Things Fall Apart*.

One example of self-policing is contained in the above *Week of Peace* example. Okonkwo paid the fines prescribed by the priest without complaint and added a pot of palm wine to the fine.¹⁴⁹ This demonstrates that even though he has offended, he continues to recognize the legitimacy of the rule and the authority of the priest. Additionally, by paying an amount above the prescribed fine, Okonkwo is engaged in a level of self-policing that is attributable to the legitimacy of the underlying political process from which the rules have emerged. Similarly, after Okonkwo accidentally kills a kinsman, he returns home and immediately begins packing up his things in preparation for exile, which is the prescribed punishment for the offence, even before the sanction is officially pronounced—again, another act of self-policing.

The account provided in *Things Fall Apart* demonstrates that the goal of policing was to secure restorative justice which prioritized the welfare of all members of the community, including

¹⁴⁸ Ibid. Page 31.

¹⁴⁹ Achebe, *supra* note 7. Page 30-31.

the offender. The legitimacy enjoyed by the precolonial institutions and the resulting practice of self-policing translated into efficient, effective policing which remained bound by the ethos of the normative order that proscribed the non-commensurate use of force, or killing for any reason.

To summarise, three major features marked the community-centered and community-constituted approach to policing in precolonial Igboland—the method of policing was nuanced and tailored to the offence committed; policing institutions were democratized and decentralised; and the goal of policing was to preserve a social and legal order that enjoyed the legitimacy of citizens. This approach to policing is markedly different from the mercenary, militarised approach of the colonial and postcolonial era discussed earlier. The postcolonial structure concentrates police power and authority in a central government that is far removed from the local community and works to maintain political power in a government installed through a political process that violates popular will. Afigbo, in his work on law enforcement in Nigeria, appropriately remarks that the British system of policing “marked the end of an era of justice...immediately the white men came, justice vanished.”¹⁵⁰

I hope I have brought to fore how literature can serve legal scholarship by illuminating aspects of lived experiences that can be, and have been, erased through exclusionary and imperialist accounts of history. Literary accounts can correct flattened representations of precolonial life, particularly legal norms, and supplement other historical narratives by offering an alternative picture of precolonial life. Literature also offers an account of the normative elements of the society under consideration. The writer in this context is not merely engaged in imaginative fictionalising, however useful that may be, but is drawing on oral history to enter the precolonial world and share in the lived experience of the people who inhabited that world.

To be clear, the argument here is not that the precolonial systems were faultless or that the precolonial be wholly brought forward into our postcolonial reality. Nigeria has far evolved from precolonial times and no longer organizes itself around precolonial ideologies alone. Also, as the accounts of ritual killing and gendered violence demonstrate, violent, hegemonic, and exclusionary traditions also bugged precolonial society. Yet, the novel offers moments of reflection and even change that suggest that these societies were evolving out of their unsavory practices. Colonialism

¹⁵⁰ Onyeozili, *supra* note 9. Page 407.

interfered with Indigenous development and supplanted autochthonous systems with deeply flawed colonial systems that have remained strongholds till present time.

The argument, then, is that police dysfunction in Nigeria today is an active legacy of colonialism. So, faced with the reality of a police force that has remained out of favor with the mass of citizens from the moment of colonial rule, Indigenous literature can provide some guidance. The ideals of precolonial society may offer a different path to police reform that gets to the root of police dysfunction. Through literature, we have access to a fuller account of history that captures the nuances that can be elided in non-literary narratives. This fuller account adds important contexts to our understanding of the country's evolution, including its law enforcement problems and steps that may be taken to address it.