

**UNDERSTANDING THE FAILURE OF POLICE REFORM IN NIGERIA: A CASE FOR
LEGAL HISTORY THROUGH LITERATURE**

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Abstract

On the 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.

This work problematizes the cycle of attempts at, and ultimate failure of, police reform in Nigeria. I argue that the colonial nature of policing is retained in attempts to reform the Nigerian police force, so reform efforts continue to produce a colonial and ultimately flawed institution. To address this problem, I offer a non-colonial vision of policing that draws from pre-colonial Igbo societies and recommend literary narratives as a critical source for this pre-colonial history.

Dedication

To us, the victims of police violence in Nigeria and across the world.

We will fight, we will fight, we will fight.

#ENDSARS

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E şeun pupo!

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PROLOGUE

LET'S TELL THIS STORY PROPERLY: A HOMAGE TO THE ANCESTORS

The animals were gathered to again discuss the problem of the Ants. Lion had received multiple complaints from his subjects over the past year, and he could sense another uprising looming. He sat in the inner room of the palace, watching from his window as more and more animals arrived. Lion was determined to avoid another protest. He had not recovered the money he spent quashing the protest of the previous year, talk less of the damage the protests caused to buildings and farmlands.

The last time, the issue had also been with the Ants. They had erected anthills along every path in the village and demanded a toll from any animal who wanted to pass through. Animals who couldn't pay the toll were delayed, and some detained until their relatives were able to gather money, several times the amount of the toll, to bail them out of the colony. Most animals took to the bushes to avoid the village paths, but this angered the Ants. They raided the bushes and arrested any animal found there for "criminal loitering." Many of the victims would later give accounts of the torture they received at the hands of the soldier Ants for "trying to avoid the tax master." Lion finally declared the anthills illegal and ordered them demolished; it was the only way the protesters finally put their signs down and went to their houses.

The issue wasn't the tolls this time, although Lion was reliably informed that the demolished anthills had been re-erected and the Ants had started extorting again. The cause of the day's gathering was that the Ants had taken to killing the animals without cause or reason. Extortion and torture were one thing, but outright, indiscriminate killing? In broad daylight?

Lion knew he would be expected to condemn the Ants, but he also knew he had to tread softly where the Ants were concerned. He had used them too many times to deal with opponents

who challenged the throne, so he now had no moral ground on which to stand in condemnation. He was even sure that some of the weapons the Ants were using to kill the animals came from covert missions he had authorized against his enemies. He worried that if he spoke too harshly, the Ants might just turn on him and reveal his secrets. Lion was still pondering his predicament when a soldier Ant arrived to lead him out; the animals were ready for him.

The king stepped into the courtyard and took his seat, facing the animals. He nodded a greeting at *Nza*, the emissary of the Birds who would take a report back to the Bird kingdom. Lion knew it was important to impress *Nza* because the Birds could unseat him if they became dissatisfied with how he ran the kingdom; he had seen them do it to the kings of neighboring villages. *Nza* was perched atop a tree branch, a prime location to better observe proceedings. He acknowledged Lion's greeting with a nod of his own and settled properly to listen to how the complaints would be handled.

These days the animals spoke in the language of the Birds. Where, in gone by years, the animals roared, neighed, bleated, meowed, and barked, now they all chirped or coo'ed. They were very proud of their ability to speak the language of the Birds because it meant they shared something in common with this all-powerful group that could soar into the high heavens and ate at the foot of the gods. The Birds had promised, and the animals believed, that if they studied the language of the Birds hard enough, they might one day be worthy of the secret of flight. How the animals desired to be found worthy! To make their limbs into wings so they too could sit at the foot of the gods and make their dining places in the skies. It has been more than a century since the animals abandoned the language and ways of their ancestors to embrace the ways of the Birds, but the Birds were yet to reveal their secret. Still, the animals were hopeful.

After Lion settled himself, he invited the animals to present their case against the Ants.

Monkey's wife went first.

One evening, Monkey was headed home after a long day gathering fruits in the forest when a group of Ants accosted him. They asked him how he had managed to gather that many fruits in so few hours and accused him of theft. Monkey tried to explain that his long arms allowed him to swing swiftly from branch to branch and the bones of his fingers made it easy to pluck these fruits, but the Ants were not convinced. They demanded that Monkey relinquish all the fruits before they would let him go. He refused and without warning, the Ants sharpened their stingers and drilled into Monkey; thousands of Ants pierced every inch of his body. Monkey collapsed to the ground in pain. The Ants gathered the fruits and marched away leaving Monkey swollen and bleeding until his relatives, searching for him later in the night, found him. He succumbed to his injuries two nights later.

Lion thanked Monkey's wife for her words, sympathized with her on the death of her husband, and promised her justice.

Tiger rose next to present his complaint.

He had returned home after a night stroll in the forest and found his house collapsed, and his wife and children dead under the rubble. Consumed with grief, he went around asking his neighbors what happened, but no one would talk because they were scared. Finally, Elephant took pity on him and told him that a million Ants had marched to his house in the late evening and demanded that he come out. When his wife came out and told them that Tiger was not home, they sent her back in and everyone thought all was done. But then they heard a loud buzzing and saw the Ants descend on the house, eating into the wooden structure that held it up until it all came crashing down in a matter of minutes, killing Tiger's family members who were inside.

Lion shifted uncomfortably after Tiger's story. He'd given the order for the Ants to go to Tiger's house that night. Tiger had challenged his authority at the council meeting the previous month and Lion wanted to teach him a lesson, but he had not expected the Ants to kill Tiger's family. Lion pasted a sympathetic smile on his face and promised to interrogate the incident.

He called for the next complainant, Beaver, who narrated how the Ants had eaten through her dam because she refused their demand that she deliver water to their colony every weekend.

Horse told of how the Ants, just for the fun of it, drilled holes into the fruits in his stable, causing them to go bad so that he and his family had no food to eat.

Snake told of how they stung her underbelly as she crawled around looking for shelter from the sun.

On and on and on the reports against Ants came in, and Lion nodded and promised redress. When the complainants were done, he called on the Ants to state their case, and Cricket, spokesperson for the Ants, rose up.

Her voice was a soft, sonorous chirping, as close to the Bird's chirping as any animal had yet come. She was a delight to listen to and held the audience in rapt attention. Even *Nza* smiled, impressed. Cricket said that she had not come to deny any of the allegations that had been levied against the Ants, but to offer context so that the animals could better understand the plight of the Ants. She talked about how the Ants had no food to eat and were given little to no pay by the community, yet the community insisted that the Ants were to keep them safe. She also noted how the Ants were not given sufficient tools for investigation, yet the community demanded that they apprehend offenders. How else, other than through informed guesswork as they had done with Monkey, were the Ants to carry out their duties? And was it too much to ask that Beaver provided them water? And as for Tiger, who didn't know that Tiger was an enemy of Lion, the reigning

king? She was not defending the actions of a few rogue members of the colony who attacked Tiger's family, but were the animals really going to sit and shed tears for Tiger who did not respect their king?

Lion thanked Cricket for a well-delivered address. He had heard both sides but before he made his decision, he wanted comments and opinions from other members of the community.

In a little corner at the very back of the gathering, old Tortoise struggled to raise himself. If it had been in the days before, the days when the animals spoke in the language of animals, before the Birds came and imposed their ways onto the animals, and installed a King over them, old Tortoise, known as the wisest animal in the land, would have had a place of honor in front of the gathering. But the ways of old had been changed and now no one paid any attention to old Tortoise. When he finally rose to his full height, he cleared his throat to get the attention of the audience and started speaking. But as the first words left his lips, the gathering shouted him down. The problem was that old Tortoise, close to two hundred years in age, had retained the language of the ancestors. His toothless, wrinkled mouth was too aged to produce the chirping sounds of the Birds that the new generation had adopted, and the animals had long decided that anyone who could not chirp was not worth listening to. So, the animals did not even allow old Tortoise finish his opening proverb. Had they let him speak, he would have explained the ancient saying: *"the insect that eats the leaves of trees lives on the trees itself."*

Old Tortoise wanted to explain that the problem of the kingdom was not the Ants, or even rulers like Lion who used the Ants to settle political scores. The problem was the Birds who had come decades ago and uprooted the old ways of harmony and installed their own system of chaos. It was *Nza's* people, who when they first came to conquer the animals, set the Ants as the enemies of the other animals, and empowered them to kill their brother-animals so that the Birds could

establish their own rule. Before the Birds left, they installed Lion as king, and he continued to rule in the same manner as the Birds who had installed him. He used the Ants to punish his opponents and the Ants themselves continued to behave as they did in the times when a foreign power controlled them.

Yet, it is this same foreign power—the Birds—that the animals continued to look up to. It is *Nza* who sits at the helm of things, observing, and it is he that the animals work tirelessly to impress. Old Tortoise wanted to tell the animals that the problem was not the poverty of the Ants as Cricket claimed but the broken system of the Birds that sets kins-animal against kins-animal, and it is this system that the animals should work to fix. He wanted to make the animals see that it was the Birds, who were still in the midst of the animals, that were eating them up. But old Tortoise didn't get the chance.

After the other animals shut old Tortoise up, *Nza* flew down from his branch and landed in front of the animals. He said he had watched and listened to the proceedings of the day. He appreciated that the Ants were hungry and had no resources and so on behalf of the Birds he was going to pledge a donation to go towards funding the life and activities of the Ants. This way, the Ants would not have any more reason to go around harming the animals. The animals celebrated and hailed *Nza* for his generosity. Lion came down from his throne and bowed before *Nza*. “Where would the animal kingdom be today,” he asked, “but for the generosity of the Birds?”

Nza told the Lion to rise and waved away the thanks of the animals. He was happy to do it, he told them, because he wanted to see the animal kingdom succeed. He told them he must return to the heavens to relay what had transpired to the king of the Birds, but he would be back with the donations to fulfill his promise. The animals hailed *Nza* as he spread his wing in preparation for take-off.

In the sky, *Nza* looked down at the celebration of the animals below. They were so naïve, he thought, to be celebrating such a small donation when the entire kingdom of the birds was built by sticks, stones, and other materials the Birds had taken from the animal kingdom. But *Nza* wasn't sent to help the animals see. His job was to ensure that the animals didn't start thinking they could do without the Birds, and he had fulfilled the mandate.

CHAPTER ONE

“It is the storyteller who makes us what we are, who creates history. The storyteller creates the memory that the survivors must have – otherwise their surviving would have no meaning.”

- Chinua Achebe

1.0. INTRODUCTION

On the 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.¹ The night before, young Nigerians protesting police brutality were met with a government-sanctioned, combined police and military onslaught;² 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 (“Lekki Massacre.”) In the aftermath of the Lekki Massacre, the federal government empowered Judicial Panels of Inquiry (“JPI”) across different states of the federation to investigate allegations of police violence and recommend solutions to police dysfunction in the country. In its report, the Lagos State JPI recommended “holistic police reforms” to bridge the divide between the police force and citizens.³ The Lagos JPI’s police reform recommendation falls into an existing pattern of police

¹ Obianuju Catherine Udeh, popularly known by her stage name “DJ Switch” who was a coordinator and promoter of the October 2020 #ENDSARS protests, livestreamed the Lekki Massacre to her Instagram account, creating necessary footage and evidence of the incident. “DJ Switch on Her Fight for Justice in Nigeria”, online: *Time* <<https://time.com/5922305/dj-switch-nigeria-endsars/>>. Also, this BBC report published the day after the massacre relied on DJ Switch’s live stream “End Sars protests: People ‘shot dead’ in Lagos, Nigeria”, *BBC News* (21 October 2020), online: <<https://www.bbc.com/news/world-africa-54624611>>. Finally, this CNN news article chronicles eyewitness accounts of the massacre. “Nigeria SARS protests: Eyewitnesses say security forces fired at Lagos protesters - CNN”, online: <<https://www.cnn.com/2020/10/20/africa/nigeria-protests-lekki-tollgate/index.html>>. Images and footage from the massacre were also widely disseminated on social media. All websites accessed on the 8th of December, 2021 at 1:19 pm (Eastern Time)

² The Lagos Panel Report of the Lekki Incident Investigation of 20th October 2020 after due consideration of the evidence tendered found that the officers of the Nigerian army and Nigerian police were authorized to be, and were present, at the scene of the Lekki Massacre. The Lagos Panel Report also found that the officers at protesters gathered at the Lekki Toll Gate on the 20th of October 2020. Lagos State Judicial Panel of Inquiry on Restitution or Victims of SARS related Abuses and Other Matters. Dated 15th November, 2021. <https://lagosstatemoj.org/wp-content/uploads/2021/12/Report-of-Judicial-Panel-of-Inquiry-on-Lekki-incident-investigation-of-20th-October-2020.pdf> Pages 281 -295. Website accessed on 12th June, 2022.

³ Ibid. At page 14.

dysfunction, attempts at police reform, and back to police dysfunction again. This cycle is at the heart of this thesis.

This work problematizes the cycle of attempts at, and ultimate failure of, police reform in Nigeria. Specifically, I argue that the colonial nature of policing is retained in attempts to reform the Nigerian police force (NPF), so reform efforts continue to produce a colonial and ultimately flawed institution. To address this problem, I offer a non-colonial vision of policing that draws from pre-colonial Igbo societies and recommend literary narratives as a critical source for this pre-colonial history. This will be an exercise in legal pluralism that juxtaposes policing under two legal regimes—the pre-colonial Igbo society and post-colonial Nigeria—to extract lessons that can serve police reform in Nigeria today.

1.1. Background

I will not, and really, cannot, undertake an exhaustive narrative of Nigeria’s history with police brutality, which has been traced as far back as over a century—during the period of British colonial invasion.⁴ Mercifully, for the defined purposes of this project, the October 2020 #ENDSARS protests, and the culminating Lekki Massacre tell a vivid enough story of the ruthlessness and cruelty that has characterized policing in Nigeria through the decades. In this sense, the October 2020 incident is both alarming and routine within the context of policing and law enforcement in Nigeria.

“ENDSARS” (End SARS) is a literal cry for the abolishment of the Special Anti-Robbery Squad (“SARS”) of the Nigerian police, whose officers were famous for acts of extreme violence

⁴Toyin Falola, *Colonialism and violence in Nigeria* (Indiana University Press, 2009). Pages 6&7. See also: Emmanuel Chudi Onyeozili, *An examination of social control and policing in Nigeria: A theoretical and evaluative analysis* (The Florida State University, 1998). Pages 232 – 234. Onyeozili chronicles the activities of the Royal Niger Constabulary founded in 1886, the forerunners of what eventually became the colonial police force, which institution was retained as the modern Nigerian Police Force.

and lawlessness in the country. While it is hard to trace the exact starting point of the #ENDSARS movement, there appears to be consensus that the movement started to take hold in 2017, motivated by a viral video shared on social media platforms that depicted officers of the SARS unit killing an unarmed man.⁵ In response to the original tweet, several users shared their own experiences with the NPF using “#ENDSARS” to participate in the conversation.⁶ The “ENDSARS” hashtag curates an online community where young Nigerians share their encounters with the NPF and, where necessary, solicit help to secure release after unlawful detention.

It is important to make clear that while the #ENDSARS movement appears to identify the SARS unit as the specific target of the protests, it has always been understood that the goal of the movement is to address across-board police brutality and misconduct, with the SARS unit as merely representative of police impunity across the country.⁷ Indeed, only one of the five immediate demands put forth by the October 2020 #ENDSARS protesters was SARS specific—a psychological examination and certification of officers of the disbanded SARS unit before they are re-absorbed into the police force. Other demands pushed for measures aimed at a general reform of the NPF, including the investigation of ALL reports of police misconduct.⁸

⁵ “Trending: Nigerians say ‘enough is enough’, it is time to #EndSARS”, online: <<https://www.thecable.ng/nigerians-say-end-sars-police-brutality>>. Website accessed on the 9th of December 2021 at 8:09am

⁶ Ibid. See also: “#EndSARS movement: from Twitter to Nigerian Streets”, (8 February 2021), online: *Amnesty International* <<https://www.amnesty.org/en/latest/campaigns/2021/02/nigeria-end-impunity-for-police-violence-by-sars-endsars/>>. Websites accessed on the 9th of December 2021 at 8:09am

⁷ As the Lagos State JPI notes, “This is one of the reasons why the advocacy was surgically curated and the youth protest that followed built on that protocol in an orderly, organized and transparent fashion, reinforcing the specific objective of shutting down the culture of impunity (#ENDSARS) – through the disbandment of the poster child of impunity within the police structure (i.e. SARS and all tactical squads of the Police formation) and the end goal of holistic reformation of the Nigerian police force – Supra at Note 2. Page 16.

⁸ “Breaking: Presidential panel on ENDSARS okays protesters demand”, (13 October 2020), online: *Vanguard News* <<https://www.vanguardngr.com/2020/10/breaking-presidential-panel-on-endsars-okays-protesters-demand/>>.

The October 2020 #ENDSARS protests were sparked by a viral video depicting Nigerian police officers “dragging two men from a hotel and shooting one of them outside.”⁹ As had become typical whenever videos like these surfaced, many social media accounts shared other instances of police brutality in Nigeria using the already familiar “ENDSARS” hashtag, once again demanding an end to police brutality. When the government failed to satisfactorily respond to the online agitations,¹⁰ the protesters took to the streets in Nigeria’s first ever nationwide protests against police brutality.¹¹ The street protests started off as pockets of decentralized gatherings and grew into a coordinated and well-resourced network able to offer emergency medical and legal services, and even refreshments, to on-ground protesters, all organized by young people through social media.¹² Young Nigerians in diaspora also organized similar anti-police brutality protests at different Nigerian embassies, consulates, and high commissions around the world.

Finally, the federal government directed that state governors empanel JPIs to investigate incidents of police brutality in the different states of the country.¹³ On the 19th of October 2020, Lagos state—home state of the Lekki Massacre—set up the Lagos state JPI to investigate instances

⁹ *supra* note 6.

¹⁰ Ibid. The amnesty.org article notes that the government’s 11th October 2020 announcement disbanding the SARS unit was unsatisfactory being the “5th time since 2015 that the Nigerian authorities pledged to reform the police and disband SARS... Protests continued demanding more than empty promises.”

¹¹ The 2012 Occupy Nigeria movement, a protest against the Nigerian government’s decision to withdraw fuel subsidy, is the only comparable nationwide protest in the country’s recent history. Dotun Ayobade notes, “The 2012 Occupy Nigeria movement was historical for two principal reasons. First, Occupy Nigeria movement is unprecedented in its scale and scope. No protest in Nigeria’s history has crossed religious divides or enlisted the participation of diverse ethnicities as successfully as the movement.” Ayobade, D., 2015. *Re/reading spectacles: Historicising the Occupy Nigeria Movement*. *Research on Humanities and Social Science*, 5(24), pp.61-65 at Page 61. The #ENDSARS protests matched and arguably surpassed the Occupy Nigeria protests in scale.

¹² In “Why Nigeria’s #EndSARS movement is More than a Call to End Police Brutality”, Jake Okechukwu notes the public goods such as medical services, legal services, and refreshments) that were provided during the #ENDSARS protests. <https://www.weforum.org/agenda/2020/12/nigeria-endsars-police-brutality-protest/> Website accessed on the 8th of December, 2021 at 6:26pm.

¹³ “#ENDSARS: NEC directs governors to set up judicial panels of inquiry”, online: <<https://www.vanguardngr.com/2020/10/endsars-nec-directs-governors-to-set-up-judicial-panels-of-inquiry/>>. On October 15, 2020, following sustained #ENDSARS protests, the National Executive Council, under the leadership of the country’s vice president directed states to constitute judicial panels of enquiry into the allegations of police brutality.

of police brutality in the state; the JPI's mandates were revised to include the Lekki Massacre.¹⁴ The Lagos JPI recommended police reforms, as the first of thirty-two recommendations. Upon receipt of the panel report, the Lagos state governor set up a "formal committee" to look into the report and produce the Lagos State White Paper "that will be considered the "white paper coming from the panel of inquiry;"¹⁵ the Lagos State White Paper agreed with the JPI's recommendations towards police reform, and pledged to "continue to support the Lagos Command of the Nigeria Police Force through the Lagos State Security Trust Fund."¹⁶

Through the decades of the institution's existence, multiple reforms have tried and ultimately failed to address the issues of police brutality, abuse of power, and general impunity of the NPF, the failure evident in the subsistence of police dysfunction.¹⁷ In view of renewed recommendations for reform,¹⁸ it is necessary to interrogate why the Nigerian police seems irredeemably committed to impunity and what about our policing institutions make them vulnerable to the violent abuse of power by officers.

¹⁴ The Lagos Panel Report Supra at footnote 2 at page 12. See also, the Lagos State Government White Paper on the Lagos State Judicial Panel of Inquiry on the Report of Lekki Incident Investigation on October 2020 dated November, 2021 (Lagos State White Paper) at paragraph 2.2.

¹⁵ "#EndSARS Panel: Sanwo-Olu sets up 4-member committee for white paper report - Vanguard News", online: <<https://www.vanguardngr.com/2021/11/endsars-panel-sanwo-olu-sets-up-4-member-committee-for-white-paper-report/>>. See also: "#EndSARS: Lagos panel submits reports to Sanwo-Olu - Premium Times Nigeria", online: <<https://www.premiumtimesng.com/regional/ssouth-west/495499-endsars-lagos-panel-submit-reports-to-sanwo-olu.html>>.

¹⁶ Lagos State White Paper. Section titled "Comments on The Recommendations." Pages 12 and 13.

¹⁷ Stephanie Busari and Nimi Princewill CNN, "Police fire tear gas as protesters honoring victims of Lekki toll gate shooting spill on to streets", online: *CNN* <<https://www.cnn.com/2021/10/20/africa/nigeria-lekki-toll-gate-anniversary-protests-intl/index.html>>. On the anniversary of the Lekki Massacre, the Nigerian police again met persons who were gathered to commemorate the anniversary with brutal force and violence.

¹⁸ "Sanwo-Olu Invites Seun Kuti, Mr Macaroni, Others For Peace Walk To Herald 'Healing of Lagos' – Channels Television", online: <<https://www.channelstv.com/2021/11/30/sanwo-olu-invites-youths-for-peace-walk-to-herald-healing-of-lagos/>>. Following the presentation of the Lagos State White Panel, the Lagos state governor has announced a "peace walk" as part of the efforts to heal police/citizen relations in contemplation of the reform process.

1.2.Statement of the Problem

I run the risk of both over-simplifying and abstracting the thesis of this work when I state that the problem is “the failure of police reform in Nigeria.” Yet, this is what feels like the most concise and truest way to describe the heart of this project. I want to better understand why the different rules, regulations, orders, edicts, policies, etc. that have been proposed and implemented by different administrations through the years have failed to yield a NPF working effectively and efficiently towards the maintenance of peace and order in the country. My preoccupation in this regard is neither unique nor distinctive. Nigeria’s policing problems have been—and will most likely continue to be—the primary concern of several academic and non-academic inquisitions. Similarly, my proposition to explore history to better understand the current dysfunction of the NPF is easily situated within an already existing and growing body of work.¹⁹

However, I take a unique law and literature approach to my exploration of legal history and policing. In particular, I read literature and literary narratives as a record of history from the perspective of indigenous pre-colonial communities, and the insights gleaned from this literary exploration informs my probing into the country’s history with policing. I delve into the history of policing with the specific goals of reconstructing a fuller account of the history of police dysfunction, as well as culling out a pre-colonial vision of policing. This pre-colonial (and so non-colonial) conception of policing will be set against the current reality of policing and ground the legal pluralism component of this work. These insights will guide my vision for what a reformed NPF (and policing approach, in general) can look like in Nigeria today.

Against this backdrop, the central question that organizes my thesis is this:

¹⁹ See generally: Etannibi E O Alemika, “Colonialism, state and policing in Nigeria” (1993) 20:3 Crime Law Soc Change 187–219. See also: Falola, *supra* note 4. folukeifejola, “The Colonial Origins of the Nigerian Police”, (8 January 2018), online: *Foluke’s African Skies* <<https://folukeafrica.com/the-colonial-origins-of-the-nigerian-police/>>.

“What insights can literary traditions and narratives provide for Nigeria’s police reform aspiration?”

Resolving this question will involve an exploration of Nigeria’s history with police reform (Chapter Two); the colonial roots of police dysfunction in Nigeria (Chapter Three); the pre-colonial Igbo system of social control (Chapter Four); and will conclude with a picture of what a functional system of policing and law enforcement might look like in Nigeria today (Chapter Five). I have structured the work this way—as a journey back in time with succeeding chapters taking us deeper into Nigerian history—to simulate an archeological endeavour. We start off on the surface with a police reform problem, we dig deeper and reveal the colonial roots of police dysfunction in Nigeria, dig even deeper and we uncover the pre-colonial society, from which we can extract lessons for our reform aspirations.

1.3. Literature as Legal Text

As a Yorùbá woman who lived her entire life up to adulthood in Nigeria, I understand storytelling, poetry, music, and other literary devices as tools of socialization and record keeping. As a child, I listened to folktales such as the story of greedy tortoise who stole a pot of porridge from fox and hid it under his hat, causing his hair to fall off and leaving him forever bald. Young as I was, I understood that I was in a moment of both entertainment and instruction, especially instruction. I took the stories back to school and compared notes with my classmates. Who else had heard this tale? Were the details the same? Often, it would be the case that most of us knew the story, with minor variations. Where my tortoise hid a bowl of porridge under his cap, another classmate’s hid a bowl of soup. Where mine stole from the fox, theirs perhaps from the rabbit.

Where mine danced the batá ²⁰ as the porridge burned his head, another danced the atilogwu.²¹ What remained consistent however were the lessons from the tale—do not be greedy; do not steal. When we sat down as primary school students to do our reading exercises, our teachers required that we identify the “moral of the story,” and it took me until my teenage years in secondary school to realize that not all stories were told to communicate social or moral lessons.

I also have the story of the first time my grandfather visited from the village and slept over in our flat. I was in secondary school at the time and wasn't quite fluent in Yorùbá language. The next morning, when I knelt in front of my grandfather in the customary style of greeting, he started a poetic recital in Yorùbá. I asked my mother about it afterwards and she explained that he was reciting my oríkì. “What is oríkì?” I asked. “Praise song,” she responded simply. It was several years later, when I had moved to New York, and was feeling an intense longing for home, that I asked my mother to send me the full text of my oríkì. My Yorùbá was much better by that time, and I was awed to find that my grandfather—God rest his soul—was not just singing my praises those many years ago, he was reciting my genealogy. Through indigenous Yorùbá poetry, my grandfather was relaying the history of our family.

In my discussion with other Nigerian friends and colleagues from different tribes and ethnicities, I have come to realize that my experience of indigenous literary narratives as a medium for communicating social norms and historicizing is not unique to my family, or even the Yorùbá people. In many communities across Nigeria, indigenous literary traditions were foundational to organizing and preserving society. As such, it seems entirely natural, even critical, that any

²⁰ An indigenous, traditional Yorùbá dance

²¹ An indigenous, traditional Igbo dance

comprehensive exploration of the history of the country, especially its legal history, must involve the study of indigenous literature.

For communities, such as Nigeria's pre-colonial societies that were organized around storytelling and oral history, literature is central to capturing and preserving facts and knowledge about their social systems.²² As Edosomwan and Peterson note of Nigerian pre-colonial storytelling, "folktales [and] stories kept the history of Nigerian people alive, and people learned significantly from the narratives."²³ Therefore, to access the pre-colonial history of these communities, their means and methods of communication and documentation must be placed front and center. The law and literature approach adopted by this project does just this; it accesses pre-colonial history as recorded through storytelling traditions for our study of functional and dysfunctional policing systems in the country.

The use of literature to illuminate legal studies falls into the well-established interdisciplinary field of "law and literature." I know now that law and literature in Western—particularly the United States—scholarship is traced as far back as 1931 with the publication of *Law and Literature and Other Essays*²⁴ by Benjamin Cardozo.²⁵ However, I first encountered "law and literature" as a field of interdisciplinary legal scholarship in 2017 as a student at New York University, School of law. Posner's essay, "*Law and literature: A relation reargued*,"²⁶ was my

²² As in many pre-colonial communities such as Canadian indigenous communities and American Indian communities, Nigerian pre-colonial communities were organized around oral tradition as the primary means of communication, record-keeping, and historicizing. See generally Xavier Focroulle Menard, "THE LEGAL WITHIN FOLKTALES: EMBEDDED LAW IN INDIGENOUS AND FRENCH CANADIAN ORAL STORIES" (2021) 7:1 ANAMPS 5–38. Modupeolu M Faseke, "Oral History in Nigeria: Issues, Problems, and Prospects" (1990) 18:1 The Oral History Review 77–91. Simeon Edosomwan & Claudette M Peterson, *A History of Oral and Written Storytelling in Nigeria* (Commission for International Adult Education, 2016).

²³ Edosomwan & Peterson, *supra* note 22, at page 93.

²⁴ Benjamin Nathan Cardozo, *Law and literature and other essays and addresses* (Harcourt, Brace and Company, 1931).

²⁵ JG Mowatt, "Teaching Law through Literature" (1992) 25:2 De Jure 416. At Page

²⁶ Richard A Posner, "Law and literature: A relation reargued." (1986) 72 Va. L. Rev. 1355.

introduction to thinking about literature in the arena of law. In his essay, Posner rejected the utility of law and literature scholarship, declaring, “I believe that there are too many differences between works of literature and enactments of legislatures or constitutional conventions to permit fruitful analogizing from literary to legal interpretation.”²⁷ For him, an interdisciplinary field of law and literature was useful if literary methodology (i.e. literary criticism) could illuminate legal theory (i.e. interpretation of law) and where, in his estimation, it could not, then there was but little benefit in the field.

It was immediately clear to me that Posner’s conception and rejection of law and literature had no room for indigenous societies like the pre-colonial societies of Nigeria. In these societies, literary traditions were so deeply embedded in the peoples’ way of life that there could be no discussion of the society (and its rules/law) without its literary traditions. Upon further reading, especially of writing by scholars of indigenous and aboriginal law who insist on the legitimacy of indigenous legal and social systems that may not conform to the mainstream culture introduced by colonial/ settler groups, I discovered a more palatable conception of law and literature. An example of this conception is found in Xavier Focroulle Menard’s essay, *The Legal Within Folktales: Embedded Law In Indigenous And French Canadian Oral Stories*.²⁸ Menard insightfully applies a law and literature methodology to his study of indigenous and French Canadian folkstories. He demonstrates that in communities organized around oral storytelling, folktales (i.e. indigenous literature) are a critical source of information to understand the legal systems of those communities.

²⁷ Ibid at Page 1361

²⁸ Menard, “O direito em contos folclóricos”, *supra* note 22.

My work treads the same path as Menard’s approach—law *in* literature, or specifically for this project, legal history in literature. Nigerian literary texts that offer accounts of pre-colonial history are read not merely as fictional narratives but as dossiers of facts on pre-colonial Nigerian communities, including their law enforcement and policing systems. Literary traditions and texts preserve the facts and knowledge of the indigenous, pre-colonial world, and the author in this regard is a historian working with the same tools that organized indigenous communities—storytelling. The author-historian documents the realities of indigenous communities—the lives they lived, the food they ate, the clothes they wore, the rules they obeyed, and the ways these rules were enforced in instances of disobedience. The law and literature approach of this project builds on the work of these historians by distilling the narratives around policing and rule enforcement in pre-colonial Nigerian societies and analyzing these narratives to develop a picture of a functional non-colonial law enforcement system. Accordingly, in my work, literary narratives serve legal scholarship in two respects: they offer an account of the indigenous legal systems, as well as demonstrate how these systems functioned in society.

This thesis will especially rely on Chinua Achebe’s debut novel *Things Fall Apart*²⁹ (“TFA”). Achebe, who has been called the father of modern African literature,³⁰ has made clear that his literary career is largely motivated by a desire to offer contributions to the country’s history, particularly its pre-colonial realities and its experience of colonization.³¹ TFA, widely agreed to be Achebe’s seminal text,³² captures the workings of the pre-colonial Igbo society and offers remarkable insights on the principles that informed the society’s rules and how those rules

²⁹ Chinua Achebe, *Things fall apart*, 1st anchor books ed ed (New York: Anchor Books, 1994).

³⁰ Podis, L.A., 2020. Literary Lions: Chinua Achebe and Ongoing Dialogues in Modern African Literature. *Research in African Literatures*, 50(4), pp.142-164.

³¹ 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>>.

³² Komenan Casimir, “Chinua Achebe’s *Things Fall Apart*: A Seminal Novel in African Literature” (2020) 4 *Studies in Linguistics and Literature* p55.

were enforced. These insights are critical to understanding how and why policing worked in those societies, and they offer a useful and refreshing perspective on the country's reform work. TFA is particularly suited for our exploration of the country's colonial history because the book starts off in pre-colonial Igboland and takes its readers through the journey of colonial intervention—from missionary school to political administration—into Igboland.

My focus on Achebe's work means that this project will focus on the pre-colonial Igbo society. While the project may draw from narratives about the system of rule enforcement in other pre-colonial indigenous systems of law in Nigeria, such discussions will mostly be for the larger purpose of offering context for the study of the indigenous Igbo societies. Also, as Nigeria is a country with over 200 ethnic groups, an in-depth exploration of the different indigenous legal mechanisms of these groups in one project would already be near impossible even if I were not working within the strict confines of the word-count limit of this dissertation. The focus on the Igbo pre-colonial societies allows for an exploration of at least one of these indigenous legal orders in a way that permits valuable outcomes.

This project applies a socio-legal analysis to discover the pulse of ideas and opinions that inform policing in Nigeria. "Socio-legal" in this context adopts the explanation offered by scholars Harry Authurs and Annie Bunting: "that which has legal institutions, practices, and meanings as its objects of study but which is not only a doctrinal study of law; we include interdisciplinary scholarship but also that derived from distinct sub-disciplines such as legal anthropology, geography, history, and sociology."³³

³³ Arthurs, H. and Bunting, A., 2014. Socio-legal Scholarship in Canada: A Review of the Field. *Journal of Law and Society*, 41(4), pp.487-499.

I will rely on primary sources such as legislative documents, speeches and letters by colonial administrators, statutory instruments, reports of police reform commissions, house deliberations, literary texts, and author interviews. I will also rely on secondary sources such as media reports and scholarly texts. Literary texts are treated as primary sources of pre-colonial history. Interviews and essays by the authors of literary texts are treated as primary sources of the authors' approach to literature. Any opinions or analyses in literary texts are considered secondary sources, and analyses of literary texts are also treated as secondary sources.

CHAPTER TWO

"The only thing we have learned from experience is that we learn nothing from experience."
- Chinua Achebe

2.0. POLICE REFORM IN NIGERIA

In the first chapter of this work, I set out the social and political tenor of policing in Nigeria today, using the SARS unit—and #ENDSARS protests—as an archetype of the current landscape of policing. I also laid out the promise of this work—a law and literature approach to understanding what policing has been and (re)understanding what it can be. I described the NPF as reform-impervious, commenting on what seems to be the intrinsically dysfunctional nature of the institution. In this second chapter, I discuss Nigeria’s history with police reform to make the case that attempts at police reform in the country have failed to get to the root of Nigeria’s police problems. I also identify the goal of police reform as police-community harmony, encapsulated in the current motto of the NPF, “Police is Your Friend.”

Police reform in Nigeria can be likened to the Einsteinian conception of insanity—doing the same thing over and over again and expecting a different result. The Lagos State JPI recommends, “holistic police reforms covering welfare, training and proper equipping of policemen and their working environment.”³⁴ The panel’s recommendation rehashes measures that have been previously recommended for police reform in the country, which measures have mostly been ignored, and where implemented, have failed. As recently as 2017, the Inspector General of Police (IGP) presented a report to the federal government in contemplation of the creation of a “Police Reform Trust Fund.”³⁵ In his report, the IGP referenced previous reform recommendations

³⁴ *Supra*. Note 2 Page 295

³⁵ “Nigeria Police Force | Press Release”, online: <https://npf.gov.ng/information/pressdetails.php?news_id=245>.

presented to the government in 2008, 2010, and 2012, and again recommended investment into police communication, information technology infrastructure, arms and ammunition, welfare, accoutrement, among others³⁶ as necessary steps towards reforming the police.

The country's cyclical approach to police reform is similarly evident in how the government proposed handling the officers of the disbanded SARS unit—by creating a new unit called SWAT to absorb the officers back into the force.³⁷ A failure to innovate is evident here. Even when faced with the need to address police impunity in the wake of the most extensive protests the country has experienced since its return to democratic rule, the government maintained its tried and tired approach to police reform which eventually offered the same buffet of recommendations that has failed in times past to effect any change. In *#ENDSARS: A brief history of Police Brutality in Nigeria*, Sanya Osha aptly notes of the #ENDSARS movement,

What the young people were asking for was essentially citizenship, their rights to be respected and what the Nigerian state has done is not unlike what it has always done when confronted with the demand for citizenship by any part of the citizenry.³⁸

Now, we lift the first layer of soil in our historical exploration as we discuss Nigeria's early history with police reform, from the era of colonial administration to the third republic.

³⁶ *Ibid.*

³⁷ "IGP announces new squad 'SWAT' to replace SARS", (13 October 2020), online: *The Guardian Nigeria News - Nigeria and World News* <<https://guardian.ng/news/igp-announces-new-squad-swat-to-replace-sars/>>. As recently as August 2022, Nigerians continue to experience violence from SWAT officers. On the 5th of August 2022, a Twitter user narrated how FSWAT officers, for no stated offence, arrested him, drove him to a secluded location and extorted money from him. bolajiodukoyaeth [@BolajiOdukoya_], *My SARS kidnap experience on Monday 01/08/2022. Was really reluctant to tweet this cause thinking about it is so draining but I know it's friday today and people will be out till late and maybe it can save someone's day. On my way from Ikoyi(Alexander) to VI at about 11:38 pm I was* (2022). On the same day, another Twitter user @Tife_badass narrated how he was also arrested and extorted by FSWAT officers. In response to the tweet, the public relations officer of the Lagos State Police command noted that the culpable officers were under federal control. SP Benjamin Hundeyin [@BenHundeyin], *It is now imperative to clarify that FWAT, domiciled in Adeniji Police Station is not under the Lagos State Police Command but under the FCID, Abuja. This is the phone number of PRO FCID - 0803 599 6794.* (2022).

³⁸ "#EndSARS: A brief history of police brutality in Nigeria", online: *Africa Portal* <<https://www.africaportal.org/features/endsars-brief-history-police-brutality-nigeria/>>.

2.1. Early History of Police Reform in Nigeria

Policing in Nigeria has always been intimately connected to governance so that change in government is typically accompanied by a change in police administration.³⁹ There have been as many attempts to reform the Nigerian police as there have been political heads of the country—too many to exhaustively discuss in this work. Police reform started as early as the period of British colonial invasion. After a letter by William McCoskry, the first colonial governor of Lagos noting of the indigenous community, “no police, no jails, nor other efficient mode of punishment for offenders,”⁴⁰ a colonial police unit was introduced into the annexed territory of Lagos, and soon reformed into the Armed Hausa force, named for its officers who were of Hausa ethnicity.⁴¹

The recruitment of Hausa officers was informed by the colonial policing policy which recommended that strangers be used to police communities to ensure police-community estrangement.⁴² In 1869, the colonial administrators were faced with a recruitment challenge and had to adjust their policy to allow for a reorganized—or reformed—force. The police recruited officers from neighboring communities around Lagos, and eventually within Lagos itself, while maintaining central government oversight and the policy of police-community hostility.⁴³ This reformed approach to policing was extended to the Northern and Southern protectorates and eventually the whole of Nigeria after amalgamation in 1914.

³⁹ This is especially because the Inspector General of the Police is appointed by the head of government, the president in Nigeria’s current democratic dispensation.

⁴⁰ Alemika, *supra* note 19. Page 189.

⁴¹ Falola, *supra* note 4. Page 203

⁴² Okemuyiwa Akeem Adedeji, *State Police in Nigeria: Issues and Challenges* (Rochester, NY, 2012). 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”

⁴³ *Ibid.* Page 4

Following the formal end of colonization and the transition to the first republic, the control of the police force was a contentious political issue, the two poles being whether policing administration should be retained at both central and regional levels or if it should be reconstituted into a solely federal responsibility.⁴⁴ The British administrators had bequeathed an administrative structure that allowed for a centrally controlled NPF and a Native Police controlled by regional governments who were answerable to the central government, and whose officers have been described as “agents of repression.”⁴⁵ The 1966 military coup interrupted the civilian rule of the first republic but, the issue of police administration remained a front-burner consideration. Soon after the coup, General Aguiyi-Ironsi constituted a panel to recommend efficient police administration and the result was a sole, centralized police force administered by the federal government.⁴⁶ The federal government has maintained control of the police force in the country since then.

In 1979, the country transitioned into its second republic under democratic rule, and again the reform of the NPF was at the fore of political debates. Alhaji Shehu Shagari, the new democratic president, using powers granted to him under the new constitution, instituted the Police Affairs Department headed by the minister of police. The new department was to advise the president on policy matters relating to the administration, finance, and reform of the NPF.⁴⁷ However, the second republic was short lived as Nigerians woke on the first day of 1984 to news

⁴⁴Ibid.

⁴⁵ Ibid. Page 6

⁴⁶ In his address empaneling the committee, Ironsi noted “There is need for a clarification of the general impression held in this country about the services provided by the department of police and prisons. You will therefore have to examine the factors which have contributed in producing a distorted image of the machinery for the police administration in the minds of Nigeria republic and formulate concrete proposals for correcting any deficiencies” Ibid. At Page 7

⁴⁷ Otwin Marenin, “Policing Nigeria: Control and Autonomy in the Exercise of Coercion” (1985) 28:1 African Studies Review 73–93. Page 86

that a military coup had toppled its second republic on the eve of the new year. This coup installed Gen. Muhammadu Buhari as the head of state.⁴⁸

Changes to policing under Buhari's dictatorship was geared towards making a show of police and military might, and authorized the use of both police and military force against citizens in a proclaimed "War Against Indiscipline (WAI)."⁴⁹ During the period of this war, police and military officers were empowered to patrol communities and literally whip citizens for offences ranging from littering, to jumping ahead in a queue, to resuming late at work.⁵⁰ Today, police officers consider themselves empowered to mete out violence against citizens caught engaging in minor infractions. The NPF's view of violence as par-for-the-course in law enforcement is especially evident in the enforcement of the Covid-19 mask and lockdown mandates. In his study titled, *Accounts of Unlawful Use of Force and Misconduct of the Nigerian Police in the Enforcement of COVID-19 Measures*,⁵¹ Aborishade interviews 71 Nigerians, including essential workers, who report police violence ranging from threats of physical violence to sexual harassment and assault by police officers in the enforcement of Covid-19 measures.⁵²

In 1992, the country transitioned into its third republic and again undertook police reforms which, particularly relevant to the discussion at hand, birthed the SARS unit of the NPF as a

⁴⁸ General Buhari would later returned to power as a democratic president in fourth republic

⁴⁹ Adigun Agbaje & Jinmi Adisa, "Political education and public policy in Nigeria: The war against indiscipline (WAI)" (1988) 26:1 *Journal of Commonwealth & Comparative Politics* 22–37.

⁵⁰ "Behave or be whipped" *The Economist*, online: <<https://www.economist.com/middle-east-and-africa/2016/09/22/behave-or-be-whipped>>.

⁵¹ Richard A Aborishade, "Accounts of Unlawful Use of Force and Misconduct of the Nigerian Police in the Enforcement of COVID-19 Measures" (2021) 36:3 *J Police Crim Psychol* 450–462.

⁵² *Ibid.* Aborishade notes, "Sixty two of the study participants stated that they were subjected to various forms of physical violence, with 41 being physically and verbally abused. Meanwhile, 21 indicated they experienced threat of physical violence. In respect of those who were at the receiving end of physical violence, they described being slapped, kicked, hit with fist, gun butt, sticks, baton, belt, and other materials. Atinuke, a trader, who was at the receiving end of physical violence, described her experience: "...the officer attempted to slap my face, but I guarded my face and his hand hit my hand instead. He got angry with me because I pointed it out to him that they [police] were allowing other people to go after collecting bribes from them, and delaying me. When he saw that the attempted slap was not successful, he kicked me with his boot and shouted that I should turn back or he would shoot my legs..." Pages 456-457.

specialized unit to curb what was considered the growing epidemic of armed-robbery incidents.⁵³ Since its inception, the SARS unit has been the subject of several attempts at reform ranging from a re-organization of the recruitment process, to threats to prosecute incidents of human right abuses committed by officers.⁵⁴ The SARS unit has also been “reorganized” in 2017, “restructured” in 2018 until it was “disbanded” in 2020.⁵⁵ However, the brutal activities that characterized the SARS unit—and the NPF in general—and formed the foundation of the protest against the Nigerian police continues today.

Attempts at police reform from the colonial era through to the third republic have only served to further entrench police impunity in the country. Reform measures, such as WAI under the Buhari dictatorship, that vested officers with extraordinary discretion to use violence, failed to win the “war against indiscipline”, rather it complicated the already existing status quo of corruption by further entrenching the culture of police impunity and violence in the country. Similarly, the SARS unit, introduced as a specialized force to tackle armed robbery, soon morphed into officers extorting citizens with weapons and under the threat of bodily harm, which is to say, armed robbery. Today’s dysfunctional Nigerian police force can be regarded as a sort of quilt of problems introduced by previous attempts at effective policing. The NPF as an institution of officers recruited from outside the community, controlled by the central government, at war with the community, and typified by the SARS unit is a homage to the country’s unsuccessful attempts at police reform through the years.

⁵³ Sada Malumfashi, “Nigeria’s SARS: A brief history of the Special Anti-Robbery Squad”, online: <<https://www.aljazeera.com/features/2020/10/22/sars-a-brief-history-of-a-rogue-unit>>.

⁵⁴ “A History of Nigeria’s Failed Police Reform Before #EndSARS”, online: *Time* <<https://time.com/5904345/endsars-history-nigeria/>>. Other reform measures include the ban on stop-and-search raids, the ban on police roadblocks, the meditation that officers wear regulation attire.

⁵⁵ *Ibid.*

2.2. Police Reform in Nigeria: The Fourth Republic

The current fourth republic is significant to the discussion of Nigeria's history with police reform, not only because it is the longest stretch of post-colonial democratic governance that the country has experienced, but also because its presidents, having served multiple terms in office, have had ample time and opportunity to dismantle impunity in the policing institutions. Police reform in the fourth republic has historically followed the appointment of a new Inspector General, or publicized incidents of police impunity that threatened the peaceful political administration of the country.

Gen. Olusegun Obasanjo, the first president of the fourth republic was a former military head-of-state, who during his tenure as military head relied on police power to maintain the seat of governance.⁵⁶ His tenure as democratic president was similarly characterized by militarized police powers and poor police-public relations.⁵⁷ Obasanjo maintained significant control over the IGPs he appointed during his eight-year tenure and has been accused of manipulating police powers to ensure his re-election during his second term bid.⁵⁸ Obasanjo's administration is famously remembered for its attempt at police reform through the agenda to "serve and protect with integrity."⁵⁹ This reform agenda was introduced after Tafa Balogun, the second IGP of the

⁵⁶ For example, in 1978, while Gen. Obasanjo was military dictator, University students protested the planned increase of school fees in Federal Universities. The government met the protesters with police and military power that resulted in the injury and death of several students including Akintude Ojo, an Architecture Student in the University of Lagos, after whom a library is named in the University of Lagos.

⁵⁷ In a 1999 incident reminiscent of the 1978 massacre, Gen. Obasanjo, a few months into his democratic presidency ordered a combined police and military onslaught on the town of Odi in Niger Delta following protests, where police officers were killed, against oil exploratory activities in the community. Norimitsu Onishi, "Nigeria Army Said to Massacre Hundreds of Civilians", *The New York Times* (30 October 2001), online: <<https://www.nytimes.com/2001/10/30/world/nigeria-army-said-to-massacre-hundreds-of-civilians.html>>.

⁵⁸ Alice Hills, "Lost in translation: why Nigeria's police don't implement democratic reforms" (2012) *International Affairs* 17. Page 774. Alice Hills, "The dialectic of police reform in Nigeria" (2008) 46:2 *J Mod Afr Stud* 215–234. At page 225.

⁵⁹ Hills, *supra* note 58. Page 224.

administration was embroiled in a corruption scandal that eventually led to a conviction and jail sentence.⁶⁰

Balogun himself had announced plans to reform the police force early into his administration as IGP. He published a reform manifesto tagged “operation fire for fire”⁶¹ which communicated his goal to ensure the police force was capable of meeting crime with the most extreme measures. Police officers under the regime were empowered to match criminals, “fire for fire” and thus emboldened to use extreme violence in their policing duties. Balogun famously said,

Shoot and kill whenever they want to attack your barracks...All I want to hear is that as they were trying to burn a police station or barracks that no fewer than a certain number, say forty- five, were killed in the process.⁶²

The fire-for-fire approach to crime fighting presupposed that if the public understood that officers were empowered and willing to take extreme steps to fight crimes, then criminals would be dissuaded from criminal venture.⁶³ This approach prioritized making the police force an efficient crime pre-empting and preventing institution.

Admittedly, the fire-for-fire approach, appears to encourage police violence and impunity which makes it a curious candidate for police reform. However, Balogun’s larger idea was to, through the threat of violence, induce a mentality of self-policing among citizens, especially among the so-called “criminal minded elements”, as to make the actual resort to violence by police officers unnecessary.⁶⁴ Additionally, the officers themselves were to be held to a higher level of

⁶⁰ *Ibid.*

⁶¹ “Nigeria: ‘Rest in Pieces’: XI. Police Reform”, online: <<https://www.hrw.org/reports/2005/nigeria0705/11.htm>>.

⁶² *Ibid.*

⁶³ A news report from 2002, quotes IGP Balogun’s commentary about the newly reformed Fire for Fire force, “Mr. Balogun who decried the rate at which policemen lose their lives and arms to hoodlums and ethnic militia during communal clashes explained that the operation is designed to increase police visibility by providing no breathing space for itinerant robbers. “Be tough and ruthless to armed robbers but be gentle and polite to law-abiding citizens,” he told the squad perhaps to forestall abuse.” “Nigeria: Fire for Fire: the New Anxiety”, *Daily Champion* (8 May 2002), online: <<https://allafrica.com/stories/200205080562.html>>.

⁶⁴ “Nigeria: IG Launches ‘Operation Fire for Fire’”, *This Day* (21 March 2002), online: <<https://allafrica.com/stories/200203210019.html>>. This news report of Balogun’s statement at the launch of

accountability as Balogun emphasised, “it will no longer be business as usual...Any person, who wants to remain in the force must avoid corruption, indiscipline, misconduct, misuse of fire-arms and other irresponsible acts.”⁶⁵

Predictably, Balogun’s proposed reform failed. These officers, encouraged to use maximum force in the exercise of their duties, only deployed such powers to further entrench police corruption and impunity. The fire-for-fire police force was characterized by the presence of police check points throughout the country—allegedly to “increase police visibility”—but which quickly morphed into sites for armed police extortion of citizens and impunity. The officers embraced the powers they were extended under the regime but ignored the limits that were imposed on the exercise of such powers. These reform measures introduced to encourage self-policing among citizens and curb corruption by officers yielded to the status quo and quickly fed into the already existing landscape of police corruption, brutality, and violence.⁶⁶ Balogun himself was arrested and subsequently convicted on corruption charges; Sunday Ehindero was thereafter appointed IGP. The impunity engendered by vesting officers with a license to kill at discretion, under the guise of crime fighting, took on form in the 2005 case of the Apo six murders.⁶⁷

operation fire-for-fire notes, “The statement explained that the operation was designed to increase police visibility in order to check the menace of armed robbers, and charged members of the task force to be tough and ruthless with criminals while being gentle and polite to law abiding citizens.”

⁶⁵ Ibid.

⁶⁶ Ibid. “Omole recounted his encounter with the FFF men: “While I was waiting for a bus at the Iyana-Ipaja bus stop along Oshodi-Abeokuta expressway, about five policemen swooped on us and dragged all of us to their van.” Typical of the Nigerian police said he, “we were not charged for any offence. And to avoid further brutalization or even death, we dare not challenge them. So they marched us into their waiting patrol vehicle and drove us to Isokoko police station, Agege, where they subjected us to another round of humiliation.” Omole said that what saved him was that he told his captors that he was a journalist. “Immediately I identified myself as a media expert, I was released without further interrogations.”

But that is not the end of the story. The middle-aged media man said he later learnt that others were eventually released for a sum of N500 each. Even with that experience, Omole thinks the idea behind the IG’s tough stance on crime is good but warned it may end up like others before it because the present crop of policemen and women by their disposition are given to bribery and corruption.”

⁶⁷ “Apo Six: Should there be a judicial review in the case of AIG Danjuma Ibrahim?”, (20 October 2020), online: *TheCable* <<https://www.thecable.ng/apo-six-should-a-judicial-panel-revisit-the-case-of-aig-danjuma-ibrahim>>.

One of the casualties of the Apo six incident, before his death, gave an account of the events. Police officers at a check point pulled over six traders returning home from a night of clubbing. The officers were allegedly acting on the instruction of a senior police officer who claimed that the group were a gang of armed robbers. Earlier in the night, the sole female member of the group had “rudely” rebuffed the advances of the senior officer at the club. As soon as the group stopped at the check point, the officers started shooting at their car, eventually killing all members of the group. Six police officers, including the senior officer were indicted by a judicial panel set up to investigate the incident. However, only two were convicted of murder, and the senior officer, who resumed service in the police force, was subsequently appointed assistant IGP in 2018.

This culture of widespread police impunity was the background against which Ehindero was set to work, and he announced sweeping reforms almost as soon as he entered office. His reform measures were to combat the widespread corruption and impunity that Balogun had engendered, and establish an efficient police force. He introduced a ten-point agenda tagged, “To Serve and Protect with Integrity,” that recommended measures to ensure police accountability and capacity building,⁶⁸ to reform the status quo of police violence and impunity, especially extortion of citizens. The hallmark of Ehindero’s agenda was the appointment of “new Police leadership [to] lead by example so that the rank and file of the Force would learn from this and soon come to imbibe the spirit and letters of the operational slogan to behave responsibly.”⁶⁹ Again, this reform measure failed. Not only was there no change in Nigerians’ experience of police corruption, Ehindero was also arrested and brought up on corruption charges after his tenure when it was

⁶⁸ Hills, *supra* note 58. Page 224.

⁶⁹ Mike Ebonugwo, “Nigeria: Ehindero And a Question of Integrity”, *Vanguard* (22 June 2007), online: <<https://allafrica.com/stories/200706220613.html>>.

alleged that funds meant for the police force under his stewardship were siphoned for his personal use.⁷⁰

In 2006, the Obasanjo government attempted across-board reform by setting up a presidential committee on police reform headed by retired Deputy IGP, Muhammed Dan Madami.⁷¹ The Madami committee was given eight terms of reference that requested recommendations on a broad range of issues from police administration to the transportation of police officers. The head of the committee acknowledged the challenging background against which the committee was to work:

The task facing the committee although very daunting, is also challenging because since independence, except during one or two administrations, the Nigeria Police has suffered serious neglect especially during the military interregnum. It is the cumulative effect of this neglect that is now adversely telling on the effectiveness, efficiency and success of the Police operations resulting in the inadequate manner in which the Police are now performing its constitutional functions of maintaining law and order and securing of public safety. Although belated, the establishment of this committee could not therefore have come at a more opportune moment. It is however ardently hoped that both the political and financial will of the government will be brought to bear on this very crucial issue of Police reforms so that after all said and done our report and recommendations will not be consigned to the dust bin as has been the case with similar report in the past.⁷²

The committee recommended that central federal control of the NPF be maintained. It also recommended that the government intervene in areas of police welfare, recruitment and training as well as begin immediate re-orientation to “change the perception of the police in the minds of

⁷⁰ TransparencIT, “TransparencIT - Corruption Cases Database in Nigeria”, online: <<https://transparencit.com>>. This website provides a summary of the charges against Ehindero, which charges were subsequently dismissed because the court upheld the Defendant’s no-case submission that, “the prosecution had failed to establish a prima facie case against the defendants for not proving that the defendants converted the said interest generated to their personal use.”

⁷¹ “Motions without Movement” Report of Presidential Committee on Police Reforms in Nigeria (2008) CLEEN Foundation, Lagos.

⁷² Funmi Peter-Omale, “Nigeria: Can the Police Be Reformed?”, *This Day* (15 March 2006), online: <<https://allafrica.com/stories/200603150676.html>>.

Nigerians.”⁷³ While the recommendations of the committee was received with great fanfare, nothing was done to implement them.⁷⁴

After the end of the Obasanjo presidency, and the commencement of the Yar’adua presidency, Nigeria saw yet another change in police administration,⁷⁵ and yet another attempt at police reform. The Yar’adua administration, although short-spanned and marked by a president who was mostly absent because of his failing health, also attempted police reform through the 2008 Mohammed D. Yusuf panel. The panel’s recommendations were nearly identical to the 2006 panel and were treated identically—accepted but not implemented.⁷⁶ Yar’adua died as a sitting president and his vice president, Goodluck Jonathan, was sworn in as president. Jonathan served out the remainder of Yar’adua’s tenure and an additional four-year tenure following his election as president in 2011.

Under the Jonathan administration, the wheel of police reform was again turned with the appointment of a new police chief, Ogbonna Onovo, who made improving police-community relationship the focal point of his agenda, and promised to reward officers’ “gallantry and loyalty to the new system.”⁷⁷ This reform measure was introduced in a period when citizens were especially disenchanted with government inaction around the growing threat of domestic

⁷³ Josephine Lohor, “Nigeria: Police Reform C’ttee Submits Report”, *This Day* (27 May 2006), online: <<https://allafrica.com/stories/200605270047.html>>.

⁷⁴ “Motions without Movement” Report of Presidential Committee on Police Reforms in Nigeria (2008) CLEEN Foundation, Lagos. At Pages 163-170. The recommendations of the working group of the committee which ranged from a constitutional review to ensure better police monitoring to the professionalization and civilization of the NPF were not implemented.

⁷⁵ Mike Mbama Okiro was appointed as the Inspector General of Police to succeed Ehindero.

⁷⁶ Eric Guttuschuss, “*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). Page 395 - 397

⁷⁷ “POLICE REFORM TO LAST FIVE YEARS “IGP”, online: *Nigerian Voice* <<https://www.thenigerianvoice.com/news/21743/police-reform-to-last-five-years-igp.html>>. In a speech advising his officers on how to interact with the community and their vigilante groups, the IGP notes, “Draw them close to you, let them realize that they are assisting you to carry out your constitutional responsibilities. It is not for them to take over your duties. It is to assist you and when it is practicable, you don’t allow them to go on patrol unless in conjunction with your policemen so that when they arrest, they don’t go outside the ambit of the law,”

terrorism, as well as extensive corruption in public office.⁷⁸ The police force, which remained corrupt, was often deployed to clamp down on citizens' agitations, further entrenching the character of the force as corrupt and brutal.⁷⁹ The Jonathan presidency is particularly characterized by poor police-community relations and the extreme acts of violence of its police force against the 2012 #OccupyNigeria protesters.⁸⁰

President Jonathan also empaneled the 2012 Osayande Committee on police reform, constituted to suggest measures to reorganize the NPF. Several commentators, exhausted from years of failed and unimplemented reform recommendations, regarded the Osayande committee with skepticism, with one commentator describing it as, "a waste of time, because Osayande had been a member of most of the reforms we have had in the past."⁸¹ The panel's reform recommendations were also ignored.

The end of the Jonathan presidency transitioned the country into the current Buhari presidency under whose administration police violence and brutality has received significant attention. The SARS unit has taken a primary place in the conversation around police dysfunction, and just like his predecessors, Buhari has applied an identical approach to securing a reformed police force. In addition to attempting the same old methods, President Buhari also assented to a revision of the Police Act to modify and purportedly curtail the powers granted to police officers.⁸²

⁷⁸ A J Omede, "Nigeria: analysing the security challenges of the goodluck Jonathan Administration" (2011) 7:5 Canadian social science 90–102.

⁷⁹ "Police in Nigeria Must Stop Firing Indiscriminately at Protesters, Says Amnesty International, Following Three More Deaths in Fuel Price Protests", online: *Amnesty International USA* <<https://www.amnestyusa.org/press-releases/police-in-nigeria-must-stop-firing-indiscriminately-at-protesters-says-amnesty-international-following-three-more-deaths-in-fuel-price-protests/>>.

⁸⁰ Elizabeth Flock, "Occupy Nigeria: Police, protesters clash as nationwide strike paralyzes country", (9 January 2012), online: *Washington Post* <https://www.washingtonpost.com/blogs/blogpost/post/occupy-nigeria-police-protesters-clash-as-nationwide-strike-paralyzes-country/2012/01/09/gIQAUpQZIP_blog.html>.

⁸¹ "POLICE REFORMS: The timeless ritual for solution?", (6 March 2012), online: *Vanguard News* <<https://www.vanguardngr.com/2012/03/police-reforms-the-timeless-ritual-for-solution/>>.

⁸² The Police Act Amendment 2020

The revised legislation codifies some of the measures previously introduced to reform the police such as community partnership in policing (Section 4); prohibition of arrest-by-proxy⁸³ (section 36); public accountability (Section 8). The new act retains the centralized administrative structure and introduces the requirement that every police division must have at least one police officer who is a legal practitioner (Section 66).

However, whatever reforms might have been anticipated in the wake of the new Police Act have clearly failed to take hold, this failure is evident in the October 2020 #ENDSARS protests and the attendant Lekki Massacre. Following the massacre, the government constituted a panel to interrogate reports of police violence and to, among other goals, make recommendations for police reform. Police reforms recommended by the Lagos State JPI recycles the same policy points that have been recommended and sometimes attempted in previous administrations.

The history of police reform tells a checkered and, frankly, confusing, story of the country's approach to intervening in police dysfunction. Police reform has encouraged impunity (under the WAI and fire-for-fire agenda); discouraged impunity by threatening violence against errant officers (under the fire-for-fire agenda), then by cajoling and offering rewards (under the Ehindero's integrity agenda and Onovo's administration); and encouraged police-community partnership (under Onovo's administration and Buhari's legislative intervention.) Reform measures have moved in two opposite directions: towards making the police more brutal and violent on the one hand, and towards endearing the police to the public on the other. This history fails to offer a clear narrative of how ideal policing is conceptualized, of what the vision of

⁸³ This is a common practice where police officers, where unable to reach a suspect or the subject of an arrest warrant, would arrest and detain a close family member or friend in the hopes of drawing the suspect out of hiding. This practice has always been illegal under the country's constitutional provisions as well as the Administration of Criminal Justice Act but continues till date.

optimized policing is, and it is therefore difficult to, through the history of police reform, lay hold of the goal of police reform.

2.3. Police is your Friend?

The motto of the NPF, supplemented by the institution's mission, vision, and value statements,⁸⁴ offer a clearer picture of how the institution conceives its place in society, and therefore the vision of ideal policing. The motto states, "*Police is your friend.*"⁸⁵ The institution's vision statement reads, "*To make Nigeria safer and more secure for economic development and growth; to create a safe and secure environment for everyone living in Nigeria.*" A paragraph of its mission statement notes that the NPF wants "*to build a people's friendly [sic] Police Force that will respect and uphold the fundamental rights of all citizens.*" Finally, the first three items on the institution's list of values reads,

Working together with people irrespective of religious, political, social or economic affiliations to:

1. Deliver quality police service that is accessible to the generality of the people.
2. Build a lasting trust in the police by members of the public.
3. Protect and uphold the rights of persons, to be impartial and respectful in the performance of Police duties.

Accordingly, the NPF aspires towards police-community harmony and the goal of police reform is intervening in and correcting the current landscape of police-community estrangement. Police reform has failed.

The nature of the failure of police reform in the country is two-fold. First is a failure of reform measures implemented, such as reform attempts by IGPs that have simply collapsed into

⁸⁴ "Nigeria Police Force | Vision and Mission", online: <https://www.npf.gov.ng/aboutus/vision_mission.php>.

⁸⁵ While this phrase is not featured on the official police website, it is a popular colloquialism that has been used by rank and file in police administration and is displayed in police stations and other police administrative buildings. "What Manner of Police? – THISDAYLIVE", online: <<https://www.thisdaylive.com/index.php/2020/11/15/what-manner-of-police/>>.

the existing status-quo of police impunity. In a study published in 2022, the authors set out to gauge participants' response to the query, "is the police really your friend?"⁸⁶ They conclude that, "the outcry and wide acceptance of the EndSARS riot in 2020 is a clear attestation that indeed policemen in Nigeria are brutal, wicked, arrogant, and inhumane violators of the rule of law and their rule of engagement. It further buttresses the widely held opinion that their colonial foundation still influences their attitude and behaviour towards the public."⁸⁷

The second dimension to the failure of police reform is a failure *to* reform because recommendations from police reform panels have been ignored by the government. As Hills notes in her essay on the failure to implement police reform in Nigeria,⁸⁸

In fact, reform was always seen as a political issue, and the Danmadami Committee was generally regarded as a political response to a threat by junior officers to initiate a national strike in protest over delayed promotions and a grossly inadequate welfare scheme. Similarly, the Yesufu Committee was viewed as an attempt by Yar'Adua's administration to enhance its legitimacy following national and international condemnation of the police's role in the fraud associated with Yar'Adua's election. Unsurprisingly, the recommendations of the Danmadami Committee were ignored once Obasanjo retired, while the Yesufu Committee's report and white paper duplicated the earlier reports but failed to urge their implementation. Further, the contents of the reform reports were criticized for failing to address issues relating to the value system, ideology, philosophy, and organizational and legal deficiencies that account for police inefficiency. Even when fundamental recommendations were made, they were watered down in white papers, which maintain the status quo in such a manner as to ensure continued politicization. In other words, the process of reform is accepted, but the political will required to ensure its effective implementation is absent.⁸⁹

Two policies especially magnify the texture of the failure of police reform because they demonstrate how police reform measures, even when implemented, eventually yield to the status quo. These measures, which attempted to foster harmony between the police and members of the

⁸⁶ Linda Osunde Isoken, "THE DILEMMA OF HUMAN SECURITY AND SYSTEMIC BRUTALITY BY THE NIGERIAN POLICE IN METROPOLITAN BENIN." (2022) 4:1 Global Journal of Education, Humanities & Management Sciences.

⁸⁷ Ibid. Page 128.

⁸⁸ Hills, *supra* note 58.

⁸⁹ Ibid. Pages 751 -752.

public, only heightened the danger of police violence. The first is the “back-to-state” policy which “stipulates that most rank and file officers should be drawn from the local communities they serve, or police joint patrols with community security groups, or police registration and official identification of vigilantes.”⁹⁰ The second is community policing which purports to institute a strategy of police-community partnership in crime pre-emption and investigation.⁹¹ Underlying these policies is an attempt to bring the police closer home in the hopes of police-community harmony. However, in practical terms, what these policies amount to is an unleashing of armed and violence-prone police officers onto communities.

Officers posted to communities under these schemes remained unaccountable to the community but took their instructions from the police hierarchy that operated on a federal mandate. Instead of police-community co-operation as intended, communities are left at the mercy of brutal police officers who feel entitled to co-opt community members into their violent scheme under the guise of police investigation. One such co-opting is evident in the unlawful practice of “arrest-by-proxy” or “arrest-in-lieu” where officers, who, by virtue of their familiarity with the social relations in communities, resort to arresting and detaining the relatives of suspects in the hopes that the suspects will turn themselves in to secure the freedom of their relatives.⁹² Thus, these reform measures have only increased opportunities for police impunity while shielding officers from accountability to the host communities; they have collapsed into the existing atmosphere of police impunity and violence, and have thus failed.

⁹⁰ Olly Owen, “*The Nigeria Police Force: Predicaments and Possibilities*” NRN Working Paper no. 15. At page 11.

⁹¹ Hills, *supra* note 58. “Community Policing: Frequently Asked Questions” informational pamphlet produced by the Security Justice and Growth Program in Nigeria. Page 3

⁹² “Know Your Rights: It’s illegal for police to arrest you in place of another person”, (21 June 2021), online: *TheCable* <<https://www.thecable.ng/know-your-rights-its-illegal-for-police-to-arrest-you-in-place-of-another-person>>. This news report chronicles a 2021 case of an old woman who was arrested from her home in the village and detained because her son was suspected of rape and murder, which incident especially drew public condemnation.

Additionally, police reform, even when it proposes to curtail police violence, has either amplified officers' capacity for violence (as in the fire-for-fire agenda) or preserved such capacity (as in the legislative review which left the right to use force in the execution of police duties undisturbed.) Similarly, police reform panels, including the Lagos JPI, continue to recommend investment into arms and ammunition as part of their reform proposals.⁹³ If the self-professed aspiration—the *goal*—of the NPF is to be in friendly relations with the public, the prioritizing of the institution as a force for violence is a curious decision. However, this intertwining of police powers with violence, when considered along side the connection between policing and political power, which is discussed in the next section of this paper, takes us closer to the root of the failure of police reform in Nigeria.

2.4. Police Impunity and Political Power

In the opening paragraph of the second part of this chapter, I noted that policing has always been intimately connected with the exercise of political power. This intermingling of politics and policing—and the texture of this melding— offers an important insight on the conception of policing in Nigeria. In “*An Examination of Social Control*,”⁹⁴ Onyeozili, notes,

The police force was not established in Nigeria to protect the lives and property of the people against crime. Rather, it was established to ensure political survival of the elite (formerly the colonizers) in a hostile environment and to foster commercial prosperity through government support of a cash economy.⁹⁵

This history birthed a police force that was entirely subservient to the will of the political elite, even in the face of clear illegitimate exercise of power by government officials, and the

⁹³ *Supra*. Note 2 Page 295

⁹⁴ Onyeozili, *supra* note 4.

⁹⁵ *Ibid*. Page 379.

formal end of colonization did not transform the police from being the oppressive agents of the political elite. Instead, as Ayo Sogunro, a scholar of policing and human rights, notes,

This disconnect between the Nigeria police and Nigerian communities only intensified after independence in 1960. A new political elite had emerged and, when independence was attained, they simply stepped into the role of the colonial government. Although the composition of the Nigerian political elite has evolved over the last 60 years, it has remained ideologically consistent in drawing a line between an economically and politically privileged few who enjoy the full benefits of citizenship and the majority who are socially excluded in several ways.⁹⁶

The subservience of the police to the will of the political elite was demonstrated very early into the country's transition into self-rule. Kafaru Tinubu, the Assistant Commissioner of Police of the Western region in the country's first republic noted,

Where a regional law was properly enacted, it was not for us, the police, to question the propriety or otherwise of such a law. By law, it was incumbent upon the police to enforce it, even if it derogated from the fundamental right or liberty of the citizen or was blatantly designed to silence or oppress the opposition, the only remedy lay with the court of law.... Similarly, the "Police Declaration" enjoins upon a police officer to obey all lawful commands of the Government of the Federation as by law established and of any officer set over him.⁹⁷

The NPF today, true to its colonial heritage is characterized by officers who are uncritically subservient to political power, and who work to protect the political elite even where the political class and government clearly stand against codified law and constitutional prescriptions.⁹⁸

The different political administrations in Nigeria's fourth republic have infamously de-emphasized democratic ethos and excluded the popular will of the people from governance. Sixteen of the twenty-three years of the country's fourth republic has been administered by ex-

⁹⁶ "Why #EndSARS won't quit | African Arguments", (15 October 2020), online: <<https://africanarguments.org/2020/10/why-endsars-wont-quit/>>.

⁹⁷ Onyeozili, *supra* note 4. Page 388.

⁹⁸ At the #ENDSARS protest grounds, Fela Anikulapo Kuti's 1976 revolutionary song "Zombie" was broadcast, comparing officers of the NPF to zombies described by Fela thus, "Zombie no go go unless Zombie no go go, unless you tell 'em to go/ Zombie no go stop, unless you tell 'em to stop/Zombie no go turn, unless you tell 'em to turn/Zombie no go think, unless you tell 'em to think. "Zombie (1976/1977) - Fela Kuti".

military dictators, whose administration of the country in the democratic era has been remarkably similar to their regimes as military heads-of-states. Akin Oyeboode, a professor of jurisprudence and international law and politics has described the political structure in Nigeria as “not a democracy but a civilian replacement of a military dictatorship.”⁹⁹

The country’s electoral process is consistently subjected to the whims of the politically powerful such that the outcomes of the process bear little resemblance to public sentiments around governance. In *Elections and Democratic Deficits in Nigeria’s Fourth Republic*,¹⁰⁰ the authors note,

Election in Nigeria appears to have been characterised with poor administration, often defined by a seemingly weak and inefficient electoral umpire. The Nigerian 1999 Constitution as amended and the 2010 Electoral Act as amended has empowered Independent National Electoral Commission (INEC) as the electoral umpire to organize and conduct elections into various political offices in the country. However, each election conducted by INEC have always been flawed by INEC’s poor organization, lack of accountability and transparency (Edet 2015). The weakness of election-mediating institutions such as Police, INEC, the courts etc. has effectively reduced Nigeria’s elections to mere periodic rituals, yielding little or no meaningful democratic outcomes.¹⁰¹

The corroding of the popular will of the people in this regard has been achieved through government use of policing powers. As Olawale Idowu notes in *Corruption, the Police and Challenges of a Free and Fair Election in Nigeria*,¹⁰²

A thorough appraisal of past electoral processes in Nigeria would reveal the fact that the police frequently aided and abetted breaches in the electoral processes for pecuniary gains. For instance, in the 2007 general elections, policemen were widely used by politicians to brutalize opponents and suppress rivals through arbitrary arrests (Human Rights Watch, 2003). Similarly, the proliferation of ballot papers

⁹⁹ *Nigeria Is Not a Democracy But A Civilian Replacement of Military Dictatorship - Prof. Akin Oyeboode* (2022). https://www.youtube.com/watch?v=n_mRuPElFjA&t=2s

¹⁰⁰ Al-Chukwuma Okoli, Joseph Nebeife Chigozie & Markus Arum Izang, “ELECTIONS AND DEMOCRATIC DEFICITS IN NIGERIA’S FOURTH REPUBLIC: A COMMENTARY” (2020) 5:9 *Revista Brasileira de Estudos Africanos= Brazilian Journal of African Studies*.

¹⁰¹ *Ibid.* Page 148.

¹⁰² Olawale Idowu, “Corruption, The Police And The Challenges Of A Free And Fair Election In Nigeria” 12. (2010) 7:12 *Journal of Sustainable Development in Africa*

kept in the custody of the commissioner of police days before the regional elections in the 1965 Western region election was an indictment of the integrity of the police as a bastion of credible elections in Nigeria (Iroanusi, 2000).¹⁰³

True police reform towards the goal of police-community harmony will inevitably interfere with the political manipulation of the policing institutions. The governing and political class, who are responsible for implementing police reform, are thus incentivised to keep the NPF dysfunctional and violent so that officers can serve as foot soldiers for the political class. One way to preserve this dysfunction is by ignoring reform measures proposed by panels often comprised of representatives of civil society.

However, even when reform measures are presumably implemented, the political class is quick to dismantle any changes that may attend such reform once the need arises to call on police impunity and brutality. An example of such dismantling is seen in how the police were set against the #ENDSARS protesters at the Lekki Massacre just months after a review of the Nigerian Police Act, which review purported to curtail the powers of the police with the end goal of creating better police-community relations. Similarly, the Jonathan administration set the police against the 2012 #OccupyNigeria protesters even though the government had announced plans to implement the reform measures proposed under the Yusuf D Panel; panel reform recommendations were eventually abandoned.¹⁰⁴ In March 2012, barely two months after the #OccupyNigeria incident, president Jonathan announced the inauguration of a new panel to recommend police reform; the recommendations of the Osayande panel were similarly ignored.¹⁰⁵

Police reform—and non-reform—throughout the history of the country has been approached as a part of governmental and political power play to ensure the undisturbed exercise

¹⁰³ Okoli, Chigozie & Izang, “ELECTIONS AND DEMOCRATIC DEFICITS IN NIGERIA’S FOURTH REPUBLIC”, *supra* note 100. Page 60

¹⁰⁴ Page 32.

¹⁰⁵ Page 33.

of political power over the country. The goal of chiseling out friendlier policing practices is sidelined in favor of ensuring that the police can be used to maintain political power. This centering of political power in police reform measures, especially in a country whose political process is distrusted by citizens sustains the current cycle of failed police reform. Attempts at reform in Nigeria continue to fail because the dysfunction in governance and the extant despotism of the political class—which group is responsible for commissioning and implementing police reform measures—benefits from police dysfunction.

In *Lost in Translation: Why Nigeria's police don't implement democratic reforms*,¹⁰⁶ Alice Hills notes,

Reform has, inevitably, been affected by political imperatives. The debate on process, for example, was shaped by concerns that submitting an accountable reform process to the political control of elected representatives would lead to reform being subject to the short-term decisions associated with electoral cycles. In fact, reform was always seen as a political issue.¹⁰⁷

Other scholars have similarly highlighted how the flaws in the country's political and governance systems have resulted in the failure of police reform in Nigeria. In the following and final section of this chapter, I highlight the different narratives that have been used by these scholars and commentators to describe—and therefore, understand—the persistent nature of (despite several attempts at reform) police dysfunction in Nigeria.

2.5. The Polemics of Police Reform in Nigeria

In a 2021 article, “*Beyond decentralising the Nigerian Police: how Lagos state circumvented debates on police reforms*,”¹⁰⁸ Victor Agboga helpfully categorises scholarship on

¹⁰⁶ Hills, *supra* note 58.

¹⁰⁷ *Ibid* at page 751

¹⁰⁸ Victor Agboga, “Beyond decentralising the Nigerian Police: how Lagos state circumvented debates on police reforms” (2021) 39:1 *Journal of Contemporary African Studies* 135–150.

the failure of police reform. He offers three narratives around the “polemics of police reforms in Nigeria”: The Historical Narrative, The Structural Narrative, and the Political Narrative.¹⁰⁹ These categories are useful for our present discussion because they attempt to identify clear pathways that have been (and can be) tread on the journey to police reform, which can offer us guidance on our own quest to better understand police dysfunction, and the failure of police reform in Nigeria.

Scholars who align with what Agboga has categorized as the structural narrative, argue that police dysfunction is rooted in the hegemony of a federal administration of the police force which does not adequately account for the nuances required to effectively police a multi-cultural state like Nigeria. As such, police reform fails because police administration continues to be effected at the federal level. In *State Police in Nigeria: Issues and Challenges*,¹¹⁰ the author sets out arguments that have been made for the adoption of state administration of the police force in Nigeria to wit: it accords with the principles of federalism that currently shapes Nigeria’s democratic government; it makes for more effective management of the NPF; and it prevents the concentration of power at the federal level, all of which can check for abuse of police powers and police impunity.¹¹¹ Other scholars like Odeh and Nnaji have made similar arguments in support of state policing as a possibly effective route to police reform.¹¹² They note,

Prominent lawyers in Nigeria have decried the over-centralization of the police, drawing out implications for public order and safety. Governors are the Chief Security Officers of their states with ‘security votes’, yet they have no control over the police. Rather, it is the Inspector General of Police (IGP) in Abuja through his Commissioners of Police (COPs) in each state that has the sole power over this monolith command structure.¹¹³

¹⁰⁹ *Ibid.* Page 136.

¹¹⁰ Adedeji, *supra* note 42.

¹¹¹ *Ibid.* Pages 9 to 11.

¹¹² Odeh, A., and U. Nanji. 2015. “State Policing and National Security in Nigeria.” *Mediterranean Journal of Social Sciences* 6 (1 S1): 412.

¹¹³ *Ibid* at Page 416

Odeh and Nnaji's fears of a police force acting within a state but unanswerable to the chief security officer of the state materialized in January 2022, when police officers laid siege on an estate in Magodo, an area of Lagos state. Responding to calls from the estate residents, the Lagos State governor arrived to intervene in the situation. In a now viral video, the governor is rebuffed by the police officers who simply refused to acknowledge his authority over them.¹¹⁴

"Inspector General of Police, through the AGF," the officer in charge of the operation tells the governor who his "superiors" are.

"Can you call your superiors in Abuja? That the governor is here and I'm the chief security officer, tell them that you don't have any business in my state and that I want you to disengage from here," the governor says to the officer.

"I'm here on the instruction of the inspector general of police, through the attorney general sir and that is why I'm here. I'm too small or too low to call them, your excellency, with due respect, you can call them directly, sir," the officer responds.

The officers remained on the estate.

A second way to account for the failure of police reform is the political narrative. Scholars within this category identify the political benefits that can be extracted from an exploitation of the flaws in the policing system and argue that these advantages ensure the continued maintenance of police dysfunction by the governing class. In Agboga's words, these scholars argue that "the success or failure of any public reform is often based on the incentive of political elites to facilitate or push against it, thus highlighting the role of elite bargaining in institutional change."¹¹⁵

¹¹⁴ "Magodo: Police officer disobeys Sanwo-Olu over invasion - Premium Times Nigeria", online: <<https://www.premiumtimesng.com/news/top-news/504064-magodo-police-officer-disobeys-sanwo-olu-over-invasion.html>>.

¹¹⁵ Agboga, "Beyond decentralising the Nigerian Police", *supra* note 108. Page 140.

Accordingly, police reform has consistently failed because it remains beneficial to the political ruling class to have a dysfunctional police force.

In *The Nigerian Police Force: Predicament and Possibilities*,¹¹⁶ Owen sets out the ways political interference impacts police (mal)functioning and reform in the country. He notes,

Political interference undermines the cohesion, effectiveness and performance of the Nigeria Police Force. If publics see the police as partisan, this will deeply impact their trust permanently. The centralised and hierarchical accountability structure of the NPF renders it vulnerable to political interference, and certain officers may compromise their professionalism to curry political favour in the hope of future career advancement. The tone is set from the top – when politicians restrain political considerations and promote police leadership in order of seniority, this helps to depoliticise the whole system. Conversely, when officers perceived as ‘politically connected’ are advanced over seniors, this incentivises other junior officers to make similar alliances, which compromise their independence.¹¹⁷

Finally, scholars who adopt the historical narrative to account for the failure of police reform point to the country’s history of policing in colonial and military regimes to explain the dysfunction of the current policing structure. Agboga captures the argument of the historical perspective:

British colonial government in Nigeria, unlike Japan in South Korea, failed to introduce developmental institutions and incited the emergence of self-seeking indigenous elites. In a bid to run Nigeria “on the cheap”, Kohli avers, Britain left the legacy of a weak civil bureaucracy including a poorly trained and fragmented police force.¹¹⁸

Accordingly, Nigeria’s colonial history provoked the development of an elite class that was motivated to not only look out for their own private interests at the expense of public welfare, but who also felt entitled to use the police force to achieve this mission. In the colonial times, this elite class was primarily the European merchants and political administrators, and as the years went by,

¹¹⁶ Olly Owen, “*The Nigeria Police Force: Predicaments and Possibilities*” NRN Working Paper no. 15 Page 21.

¹¹⁷ Agboga, “Beyond decentralising the Nigerian Police”, *supra* note 108. Page 19.

¹¹⁸ Ibid. Footnote 46 at page 136. Agboga cites to Kohli, A. 2004. *State-directed Development: Political Power and Industrialization in the Global Periphery*. Cambridge: Cambridge University Press.

the class expanded to include persons from colonised territory who were sympathetic to the British agenda. This colonial conception of policing was retained after the country transitioned out of British rule into self governance. Agboga notes,

After Nigeria gained independence in 1960, nationalists who vehemently condemned the brutality of the colonial police ironically ‘cushioned themselves into employing the same police brutality and terror against their opponents in post-independence political power struggles’ (Onyeozili 2005). This notion portrays the ‘re-colonisation’ of the police force, a situation where not Britain but Nigerian political elites recapture the police for their benefits.¹¹⁹

Nigeria’s history with military dictatorship, which regime necessarily relies on the use of military might—and the interference with democratic institutions, including the police—to establish political domination further complicated the evolution of the police force in society. The side-lining of democratic institutions during the military eras starved these institutions and their officers of much needed resources, which translated into a landscape of survival-of-the fittest (or the most regime-compliant), and widespread corruption among police officers and administrators. Agboga summarises some of the scholarship around the impact of military regime on police dysfunction in Nigeria,

Scholars have equally pointed out how the long spell of military regimes in Nigeria, spanning over thirty years, escalated the denigration of the NPF. Ebonugwo and Adelaja (2015) assert that in their bid to monopolise power, successive military regimes relegated the police force and prevented it from rendering services to the masses. Alemika equally observes that the recruitment and promotions of police officers were largely suspended by the military government (Alemika 2008). ‘Military rule did a lot of damage to the police’, Owen asserts in agreement, ‘and its legacy is still here, but the organisation has re-consolidated’ (Owen 2014.)¹²⁰

¹¹⁹ Ibid. At page 137. Agboga cites to Onyeozili, E. C. 2005. “Obstacles to Effective Policing in Nigeria.” *African Journal of Criminology and Justice Studies: AJCJS* 1 (1): 32.

¹²⁰ Ibid.

As with many things, the categories created by these narratives are neither tidy nor mutually exclusive,¹²¹ and all three narratives are captured in the current landscape of police dysfunction in Nigeria. To take the Lekki Massacre as an example, the account of the structural narratives is borne out by the fact that the Lagos state governor, in a statement published after the massacre, blamed “forces beyond our control,”¹²² suggesting a federal government control of the operation that led to the massacre.¹²³ The Lekki Massacre, which is emblematic of the height of police violence, was also significantly motivated by political expediency in what the president saw as a move to quash the activities of those “young people that wanted to march here and remove” him from political office.¹²⁴ Finally, the historical narrative finds expression in the Lekki massacre as an incident of police violence that is remarkably similar to other incidents that have occurred in the history of the country, under colonial, military and previous democratic regimes.¹²⁵

I have laid out these narratives to demonstrate that these inquisitions, which categorize the paths that have been trodden to understand the failure of police reform in Nigeria, ultimately lead back to the colonial nature of the NPF. The “structural narrative” unveils a colonial problem because British colonisation bequeathed the country’s system of governance that concentrates

¹²¹ Most scholars writing about the police reform problem ultimately settle on conclusions that implicate all three narratives. For example, Owens (2014) acknowledges the centralized structure of police administration makes it vulnerable to political interference and the institution’s legacy from military rule further complicate its dysfunction.
¹²² Babajide Sanwo-Olu [@jidesanwoolu], *This is the toughest night of our lives as forces beyond our direct control have moved to make dark notes in our history, but we will face it and come out stronger. I’ve just concluded visits to hospitals with victims of this unfortunate shooting incident at Lekki*. <https://t.co/r5idAn9Pxw> (2020).

¹²³ This suggestion is borne further validated by the panel finding of Nigerian Army involvement in the operation. (Lagos JPI report pages 283 – 285)

¹²⁴ “#EndSARS protest was to remove me from office —Buhari”, (10 June 2021), online: *Punch Newspapers* <<https://punchng.com/endsars-protest-was-to-remove-me-from-office-buhari/>>.

¹²⁵ See generally: “Background Report: The Destruction of Odi and Rape in Choba”, online: <<https://www.hrw.org/legacy/press/1999/dec/nibg1299.htm>>. which offers an account of the ODI massacre that occurred early in the fourth republic. See also: 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. This offers an account of the colonial use of violent policing to quell dissent against the illegitimate colonial tax regime.

power at the central government and prescribes central control of the policing apparatus. Similarly, the “political narrative” reveals a problem instigated by British colonial administration policies that created a class of political elites to be serviced by the policing institutions. The colonial problem exposed by the colonial history in the “historical narrative” is obvious. However, I add that even the complication introduced by the relegation and subsequent manipulation of the police force during the era of military intervention is traced back to the colonial conception of policing as an institution which is staffed exclusively by government loyalists. As such, in the event of a hostile takeover of government, as in military intervention, the police force which is regarded as an institution that exists primarily to serve the ousted government will be, as happened with military regimes in Nigeria, one of the first institutions to be subjected to the machinations of military dictatorship.¹²⁶

A proper appreciation of Nigeria’s colonial history as the core problem that undercuts police effectiveness and reform in Nigeria instigates an interrogation of the ways the country’s ideas of policing are shaped by its history of British colonization, and this history is the eye from which other problems ripple. The policy of violent policing through agents that are unaccountable to the community, which was adopted by the colonial administration for administrative convenience have coalesced into the modern day NPF that wears a thick skin against reform measures. However, police reform measures that have been proposed through the years have failed to re-define policing past this colonial conception.

In the next chapter—the next phase of unearthing in this archaeological expedition—I discuss British colonial rule in Nigeria and specifically, Igboland, to highlight the colonial policing

¹²⁶ Earlier in this work, I noted that after the first military coup, general Aguyi Ironsi passed a decree that made the centralization of the police under the control of the new military administration. Page 22.

policies, and demonstrate the colonial problem, as well as expose the colonial roots, that ground the failure of police reform in Nigeria.

CHAPTER THREE

“The emperor would prefer the poet to keep away from politics, the emperor’s domain, so that he can manage things the way he likes.”

- Chinua Achebe

3.0. THE COLONIAL ROOTS OF THE FAILURE OF POLICE REFORM IN NIGERIA

In chapter one, I noted that my preoccupation with the failure of police reform in Nigeria makes me one of several scholars that have pondered why more than sixty years of attempted police reform (if one were to start the count from the date of the country’s independence) have not yielded a reformed NPF. In the second chapter, under a discussion of the three narratives—historical, structural, and political—of the “polemics of police reform,” I highlighted some existing scholarship and hypotheses that have been explored to explain the NPF’s reform conundrum. By the end of the chapter, I proffered a theory: the explanation for the NPF’s innate and seemingly incurable dysfunction lies in the colonial history of the institution under which, I argued, all three narratives are explained. In this third chapter, I explore policing under British colonization to demonstrate how colonization bequeathed the political and structural handicaps that currently confront the NPF, and ultimately make the case that the failure of police reform to take hold in Nigeria is rooted in the colonial policing policies and ideologies that continue to underlie our modern policing practices.

My digging out the country’s colonial history as the tap root that grounds police dysfunction is consistent with the view of other scholars on the subject.¹²⁷ In his essay “*Why Has*

¹²⁷ See generally: Falola, *supra* note 4 .; Alemika, *supra* note 19.; Foluke Ifejola, “The Colonial Origins of the Nigerian Police”, (8 January 2018), online: *Foluke’s African Skies* <<https://folukeafrica.com/the-colonial-origins-of-the-nigerian-police/>>.

Police Reform Failed to Produce Reformed Police in Nigeria,¹²⁸ Alemika interrogates the failure of police reform and, as I do with this work, lays the blame for the inadequacy of attempted reform measures at the sustained refusal to re-think the nature and possibilities of policing past its current colonial conception. He offers a non-exhaustive list of five factors that have ensured the failure of police reform, the first two factors land at the colonial problem.

He notes,

Why have reforms and interventions failed to produce fundamental and significant improvement in police service delivery? I think several factors, including the following are responsible:

- Foremost, police reform in the country has avoided critical and creative thinking about the embeddedness of police and policing in the power structures and relations in society. Therefore, police reform has failed to address what should be the philosophy and goals of police and policing in the country and what powers and resources should be deployed.
- Reform proposals and recommendations also continue to avoid a critical analysis of the forces and interests that led to the evolution, purpose and goals of the police forces in the country since the colonial era. This has led the government to engage in continuous attempts to reform the police without abrogating the colonial police law¹²⁹ enacted in 1943.¹³⁰

In the following section, I discuss policing under British colonized Nigeria to offer a narrative of the colonial conception of policing, which will serve my later argument that the conception of policing in Nigeria today is identical to how policing was conceived by the British colonizers. Accordingly, policing in Nigeria has not evolved past the philosophy and goals that guided it while the country was under the tyranny of British colonization, and the failure to push past this

¹²⁸ Etannibi E.O Alemika, “Why Has Police Reform Failed to Produce Reformed Police in Nigeria” (2018) *Police Reform in Nigeria: The Devolution Debate*, edited by Oliver Owen, Published by Cleen Foundation Organization. Page 5

¹²⁹ This essay was published in 2018, before the review of Nigeria’s police Act in 2020. However, the revised Police Act, as discussed in Chapter Two of this work, retains the same colonial character approach to policing as its predecessor. Alemika’s position that the government has failed to abrogate colonial law abides if we consider that the spirit of the new law retains the spirit of the old law.

¹³⁰ *Supra*, note 110. Alemika goes on to list other factors including the importation of foreign outdated policing models as well as the corruption as contributing to the failure of police reform as contributing to the failure of police reform in Nigeria.

essentially colonial character has been, as Alemika notes, the foremost hinderance to police reform in Nigeria.

3.1.The Colonial Conception of Policing in Nigeria

An understanding of the British indirect rule system of administration is crucial to understanding the colonial conception of policing, because the goal of administrative convenience informed what institutions, including the police force, were installed in colonized territories. Understanding the administrative goals that the British set in their sights will help illuminate our exploration of the policing approach adopted by the colonial empire.

3.1.1. Indirect Rule and the Colonial Conception of Policing

The defining feature of the indirect rule system—which distinguishes it from the French colonial administrative system—is that the colonial legal order and its institutions were to be locally administered through the political system in the indigenous communities.¹³¹ Three institutions, considered the pillars of the indirect rule system—The Native Courts, the Native Authority, and Native Treasuries (Indirect Taxation)—were introduced to the British colonies across West Africa.¹³² The goal of British colonization was the introduction, establishment, and enforcement of foreign law and government within the territories. Indirect rule, as the vehicle to achieving this goal, prescribed that where possible, the indigenous people and their institutions be

¹³¹ Carl Müller-Crepon offers two quotes to capture perceptions of the difference between the English and French approach to colonization. The first quote from Lord Lugard who was a British colonial administrator in Nigeria is: “Institutions and methods, in order to command success and promote the happiness and welfare of the people, must be deep-rooted in their traditions and prejudices.” The second quote from William Ponty, the governor general of colonized French West-Africa is: Suppress the great native polities which are nearly always a barrier between us and our subject.” Carl Müller-Crepon, “Continuity or Change? (In)direct Rule in British and French Colonial Africa” (2020) 74:4 Int Org 707–741. At page 712.

¹³² Obaro Ikime, “RECONSIDERING INDIRECT RULE: THE NIGERIAN EXAMPLE” (1968) 4:3 Journal of the Historical Society of Nigeria 421–438. Page 423.

co-opted to serve the colonial government.¹³³ The establishment of a foreign legal order necessitated a displacement of the extant indigenous legal order, which displacement was achieved through the use of force.¹³⁴

Additionally, and particularly because of the indirect rule approach, agents of the new government, as representatives of a hostile regime, were set against the community and typically resorted to the use of force to execute their administrative mandates in the communities. 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 the political hierarchy, and which were typical in pre-colonial Igboland. These communities did not have a top-down political hierarchy that could be manipulated for colonial rule, and to apply its indirect rule policy, the British administrators invented hierarchies and placed strangers or outcasts in positions of authority.¹³⁵

¹³³ David Killingray, "THE MAINTENANCE OF LAW AND ORDER IN BRITISH COLONIAL AFRICA" (1986) 85:340 *African Affairs* 411–437.

¹³⁴ Some British historians have insisted on a more tame reading of the establishment of colonial rule in Nigeria with Michael Crowder, an early scholar of European colonization in West Africa going as far as to assert that "The relation between political officer and the chief was in general that of an adviser who only in extreme circumstances interfered with the chief and the native authority under him," Michael Crowder, "Indirect Rule—French and British Style" (1964) 34:3 *Africa* 197–205. Page 198 However, several Nigerian historians have demonstrated clearly that British colonization in Nigeria was achieved primarily through the use of force. See generally: Onyeozili, *supra* note 4. Falola, *supra* note 4.

¹³⁵ A 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 Euro-pean 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 4. 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.

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.”¹³⁶ In his essay, published in the fever of the #ENDSARS protests, Sogunro, draws on literary representations in Achebe’s novel, *Arrow of God*,¹³⁷ 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.”¹³⁸

3.1.2. Policing under Colonial Rule

To effectively administer the new political and administrative system, the British administrators fashioned out new crimes—defined by anti-imperialist sentiments—and institutionalized policing with officers mandated to act purely in service of the new, violent, and strange colonial legal order. As Killingray notes,

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.¹³⁹

¹³⁶ Alemika, *supra* note 19. Page 204

¹³⁷ Chinua Achebe, *Arrow of god* (Penguin UK, 2013).

¹³⁸ note 96.

¹³⁹ Killingray, *supra* note 133. At 413

It is also worth noting that one of such new crimes created was the crime of sedition, which has been retained in the Nigerian criminal code,¹⁴⁰ and which prescribes criminal punishment for expressing anti-government sentiment.¹⁴¹ “Government” of course referred to the illegitimate British empire.

The use of the police to establish the new colonial order necessarily meant that the police were empowered and deployed to clamp down against indigenous criticisms of colonial policies and activities, even when such criticisms were levied by British-installed authority figures such as Warrant Chiefs. For example, Etak Eto, who had been installed as a Warrant Chief by the British in Southern Nigeria, was arrested by the police, stripped of his warrant authority, and charged with sedition for criticizing British disdain of indigenous legal, religious, and administrative norms.¹⁴²

I highlight the introduction of the crime of sedition under British rule, and the treatment of dissenters like Etak 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 people in service of the government. Put differently, the colonial conception of policing introduced a practice of policing where the people did not see themselves reflected in, or their will protected by, the policing apparatus. This characterization of the role of the police was manifested in several incidents of police violence such as in the different tax protests by Aba women in Igboland, Akpanya women in Igalaland, and Egba Women in

¹⁴⁰ Chapter 7 of the Criminal Code Act Cap. C38 LFN 2004.

¹⁴¹ Abiodun Raufu, “Resisting the Colonialist Crime of Sedition Among African People” in Biko Agozino et al, eds, *The Routledge Handbook on Africana Criminologies*, 1st ed (Routledge, 2020) 135.

¹⁴² 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.

Yorubaland respectively,¹⁴³ where the colonial policing apparatuses were violently deployed against the protesters. The colonial conception of policing can be summarised as mercenary (in the sense that they were hired guns of the government) and militarized policing. Policing agents were mercenaries of the political and social elites, and in this role as mercenaries, they were trained as militarized forces.

- **Mercenary Policing**

The British policy of oppressive policing did not merely involve the recruitment of hostile people into communities, new recruits were the mercenaries of the British empire.¹⁴⁴ Policing agents were posted into communities as representatives of the colonial government and served as a visible presence of colonial occupation of these communities. The character of the police as mercenaries was also extended to have the policing agents serve non-political elites, the “petit bourgeois” who were in favor with the colonial administration, and the boundaries and authority of this class were strengthened by their having access to the service of the police.¹⁴⁵ A 2005 Human Rights Watch report on police violence in Nigeria emphasised the character of colonial police agents as mercenaries in aid of the British agenda,¹⁴⁶

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. The use of violence and repression from the beginning of the colonial era, marked a dislocation in the relationship between the police and local communities, which has characterized law enforcement practices in Nigeria ever since.¹⁴⁷

¹⁴³ 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.

¹⁴⁴ Alemika, *supra* note 19. 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

¹⁴⁵ Philip Terdoo Ahire, *Imperial Policing: The Emergence and Role of the Police in Colonial Nigeria, 1860-1960* (Open University Press Buckingham, 1991).Page 22

¹⁴⁶ note 61.

¹⁴⁷ *Ibid.* Page 9

The new class of social and economic elites were entitled to call on the police to protect their interests against the interest of the masses, blurring the lines between private enterprise and government. 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.¹⁴⁸ For example, the colonial government granted the Royal Niger Company (RNC), a merchant trading company, a charter to establish the Royal Niger Constabulary (the Constabulary), an armed policing unit, to protect its trade interest against the interests and activities of indigenous communities.¹⁴⁹

The police thus acted as mercenaries of the economic and social elites, deployed to serve the interest of these individuals in their relations with the local community.¹⁵⁰ 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.¹⁵¹ They were also used to keep persons that were considered undesirable from “elite” geographic spaces.¹⁵²

- **Militarized Policing**

On the eve of 1900, the British revoked the charter of the RNC and moved to establish direct occupation of its colonial territories that were under the control of the Constabulary.¹⁵³ Following the revocation of the charter, the colonial administrators established a police force for the colony

¹⁴⁸ 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.

¹⁴⁹ Killingray, *supra* note 133. Pages 414 and 415. See also Ahire, *supra* note 145. Page 110 and 111. The constabulary helped the RNC establish monopoly power as a trading company in several communities. This was done to create a business advantage for the RNC and not necessarily in furtherance of any political goals of good governance.

¹⁵⁰ Ahire, *supra* note 145. Pages 78 – 79; 84, 99, and 137.

¹⁵¹ Etannibi EO Alemika, “Policing and perceptions of police in Nigeria” (1988) 11 *Police Stud: Int’l Rev Police Dev* 161. Page 165.

¹⁵² Killingray, *supra* note 133. Page 5.

¹⁵³ Alemika, *supra* note 19. Page 192.

of Lagos which force was eventually extended to police all of southern Nigeria, and eventually the whole nation.¹⁵⁴ The new police force was staffed with officers from the Constabulary, who continued to police in service of the economic and social elite. Where extant policing institutions were already encouraged to be violent and oppressive, the British also ensured the deliberate militarization of policing by deploying the police force for military expeditions in other British controlled territory. The police force worked with the West African Frontier Force (WAFF), a military unit created by the British to ensure the establishment of the British legal order in colonized communities across West Africa.¹⁵⁵ WAFF officers were used to seize political power in the territories and the police force followed to provide “security for administrative officers and British merchants, and generally helping to consolidate the conquest.”¹⁵⁶ Thus the colonial approach to policing entailed a combining of military and civil policing powers in the enforcement of domestic social control.¹⁵⁷ With the introduction of a colonial police force working hand-in-hand with WAFF, military power became intertwined with civil policing.¹⁵⁸

In his book, *Imperial Policing: The Emergence and Role of the Police in Colonial Nigeria*,¹⁵⁹

Ahire notes of the education in the 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.¹⁶⁰

¹⁵⁴ Table 1 in, *Colonialism, state, and Policing in Nigeria*, shows the occupation of colonial police forces in the different regions from 1861 to 1930, when a national police force was established for the whole of Nigeria. Alemika Ibid at Page 197.

¹⁵⁵ Ahire, *supra* note 55. Page 40.

¹⁵⁶ Ahire, *supra* note 145. Page 50.

¹⁵⁷ *Ibid.* Page 29.

¹⁵⁸ The use of military power to ensure domestic social control was unknown to the indigenous Igbo society and these societies often made a clear distinction in the ways social control was enforced locally and how it treated threat from external aggressors.

¹⁵⁹ Ahire, *supra* note 145.

¹⁶⁰ *Ibid* at page 57. via Onyeozili, *Supra* Note 4 at page 325.

A 2010 report by the Human Rights Watch emphasised how colonial occupation was secured through brutal policing methods,¹⁶¹

The primary purpose of the colonial police was to protect the British economic and political interests. The police accomplished this objective through the often brutal subjugation of indigenous communities that resisted colonial occupation. The use of violence, repression, and excessive use of force by the police has characterized law enforcement in Nigeria ever since.¹⁶²

Colonial intervention into indigenous communities, which was executed through colonial policing agents and institutions, re-defined the landscape of policing in the country. The police became a force imbued with enough capacity as to make it suitable for military expeditions, and one that worked domestically in primary service of the political, economic, and social elite, which task 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.¹⁶³

This section has attempted to offer a broad narrative of the approach adopted by the British to policing Nigeria. In the following section, I narrow the discussion to colonial policing in Igboland, in the hopes of adding clearer details to the picture of colonial policing and the policies that guided it.

3.2. Colonial Policing in Igboland

The story of colonial policing in Igboland starts, not with the 1914 declaration of the protectorate of Southern Nigeria (which consists of Igboland), but with the early Christian

¹⁶¹ Guttschuss, *supra* note 76.

¹⁶² *Ibid* at page 14.

¹⁶³ Sogunro, note 96.

missions to “civilize and christianize” Igboland.¹⁶⁴ The early missionary expedition and the subsequent political annexing of indigenous communities for colonial exploitation were a continuum, where both missionaries and political administrators worked to destabilize indigenous communities in service of the British crown.¹⁶⁵

The Christian missionaries and British political administrators worked closely in the goal to ensure the colonization of the indigenous communities. For example, Mary Slessor, a widely decorated early missionary to various communities in Southeastern Nigeria considered her calling as a missionary deeply intertwined with the colonial agenda. Accounts of her activities as well as speeches she gave during her time in service demonstrate that she conceived of the ideal end to her proselytizing mission as the eventual subjugation of the communities to British rule.¹⁶⁶ In a 1907 speech to the United Free Church in Scotland, Slessor noted,

God has had to employ the British government to do what we could not do...[but] had it not been for the work of the church, they could not have done what they have.¹⁶⁷

As the British worked to secure political strongholds in the indigenous communities, Slessor facilitated their work and policies and even offered to be a forerunner in some communities that the British considered especially difficult, to help ease the British colonisation of these communities.¹⁶⁸ In the establishment and enforcement of the rules of the colonial legal order,

¹⁶⁴ James Frederick Schön et al, *Journals of the Rev. James Frederick Schön and Mr. Samuel Crowther : who, with the sanction of Her Majesty's government, accompanied the expedition up the Niger, in 1841, in behalf of the Church Missionary Society* (London : Hatchard and Son : Nisbet and Co. : Seeleys, 1842). at pages 3 & 4 and 62. On page 48, the journal reads (speaking of Igbo people), “They are sensible in their inferiority, in every respect, to the White man, and can therefore be easily led by them either to do evil or good.”

¹⁶⁵ Onyeozili, *supra* note 4. At Page 215.

¹⁶⁶ J H Proctor, “Serving God and the Empire: Mary Slessor in South-Eastern Nigeria, 1876-1915” (2000) 30:1 *Journal of Religion in Africa* 45–61.

¹⁶⁷ *Ibid* at Pages 45-46.

¹⁶⁸ In a letter to a colonial administrator in the southeastern region, Slessor notes, “ I know this more and more from all I see, and hear, that without the gospel, the white man will never keep or rule what he is trying to snatch. The very men you are educating with gun and motor and telegraph will turn you all out and keep Africa for the Africans. Only Xianity will give them a motive for loyalty and good living and obedience to law.... I know the gospel would

Slessor rendered guidance to the political administrators on how to create effective policies;¹⁶⁹ she was one of several missionaries who performed this service for the British crown.¹⁷⁰

The schools established by the early missionaries formed a pipeline for the introduction and entrenching of colonial values, and the graduates of these schools, having been sufficiently indoctrinated into the colonial ideology of British superiority were recruited to serve the colonial administrators, including in capacities as policing agents, and upon the establishment of the police force, as police officers.¹⁷¹ This school to colonial agent pipeline was acknowledged by the missionaries and was used as a selling point to convince reluctant members of the community to accept the British schools.¹⁷²

The missionary schools did not only serve as recruitment grounds for indigenous agents of the British empire, they also introduced and insisted on violence as a tool of social control for its students, and in so doing affected the landscape of social control, and eventually policing in the communities.¹⁷³ The missionaries also used the police and military might of the British

hold them.”Ibid at page 47. Slessor also took on the task of training newly arrived colonial officers, teaching them how to effectively administer the indigenous population. Page 51.

¹⁶⁹ In letters to a newly appointed British commissioner into southeastern Nigeria, she wrote, “If you can discriminate between fear and stubbornness, you have won half the battle.... If you try to put yourself into these... Ibibios' shoes, you will see how much more likely they are to fear you than to give themselves over at once...” ‘Be as just as you like, and as severe, only show them the reason patiently and you have got the shortest cut to your destination’ Ibid at Page 51

¹⁷⁰ Ibid at Page 46.

¹⁷¹ Ahire. *Supra* at footnote 55. Page 9. Jerome Udoji, the first African colonial District Officer is a clear example of the mission school to colonial political agent pipeline. He was educated in the catholic mission schools in Igboland before heading off to England for further education. When he returned, he served the colonial administration as a District Officer in Southwestern Nigeria.

¹⁷² Achebe, *supra* note 29. At page 181 Mr. Brown, the missionary who went around encouraging the villagers to send their children to the mission school explained that if the villagers failed to send their children to school, “strangers would come from other places to rule them.”

¹⁷³ Pamela Kea & Katrin Maier, “Challenging Global Geographies of Power: Sending Children back to Nigeria from the United Kingdom for Education” (2017) 59:4 *Comp Stud Soc Hist* 818–845. They note, “Within both mission and state schools, physical punishment was central to the civilizing mission of British colonial educational policy and colonial modernity, in which physical punishment became associated with being civilized and modern. Consequently, those who beat children came to be seen as civilized while those who did not were “backward...Legitimacy accrued to beating primarily by virtue of it being a particularly European practice” Page 831.

government to punish individuals who opposed their work within the indigenous communities, further entangling the ideas of government and policing in a way that stifles the popular will of the people, and breeds police impunity.¹⁷⁴ The education offered in the mission schools has been described as a “kind of education [that] produced faithful admirers and executors of the British system,”¹⁷⁵ and missionary activity in general as “complement[ing] the activities of the police force and other state apparatuses.”¹⁷⁶

Prior to the establishment of the police force for Lagos and Southern Nigeria, colonial policing in Igboland was achieved through a network of different offices and institutions that were introduced or modified by the British to work for the colonial agenda. At the top of the administrative organogram for the colonial administration at the village/town level was the District Commissioner/ Officer (D.C.)

The D.C., usually a British officer,¹⁷⁷ supervised the traditional heads of communities to ensure that the administration of the indigenous communities complied with the British policies around the colonial agenda.¹⁷⁸ The D.C. was also empowered to make rules for the “peace, order and welfare of its area of authority,”¹⁷⁹ and permitted to sit in an adjudicatory capacity over proceedings in the native courts.¹⁸⁰ So, the office of the D.C. combined administrative, rulemaking,

¹⁷⁴ Achebe notes how the missionaries relied on British political power to ensure the protection of their schools and churches in communities. TFA pages 189-194.

¹⁷⁵ Ahire. *Supra* at footnote 55. Page 9.

¹⁷⁶ *Ibid.*

¹⁷⁷ The office of the D.C. was the exclusive preserve of White British officers until, nearing the formal end of British colonization, Jerome Udoji was appointed as the first District Officer of African origin. Udoji, a Cambridge educated Igbo man from the Southeastern region was appointed to administer Ado Ekiti in the Southwestern region, thus preserving the colonial policy of foreign administrators to enforce British rule at the District officer level.

¹⁷⁸ *Britain's Colonial Administrations and Developments, 1861-1960: An Analysis of Britain's Colonial Administrations and Developments in Nigeria*, by Efiog Utuk, DOI.org (Crossref) (2000). Page 13, 19. Utuk presents the hierarchy of political authority in British colonized Nigerian from the governor general to the local heads such as the traditional rulers and warrant chiefs.

¹⁷⁹ Afigbo, “THE WARRANT CHIEF SYSTEM IN EASTERN NIGERIA”, *supra* note 135. Page 6.

¹⁸⁰ Utuk, *supra* note 178.. Page 21.

and adjudicatory powers. To situate the role of the D.C. in modern systems of government, the D.C. combined the functions of today's IGP—who is empowered to make administrative rules for the effective execution of policing duties—with an adjudicatory function to settle disputes, oftentimes between native colonial agents and other members of the community who have been harmed by these agents. Vesting the gamut of policing powers (including rulemaking and adjudicatory) in a single individual who is not only foreign, but is also hostile, to the community, is a marked sign of what policing represented in colonial Igboland, and really across the country. Policing was an exercise for the benefit of an unpopular government who required the rule of arms to ensure continued power and authority.

Where the D.C. and the missionaries advertised their connection to the British by maintaining European administrators, in the institution of the Warrant Chiefs, the colonial administrators sought to de-emphasize the intrusive character of colonization. As noted earlier, “Native Authority”, which translated into using the “native” systems of authority for colonial administration, was one of the three pillars of the British policy of indirect rule. However, in many parts of Igboland there were no identifiable systems of political authority that could be manipulated to fulfill the Native Authority agenda, so the British installed their own systems. The institution of the Warrant Chief, created pursuant to the Native Authority agenda, is one of the most visible and disruptive results of colonial interference with the indigenous legal and political order in Igboland.¹⁸¹

¹⁸¹ Onyeozili, *supra* note 4. Remarking on how disruptive the Warrant Chief system was, Onyeozili notes, “these Warrant Chiefs who were inheritors of titles that were alien to their communities, were entitled by their warrants to sit in the Native Courts from time to time and judge cases that were formerly sent to the chiefs in the coastal and western Igbo states, or to the Oha in Eastern Igboland. The warrant also empowered a Warrant Chief to assume executive and judicial powers within the community he represented. It was this usurpation of the communal functions that caused the revulsion of public opinion against the chiefs and explained people's reaction to the system”. Page 249.

The Warrant Chief institution evolved from the colonial state's commitment to replicating their system of indirect rule—that was operational in the north of the country—in all the communities they colonized, including Igboland. The system of indirect rule had worked in the North and other parts of Nigeria because the indigenous systems of administration in those communities had a hierarchy of political authority consisting of kings and chiefs that lent itself to indirect rule. However, in Igboland, the British created chiefs by virtue of British warrants. These chiefs existed so far outside the indigenous system in Igboland that it is strange to regard them as a feature of a policy (indirect rule) that purported to operate within the indigenous political and legal order.¹⁸²

The Warrant Chiefs were granted powers similar to the powers of the D.C. but remained subordinate to the D.C.¹⁸³ Where the office of the D.C. represented state use of policing powers to suppress the will of the community, in the Warrant Chiefs system policing powers were manipulated to secure private benefits for the policing agents. This is because in the selection of individuals to be appointed as Warrant Chiefs, the colonial state operated outside the recognized indigenous social structure and selected individuals who were ready to pay allegiance to British rule as a way to improve their poor social standing.¹⁸⁴ These individuals, who were already alienated by the communities—and in that way were consistent with the colonial policing policy of using hostile individuals to police communities—considered themselves only answerable to the colonial authorities that had installed them.¹⁸⁵

¹⁸² Afigbo, "THE WARRANT CHIEF SYSTEM IN EASTERN NIGERIA", *supra* note 135.

¹⁸³ *Ibid.* At Page 6. Afigbo notes that the Minor Courts, over which the Warrant Chiefs presided were subordinate to the Native Councils, presided over by British administrators, which sometimes acted in an appellate capacity over the proceedings of the minor courts.

¹⁸⁴ Onyeozili, *supra* note 4. Page 188.

¹⁸⁵ As Njoku notes of the Warrant Chiefs, "They were accountable only to the colonial officer and not to the people or community. Once the colonial officer was happy with them, then they needed not bother about their people. This is because while the colonial officer had the power to unseat them directly, the people did not." Uzochukwu J

The Warrant Chiefs were especially brutal and violent in their execution of the colonial mandate.¹⁸⁶ Apart from meting out physical violence, they were deeply corrupt, exercising their powers to settle personal scores or induce bribes from individuals who wanted to be protected from the negative exercise of their authority. Also, in their capacities as adjudicators in the Native courts, they weaponized judicial outcomes against individuals who were out of favor with them, and accepted bribes to skew judicial outcomes in favor of the bribing party.¹⁸⁷ The Warrant Chief system gives us another piece as we jigsaw towards a robust picture of colonial policing. It was an institution riddled with corruption and populated by agents who are disdainful of the communities in which they serve, and when not serving to further the ends of an oppressive government, the agents worked for their own private, selfish goals.

The Native Courts were another institution of British indirect rule to ensure the effective administration of colonized territories. Officers of the court included clerks and messengers who were similarly corrupt and oppressive, and who also served as agents of the colonial policing system. The court messengers especially abused their powers within the system for personal gain while executing their duty to serve summons and other court documents,¹⁸⁸ and intimidated their victims through (the threat of) violence.¹⁸⁹ In these officers that served the Native Court system, yet another dimension of colonial policing is uncovered that is useful for our discussion of police dysfunction in Nigeria today. As with the court messengers, the Nigerian police are brutal in their

Njoku, "Colonial Political Re-Engineering and the Genesis of Modern Corruption in African Public Service: The Issue of the Warrant Chiefs of South Eastern Nigeria1 as a Case in Point" 18. At page 103.

¹⁸⁶*Ibid.*

¹⁸⁷ *Ibid.*

¹⁸⁸ *Ibid.* Njoku refers to them as the "Forebearers of the Police force." Page 106

¹⁸⁹ Achebe, *supra* note 29. Achebe tells how court messengers tortured the villagers for sport. When the convicts were handed over to the custody of the court messengers, he inflicted different acts of torture on them including shaving their heads with a razor, starving them, refusing to grant access to latrines, and leaving them handcuffed for days. Page 194-195

execution of warrants, often causing harm to individuals and extensive damage to property.¹⁹⁰ Also, just like the court clerks, Nigerian police officers are known to interfere with judicial proceedings by deliberately misplacing crucial evidence required.¹⁹¹ The modern Nigerian police force has been described as a “contemporary representation of the colonial court messengers.”¹⁹²

Finally, the guards of the colonial prisons established in Igboland¹⁹³ also foreshadowed another aspect of police dysfunction that exists in Nigeria today viz the torture of suspects in police custody.¹⁹⁴ The colonial prisons were manned by guards who were alienated from the community; Achebe notes the description and derision of the guards by the indigenous community: “*kotma of the ash buttocks, he is fit to be a slave.*”¹⁹⁵ Colonial prisons morphed into torture chambers where the guards inflicted corporal punishment on the inmates in their custody and compelled them to undertake free labor for the benefit of the colonial agenda.¹⁹⁶ In similar vein, the prison system in Nigeria today, especially the holding cells manned by the Nigerian police, continue to be torture chambers where the guards mete out violence against the inmates for sport.¹⁹⁷ In the guards of

¹⁹⁰ “Nigeria: ‘You have signed your death warrant’ : Torture and other ill treatment in the Special Anti-Robbery Squad”, online: *Amnesty International* <<https://www.amnesty.org/en/documents/afr44/4868/2016/en/>>. See also: “Know The Law: Can EFCC, police forcefully enter your house when enforcing search warrants?”, (30 August 2021), online: *TheCable* <<https://www.thecable.ng/know-the-law-can-efcc-police-forcefully-enter-your-house-when-enforcing-search-warrants>>. This news report details how officers of the NPF broke down doors and forcibly entered several homes in a residential estate in search of a suspect who allegedly fled a crime scene and ran into the estate.

¹⁹¹ Nigerian police officers also routinely take bribes to ignore instances of criminal wrongdoing or facilitate the escape of persons in their custody. See generally: Guttschuss, *supra* note 76. Njoku, *supra* note 185.

¹⁹² Njoku, *supra* note 185. At 106

¹⁹³ Killingray notes that prisons were among the first infrastructure built by the colonial administration. Florence Bernault, *A history of prison and confinement in Africa*, Social history of Africa (Portsmouth, NH: Heinemann, 2003). At page 100. Onyeozili notes that in Igboland, prisons were non-existent and even in instances where guilt was proved, the social system still rejected the idea of imprisonment. Onyeozili, *supra* note 4. At page 259.

¹⁹⁴ note 190.

¹⁹⁵ Achebe, *supra* note 29. Page 175. These court messengers doubled as guards and Njoku records that these messengers were locally referred to as *Koti-ma*. Njoku, *supra* note 185. 106.

¹⁹⁶ Bernault, *supra* note 193. at page 35.

¹⁹⁷“Gory Tales from Awkuzu SARS in Anambra”, (20 October 2020), online: *THISDAYLIVE* <https://www.thisdaylive.com/index.php/2020/10/20/gory-theses-from-awkuzu-sars-in-anambra/> The Akwuzu post of the SARS unit in Eastern Nigeria is nicknamed the “human abattoir” to capture the extent of torture and extra-judicial killing inflicted on the inmates. This newspaper report chronicles tales from inmates of the institution and notes the institution’s disposal in a nearby river of 35 bodies of victims of extra-judicial killing.

these colonial prisons in Igboland, we see the forerunners of today's Nigerian police officers who embrace torture of suspects and inmates not only as an interrogation tactic, but simply for the fun of it.¹⁹⁸

These offices and institutions of colonial policing in Igboland conform to the colonial conception of policing which we earlier described as mercenary and militarized policing. The D.C. who was at the administrative head of the policing apparatus was clearly a hired gun of the colonial empire, and institutions and offices under the authority of the D.C. adopted this mercenary character, and executed their mandate through violent, military-style occupation of indigenous communities. The officers in these institutions worked in service of both the political colonial agenda as well as the elites in the British created social order.

The above exposition of colonial policing in Igboland highlights the practices—corruption, brutality, oppression, impunity—that flowed from the colonial conception of police, which practices continue to plague the NPF today. Colonial policing in Igboland tells a story that is identical to policing today. Although the motto of the Nigerian police declares “Police is your friend,” anecdotal accounts of peoples’ experiences with the police shows the Nigerian police officer is not only regarded as unfriendly, but as an enemy of the people.¹⁹⁹ The police in Nigeria are alienated from the community, exercise power for personal benefit and to settle petty grievances and superintend the torture of citizens in their custody.²⁰⁰ This approach to policing that was introduced for the convenience of colonial administration, preserved in the character of the colonially established NPF, and sustained through the country’s transition to self-governance, abides today. It is worth restating that the colonial policing agents and institutions, brutal,

¹⁹⁸ Ibid.

¹⁹⁹ Akingbulugbe, Doyin, *Police: Your Friend or Fiend? (An Objective Study of the Ethos, Violence and Brutality of the Police Force in Nigeria)*. (January 18, 2021). Available at SSRN: <https://ssrn.com/abstract=3822802>

²⁰⁰ note 190.

oppressive, and corrupt, as they were, operated optimally in service of the British legal system. In the same vein, today's Nigerian police, brutal, oppressive, and corrupt as they are, continue to work in favor of the country's political, social, and economic elites, and here in lies the problem for police reform in Nigeria today.

Lastly, this account of colonial policing, which shows an approach tailored to benefit the colonial legal order and the establishment of colonial rule over citizens²⁰¹ tells not just a story of the history of policing in Nigeria, but a history of law and government in Nigeria. The construction of the police force as a representation of an alienated government exposes a problem of government-citizen alienation, and in the brutal operations of militarized mercenary policing, we glimpse a bigger—and more pressing problem—of a government that suffers a legitimacy deficit amongst its people, this insight is further discussed in Chapter 5. Attempts at police reform has failed to acknowledge the legitimacy crisis but have focused on tinkering with elements of the policing apparatus through policies like the back-to-state program and community policing, in the hopes of improving public perception of the police and manufacturing goodwill for the NPF, and by extension of the government that it represents.

Unfortunately, because Nigeria has failed to evolve past the colonial construction of governance and policing, attempts at reform have failed, and future attempts to reform the NPF will most likely continue to fail until the country lays hold of a non-colonial vision of policing that it can aspire to. In the upcoming final part of this chapter, I linger on the commonalities between colonial policing (as executed in Igboland) and policing in Nigeria today. I do this to further establish the colonial roots of the police dysfunction in Nigeria; this root similarly grounds the failure of police reform in the country.

²⁰¹ Ahire, *supra* note 145. Page 60.

3.3.Colonial Policing and Post-Colonial Policing: Two of a Kind

At the outset of this work, I promised a law and literature journey. So far, I have delivered an exposition of policing and legal history but offered very little, if any, on the literary side of things. This is about to change. Up to this part, this work has moved along a fairly straight path back in time: from the current state of policing in Nigeria, to the country's failed attempt at police reform, to the colonial conception of policing, and now colonial policing in Igboland. But I pause here — and perhaps take a step back — to juxtapose two incidents of police violence, one in colonial Igboland and another in modern day democratic Nigeria. I do this as one more effort to expose the colonial roots of police dysfunction and the failure of police reform. I say, “Look! This is how the colonial government policed, can you see how it is identical to how the Nigerian government polices today?” My hope is that at the end of this chapter, it will be irrefutable that police reform will continue to fail to solve the problem of police impunity in Nigeria unless the country agrees to adopt a new, different picture of what it means to police, one that can break from its colonial strictures.

The narrative of colonial policing is culled from TFA, while the post-colonial narrative is the story of the massacre of the people of the Odi community in Bayelsa state. 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 victims. Much like the account of the Odi massacre is culled from anecdotal and eyewitness reports, I want the colonial narrative to be the reports of the experience of indigenous peoples—passed down through oral traditions—that formed the basis of Achebe's historical account in TFA.²⁰²

²⁰² Brooks, *supra* note 31. In this interview, Achebe captures the heart of his work as a writer: “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

TFA records many accounts of the violence and brutality of colonial officers in Igboland; the tale of the people of Abame grounds our discussion in this section.²⁰³ When a “white man” arrived in the clan during the planting season,²⁰⁴ 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, the people of Abame 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 citizens of indigenous communities who had been co-opted into colonial service. 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 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.²⁰⁵

Now compare the Abame massacre to the Odi Massacre which was ordered by the democratic presidency of Olusegun Obasanjo.²⁰⁶ The Odi community was an oil- rich state in the

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.”

²⁰³ Achebe, *supra* note 29. Pages 138 – 140.

²⁰⁴ Planting seasons are considered sacred in Igbo culture and rituals are observed in honor of the season to ensure that the people’s efforts are blessed with a good harvest. One such ritual is taking a week off before the planting season where no work is done and everyone must keep peace within the community. *Ibid.*

²⁰⁵ Njoku, *supra* note 185. Page 107.

²⁰⁶ 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 125.

Niger Delta area of Nigeria and had been in a fraught protestation over the violation of its environmental and indigenous rights by petroleum extracting corporations licensed by the government. Pockets of conflict between the community on the one hand and the government, corporations, and police 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 a military response for the destruction of the community. 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.”²⁰⁷

These two tales, cast side by side, tell an identical story of how policing powers are conceived of as existing 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,²⁰⁸ and the arrest and torture of #ENDSARS protesters,²⁰⁹ that demonstrate the shared features of colonial policing and modern policing and establish 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—which culture we are trying to reform—are identical to the tactics that characterized colonial policing.

Let me here, for the avoidance of ambiguity, restate the heart of this chapter in one sentence: police reform in Nigeria continues to fail because implicated in the country’s

²⁰⁷ note 125.

²⁰⁸ Achebe, *supra* note 29. Page 194 -195.

²⁰⁹ *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.

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 the failure of police reform in Nigeria. The question then is, what does a non-colonial vision of policing look like? In the next chapter, I turn to scholarly and literary sources, especially TFA, to construct the pre-colonial (and so, non-colonial) approach to policing in Igboland. The literary account supplements the narratives recorded in contemporary historical texts by showing how the pre-colonial theories of governance and policing recorded in scholarly texts were executed in those societies.

CHAPTER FOUR

“Literature, whether handed down by word or mouth or in print, gives us a second handle on reality.”

- Chinua Achebe

4.0. A LITERARY ACCOUNT OF NON-COLONIAL POLICING

In the previous chapter, I explained the colonial conception of policing as one where the police were mercenaries of an elite class, and the people (i.e. the policed) did not see themselves or their will reflected in, or protected by, the government through its policing apparatus. I also noted that the British colonizers displaced an already established and effective indigenous legal and social system to install the colonial legal order, including colonial policing. In this fourth chapter, I re-construct the pre-colonial indigenous Igbo social order to offer an account of pre-colonial policing in Igbo communities, an account that will demonstrate an approach to policing where the popular will and welfare of the community is at the center of rule enforcement.

This re-construction will rely on historical accounts provided by scholars of Nigeria’s pre-colonial societies, as well as literary accounts of pre-colonial life. Drawing from both conventional and literary sources highlights a unique benefit flowing from reliance on literary narratives which is, by telling the story from the point of view of the indigenous people and communities, literary narratives animate the accounts of pre-colonial life. Particularly, the literary account offered in TFA of the indigenous experience of colonisation does not just tell *what* happened—as contemporary historical texts do, it also *shows how* it happened i.e., it records the indigenous experience of colonisation. Understanding the “how”, which illuminates the influence of colonisation on the minds and hearts of the people, is crucial to appreciating Nigeria’s police problems, and is one step closer deciphering how best to intervene in these problems.

The next section of this chapter discusses pre-colonial oral traditions as literature that was central to pre-colonial social ordering and historicizing in pre-colonial societies. This lays the foundation for my later argument that the narratives contained in indigenous literature offer facts about the pre-colonial socio-political and legal systems. In the third part, I analyse some indigenous folktales to demonstrate how the pre-colonial communities used literary traditions in their education and history praxis. In the fourth part, I discuss colonial and post-colonial literary traditions as a continuation of indigenous methods of recording history. In the fifth part, I offer an account of pre-colonial policing drawing on scholarly and literary sources, and in the final part, I emphasise the value of a literary accounting of history.

4.1. Pre-Colonial Oral Traditions

Pre-colonial Nigerian oral literary tradition is literature.²¹⁰ As simple and obvious as this fact is to me, I am not unaware of the tendency to confuse “literary” with “literacy,”²¹¹ which may make oral literary traditions seem an awkward fit under literary cannon. I have no desire to delve into the exclusionary and imperialist ideology that underlies this conflating; it is sufficient to note that not too long ago, there were historians like the now-infamous Hugh Trevor Roper, that denied the existence of African pre-colonial civilization because of what he presumed to be an absence of indigenous literacy systems.²¹²

²¹⁰ Isidore Okpewho & Professor of Africana Studies English and Comparative Literature Isidore Okpewho, *African Oral Literature: Backgrounds, Character, and Continuity* (Indiana University Press, 1992) Google-Books-ID: Az0O28OtWh4C. prescribes a definition of literature that this work adopts. He notes that if we adopt a definition of Literature as “creative text”, then “other words used for qualifying it are simply attempts to emphasize one aspect or other of the subject.” To wit: “oral” Literature simply suggests “Literature delivered by word of mouth” as opposed to “written” Literature which suggests Literature delivered by written text. Isidore Okpewho, *African oral literature: Backgrounds, character, and continuity*. Vol. 710. Indiana University Press, 1992. Page 3.

²¹¹ Vincent B Leitch, William E. Cain, Laurie A. Finke, John McGowan, T. Denean Sharpley-Whiting, and Jeffrey J. Williams, *The Norton anthology of theory and criticism*. WW Norton & Company, 2018 at page 28.

²¹² Hugh Trevor-Roper, "The Past and Present: History and Sociology", *Past and Present* 42 (1969): 6.

While some pre-colonial Nigerian communities had developed writing scripts,²¹³ oral literary traditions remained central to organizing pre-colonial indigenous life in most communities. To disregard the character of these traditions as literature is to, wrongly, insist on Western frames as the correct standard for evaluating the world. At any rate, scholars before me have already taken on the task of establishing that Nigerian oral tradition is literature,²¹⁴ and as Ruth Finnegan, in her work *Oral Literature in Africa*,²¹⁵ notes, European oral traditions such as the German *Wortkunst* or Russian *Slovesnost* are regarded as literature, even by scholars who insist on the literacy rule.²¹⁶ This fact, she concludes, makes clear that the rule prescribing writing as a necessary pre-condition is not of “universal validity” even by proponents of the rule.²¹⁷

Literary devices such as narrative, rhetoric, and style was central to, and remains an important component of Igbo communication and social organizing. As Achebe notes, “among the Igbo the art of conversation is regarded very highly, and proverbs are the palm oil with which words are eaten.”²¹⁸ Literature was a major tool in the socialization process of most pre-colonial Igbo societies; members of the community were instructed through folktales, song performances, and public theatre performances.²¹⁹ Literature was similarly crucial to that society’s record keeping systems.²²⁰ The pre-colonial Igbo society was not exceptional in its use of literary traditions for communication and historizing.

²¹³ Maik Nwosu, “In the name of the sign: The nsibidi script as the language and literature of the crossroads” (2010) 2010:182 285–303.

²¹⁴ Okpewho & Okpewho, *supra* note 210.

²¹⁵ Ruth Finnegan, *Oral literature in Africa*. Open Book Publishers, 2012

²¹⁶ *Ibid.* Page 19

²¹⁷ *Ibid*

²¹⁸ Achebe, *supra* note 29. At page 7.

²¹⁹ Nkiru Ifeoma Meludu, “The Place of Oral Literature in the Development of Written Literature” (2018) 1 ODEZURUIGBO, Jonal Ozuru uwa, Nke Amumamu Igbo, Afrika Na Eshia (An International Journal of Igbo, African and Asian Studies, 73-83 at page 77.

²²⁰ J N Orij, “The Ngwa-Igbo Clan of Southeastern Nigeria: An Oral History Overview” (2019) The Oral History Review, online: <<https://www.tandfonline.com/doi/abs/10.1093/ohr/9.1.65>>. 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.

Many indigenous communities that now make up Nigeria as well as indigenous communities across the world were similarly organized.²²¹ The suggestion that Igbo literary traditions should be considered vehicles of communication and record-keeping aligns with existing scholarship on the functional roles of oral traditions in indigenous African societies.²²² There can be no true knowing of pre-colonial Igboland nor an accurate accounting of the history of its people without making its literary traditions, especially its oral traditions, the point from which knowledge proceeds.

In the following section, I analyse indigenous folktales to demonstrate how literary narratives served as vehicles for socialization and legal education, to show that contained in the literature of that era is insights into the rules and legal process of that era. I also demonstrate that these literary traditions served as devices for preserving the history of the society.

4.2.Literature, Socialization, and History

Literature in pre-colonial Igboland was used to teach both the small lessons of everyday life as well as the weightier rules such as abominations or taboos (comparable to crimes in modern legal systems.) For example, a popular Igbo folktale is the story of why the snake-lizard killed his mother.²²³ The story goes that the snake-lizard gave his mother seven baskets of vegetables to cook and after cooking, she presented him with only three, so he killed her. In TFA, Achebe demonstrates how the performance of this folktale serves to socialize. In the book, Ezinma, who is helping her mother to prepare vegetable soup observes that they have prepared too much vegetable leaves for the dish. To teach a culinary lesson about how vegetables shrink in the cooking process, mother and daughter recall the tale of the snake-lizard. However, the process of

²²¹ Faseke, "Oral History in Nigeria", *supra* note 22.

²²² Okpewho & Okpewho, *supra* note 210.at pages 105 - 118.

²²³ Achebe, *supra* note 29. At pages 83-84

socialization is hardly as tidy as one folktale to satisfy one lesson. In reality, every folktale delivers a web of lessons that can be applied in varied situations. In the story, Ezinma, stops at the point where the snake-lizard killed his mother i.e. where the culinary lesson is established, but Ekwefi 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.”²²⁴

This scene demonstrates the complex but effective nature of socialization through literary traditions in pre-colonial Igbo societies. The snake-lizard folktale socializes the listener in many respects. The obvious message is the culinary lesson which Ezinma easily understands. But there is a larger lesson about social relations and social conduct which Ekwefi also uses the opportunity to teach. This lesson is equal consequences for equal action which finds expression in the modern-day principle of equality before the law. The snake lizard and the mother committed identical “wrongs” by ending up with only three baskets of vegetables after cooking and thus suffered a similar fate. There is also a lesson about the negative consequences of rushed judgments in the snake lizard killing his mother. Ezinma is socialized on these fundamental principles of the Igbo society alongside her culinary lessons.

Another Igbo folksong tells of the ripple of unfortunate events that are instigated when Whiteant tells a funny tale to an audience.²²⁵ Whiteant’s tale sets in motion a series of incidents that end with Bushfowl placing a curse on the community. This folksong, which requires a call

²²⁴ Ibid.

²²⁵ Chukwuma Azuonye, “Achebe’s Igbo Poems: Oral Traditional Resources and the Process of ‘Deschooling’ in Modern African Poetics” 21. Azuonye reproduces an English translation of the folksong., Akụkọ Kpulu Uwa Iru.

and response performance, is often taught to, and performed by children. It socializes the performer and audience into an important social and legal principle— individuals are responsible for the consequences of their negligent actions. Whiteant in the folksong tells a funny tale but cautions his audience against laughing. Cockrel, however is understandably seized by an overpowering fit of laughter such that he ends up with his mouth in live coal. To relieve himself cockerel wipes his mouth on a cocoyam leaf but in the process burns off housefly's tale. And on and on the ripple goes until a pregnant woman whose hips have been broken in the series of unfortunate events limps onto Bushfowl's egg, and Bushfowl, seized with grief, places a curse on the community. In the judgment of who to hold responsible for these series of actions, Whiteant is held liable because of his initial negligent act of telling a funny story yet, improbably requiring that his audience not laugh. The children who perform and listen to this folksong are thus cautioned against negligent actions and socialized to understand that individuals will be held responsible for the consequences of their negligent acts.

This process of socialisation is a form of legal education that teaches the rules that organise the society, and how the rules are interpreted in instances of breach to determine culpability. In this sense folktales were a crucial part of the legal system and through the study of these literary traditions, one gains an insight into the pre-colonial legal order.

The story of how/why tortoise has a broken shell²²⁶ similarly demonstrates the interconnectedness between indigenous literature and the pre-colonial social-legal system. In this tale, the earth is experiencing a bout of famine and the birds are invited for a huge feast in heaven. Tortoise, upon hearing of the invitation, convinced the birds to lend him a feather each so he could accompany them to the feast and the birds obliged him. When the animals get to heaven, tortoise

²²⁶ Achebe, *supra* note 29. At pages 96 to 99.

mischievously persuades the hosts to serve him all the food intended for their animal guest. Only after tortoise has eaten to his fill does he permit the birds his leftovers. In anger, the birds take back the feathers they had donated to tortoise and fly back to earth, leaving him stranded in heaven. 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 and lay them out in front of the house so he can be assured of a relatively safe landing when he jumps from heaven. Instead, the birds ask tortoise's wife to bring out the pots and pans and other hard objects. When tortoise looks down on earth from heaven, he sees his wife laying things out on the ground and trusting that the birds have relayed his message to his wife, 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 within the community. 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 man 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.

Finally, the story of why the chicken scratches the earth, another Igbo folktale, similarly shows how information on pre-colonial rule enforcement is embedded in folktales. We are told that after the animals all agree to appoint chicken as the treasurer of the community, they contribute money to her for a building project. Unfortunately, when the animals call for the money, she realizes that it is lost. Tortoise tables a request that chicken should be punished and the animals in

a meeting to consider this request, refuse to punish chicken and decide instead to give her time to find the money, and that is why till this day, the chicken scratches the earth, presumably seeking out the lost funds.²²⁷ While this folktale does not provide scientific facts on chicken's behavior, by situating its animal characters in human social situations, the story offers valuable information about human social organizing, especially the indigenous approach to rule enforcement.

First, we learn, through the communal decision to appoint chicken as treasurer, of the democratized approach to appointing members into public offices and that such appointed officials were accountable to the people. We also learn through the communal decision on chicken's fate that rule enforcement (i.e. policing) was similarly democratized. Finally, in the decision to give chicken an opportunity to find the lost money, as opposed to punishing her like tortoise suggested, we learn that the goals of the policing system emphasized offering the offender a chance at redemption.

I have obviously indulged my enthusiasm for analyzing folktales to uncover the social lessons they communicate. But my enthusiasm, which I hope serves to show just how entertaining folktales are, reveals why this method of socialization was effective—the audience *wanted* to hear the stories, and in the performance of these tales to an engaged audience, social and legal education is effectively achieved. Stories communicated the rules—the laws—of the society, and were, thus, a critical element to understanding and assimilating into the social and legal order.

Other literary traditions such as proverbs and “witticisms”²²⁸ were also laced with normative prescriptions. For example, a popular Igbo proverb: “If one finger brings oil, it soils

²²⁷ Janet Ogbalu, Significance of Trickster in Igbo Folktales in Education of the Child: a Lesson to all Nigerians (2018) 2:12 International Journal of Academic Pedagogical Research (IJAPR)

²²⁸ Okpewho & Okpewho, *supra* note 210.at pages 227 -229

the other,”²²⁹ evokes the English idiom, “birds of a feather flock together.” This proverb explains that a taboo by one member of a group invariably taints other members and is used to justify punishments like exile, banishment, and shunning. Another popular Igbo proverb: “Let the kite perch and let the eagle perch too, if one says no to the other, let his wing break,”²³⁰ communicates the egalitarian ethos that underlay the norms of that society.

Apart from its socialization function, pre-colonial literary traditions were also used to narrate and record the society’s history and evolution.²³¹ The Yorùbá folktale about Odùduwà, who came down from heaven, and his seven sons tells a tale of the connectedness of the communities in southwestern Nigeria, and its narration of history is validated by historical accounts of the relationship between the different tribes of the Yorùbá kingdom.²³² Similarly, in her essay on folktales in the Iyuku community of Edo State, Akujobi demonstrates how a folktale, *The Adventure of Akuye*, served as a means of preserving and transmitting knowledge about the peoples’ experience of the trans-Atlantic slave trade.²³³

In the same vein, the study of folktales among scholars of pre-colonial Igbo culture have helped illuminate the evolution and basis of indigenous Igbo spiritual belief systems, and the society’s ideas of the supremacy of a heavenly being over the social affairs of men on earth.²³⁴ In

²²⁹ Achebe, *supra* note 29. Page 125.

²³⁰ *Ibid* at page 19.

²³¹ Okpewho & Okpewho, *supra* note 210. At pages 118 – 124. See also: “Socialization among the Igbo : an intergenerational study of cultural patterns, familial roles and child rearing practices (Book, 1980) [WorldCat.org]”, online: <<https://www.worldcat.org/title/socialization-among-the-igbo-an-intergenerational-study-of-cultural-patterns-familial-roles-and-child-rearing-practices/oclc/11796001>>. At page 21.

²³² Biodun Adediran, “3. The Dynastic Origins of Western Yorùbá Kingdoms” in *The Frontier States of Western Yorubaland : State Formation and Political Growth in an Ethnic Frontier Zone* African Dynamics (Ibadan: IFRA-Nigeria, 2013) 55 container-title: *The Frontier States of Western Yorubaland : State Formation and Political Growth in an Ethnic Frontier Zone*.

²³³ Akujobi Remi, “Folktales as Means of Transmitting Knowledge on the Trans-Atlantic Slave Trade in Nigeria: The Adventure of Akuye in Iyuku Community of Edo State” (2009) 12 7.

²³⁴ Chukwuma Azuonye, “Igbo Folktales and the Evolution of the Idea of Chukwu as the Supreme God of Igbo Religion” (1987) *Nsukka Journal of Linguistics & African Languages Univ of Nigeria* 43–62.

TFA, Achebe demonstrates how folktales served to record history; he recounts the story of the village of Umuike, their great market, and 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.²³⁵ While the fact of a "powerful medicine in the shape of an old woman with a fan," may 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.

I have taken the space to analyse these tales to give a feel of how these stories were consumed by its audience in those communities. The value of these tales did not only lie in the entertainment derived from performance, but also in the ways the tales functioned for communication. Pre-colonial literature was used to communicate the rules and norms that bound the society and the nature and gravity of offences bounded within those rules. Literature was also used to keep record of the ways the society was organized, including the mechanisms for enforcing social control. These literary insights are crucial to gleaning a fuller picture of pre-colonial life because they reflect the community's ethos *and* record the history of the society.

For the specific purpose of serving to illuminate indigenous systems and institutions of policing, the narrative details of folktales, oral histories, and other literary traditions communicated information on the components and elements of pre-colonial rule enforcement. These elements of pre-colonial Igbo policing as well as how they were embedded in collective life are extensively discussed later in this chapter.

²³⁵ Achebe, *supra* note 29. At page 113.

4.3. Post-Colonial Literature and Pre-Colonial History

So far, I have asserted that pre-colonial oral tradition is literature and have demonstrated that literature was central to the social ordering, socialization, and history of the pre-colonial Igbo society. However, one aspect of the law and literature ambitions of this work remains unexplained: I am using literary works written in English text and published in the colonial or post-colonial era as source for information on the pre-colonial oral history era. Indeed, Achebe, whose work informs the literary account of colonisation in this project was educated in the British curricular and declared himself a “British protected child,”²³⁶ and TFA was written and published during the period of British colonization, by Heinemann publishing, a London-based publishing house. Yet, it is this colonial and post-colonial era literature I hold out as giving an account of the pre-colonial era. If you wondered why, here are my justifications.

Colonial intervention into pre-colonial 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 English phonetic symbols and English alphabet to spell out Igbo words.²³⁷ 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.²³⁸ However, the fundamental traditions that have been passed on through generations and which have calcified into an innate identity, survived the manipulations of the colonizers. Accordingly, while the British could, through the force of brute strength supplant indigenous institutions with their own systems,

²³⁶ Chinua Achebe, *The Education of a British-Protected Child* (Penguin Books Limited, 2011).

²³⁷ 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: “The Literary History of the Igbo Novel: African Literature in African”, online: <<https://www.routledge.com/The-Literary-History-of-the-Igbo-Novel-African-Literature-in-African-Languages/Emenyonu/p/book/9781032174792>>.

²³⁸ Ibid

they could not, try though they did,²³⁹ 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 belief systems and practices. Some Nigerians in this new generation, such as Achebe, growing increasingly discontent with the colonial agenda, and realizing the need and urgency to preserve indigenous traditions,²⁴⁰ began to record indigenous Igbo traditions and history, albeit in English, in a manner consistent with indigenous historicizing methods.²⁴¹ The resultant texts from this process—such as TFA—while written in English, and produced as a result of British education are in fact historical representations of pre-colonial societies, narrativized in a literary style patterned after indigenous storytelling and oral traditions. Post-colonial literary texts, even when written in English language, should be read as historical texts, especially when the authors consciously intend to represent pre-colonial history.²⁴²

²³⁹ 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.

²⁴⁰ Brooks, *supra* note 31. 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."

²⁴¹ 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>>. This profile of Achebe, reproduces two quotes that capture how Achebe approached post-colonial 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 latter 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."

²⁴² Given the vast and varied genres available in post-colonial writing, an author's account of what their work sets out to do, especially how their story world is constructed, should be considered in the reading of the work as an account of history. For example, author Nnedi Okorafor's distinction between the genres futurism and jujuism, show how an author's intent to historicize in their story world is an important factor to consider in the reading of their work. DeAsia Paige | @deasia_paige, "Author Nnedi Okorafor talks origins of storytelling career at Liberty Hall", online: *The University Daily Kansan* <https://www.kansan.com/arts_and_culture/author-nnedi-okorafor-talks-origins-of-storytelling-career-at-liberty-hall/article_ed6d09c2-e464-11e8-bf4a-4bc3eb43119c.html>. Okorafor

Not to belabor this discussion of literature as history, especially in a work that situates itself in the arena of legal scholarship, it is important to also note that history through storytelling and literary traditions is not limited to representations of pre-colonial life. Many contemporary Nigerian writers don the hat of “historian” to document more recent history through literature. A good example is the 2006 novel, *Half of a Yellow Sun*.²⁴³ In this work, the author, Chimamanda Adichie, recounts the Igbo experience of the Nigerian Civil war.²⁴⁴ The wide reach and acceptance of Adichie’s book, especially in a country that has avoided acknowledging and reckoning with the reality of the war²⁴⁵ is a testament to the benefits that attend this approach to recording history.

This clarification is necessary because history is as much an account of the past as it is an ongoing record of the present, and we must be wary of falling into a trap of relegating indigenous practices, as relevant to pre-colonial history alone. I make this note because of debates that have arisen around the documenting of the #ENDSARS protests. These debates capture my anxiety about the type of erasure that can occur if we dismiss literature as a vehicle for recording history, and hopefully show why I have made such an extensive case for reading literary accounts as a practice of documenting life.

notes, “The ‘Akata’ books are not ‘Harry Potter,’” Okorafor said. “The magical society in the book is based on a real society in Nigeria, and this is something I knew about even before I wrote books, so when I sat down to write them, I was pulling from the culture that I am of.”

²⁴³ “Half of a Yellow Sun by Chimamanda Ngozi Adichie | Penguin Random House Canada”, online: <<https://www.penguinrandomhouse.ca/books/879/half-of-a-yellow-sun-by-chimamanda-ngozi-adichie/9780676978131>>.

²⁴⁴ “Interview with Chimamanda Ngozi Adichie about Half of a Yellow Sun”, (11 June 2007), online: *Socialist Worker* <<https://socialistworker.co.uk/reviews-and-culture/interview-with-chimamanda-ngozi-adichie-about-half-of-a-yellow-sun/>>. Adichie says, “I wrote this novel because I wanted to write about love and war, and in particular because I grew up in the shadow of Biafra...Both my grandfathers were killed in the Nigeria-Biafra war, and I wanted to engage with that history in order to start a conversation about the war – which is still hardly discussed in Nigeria,”

²⁴⁵ See generally: Godwin Onuoha, “Shared Histories, Divided Memories: Mediating and Navigating the Tensions in Nigeria–Biafra War Discourses” (2016) 63:1 *Africa Today* 3–21.

The experience of the #ENDSARS protests were, and continue to be, preserved through different mediums—audio, visual, and print traditional and social media; formal and informal opinion essays; academic essays; songs; and other literary traditions. I especially highlight a collection of poems by Nigerian authors published in 2021 titled, *Sòròsókè: An #ENDSARS Anthology*. The contributors to, and publishers of, this anthology set out to “memorialize the #ENDSARS movement” and produced the collection as “a real-time repository of poetic thoughts on the protests against police brutality that took place both online and in numerous Nigerian locations.”²⁴⁶ This poetry collection is thus an account of the protests, from the point of view of Nigerians who experienced it. To deny that this text records the experience of the protest is an act of erasure and neo-colonialism that attempts to delegitimize the indigenous practices around literary narrativizing.

To explain what I mean by erasure, I offer the example of a 2022 book published by the Cambridge University Press, *Soro Soke: The Young Disruptors of an African Mega City*²⁴⁷ written by Trish Lorenz, a European journalist. Lorenz proposes that her book be read as a fulfillment of Achebe’s mandate that Nigerians tell their own stories. She writes,

The Nigerian writer and novelist Chinua Achebe is an important figure in modern African literature. In an interview with Paris Review magazine in 1994, he said: ‘There is that great proverb – that until the lions have their own historians, the history of the hunt will always glorify the hunter. [Storytelling] 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.’ This book aims to try to do just that. It documents the lives, ambitions, challenges and concerns of a group of young Nigerians living in the cities of Lagos and Abuja.²⁴⁸

²⁴⁶ “Sòròsókè: An #ENDSARS Anthology Presents Powerful Protest Poetry Against Police Brutality”, online: <<https://brittlepaper.com/2022/03/the-legacy-of-the-sorosoke-protest-preserved-through-a-new-anthology/>>.

²⁴⁷ Trish Lorenz, *Soro Soke: The Young Disruptors of an African Megacity*, 1st ed (Cambridge University Press, 2022).

²⁴⁸ *Ibid.* At page 9. By invoking Achebe’s charge to Nigerians to tell our own stories, and ascribing onto herself the role of Nigeria’s historian, Ms. Lorenz ignores the efforts that many Nigerian writers have put into documenting the #ENDSARS movement.

While Lorenz’s work contains interviews with Nigeria’s young people, by limiting the accounts recorded in the book to the experiences of young people in Lagos and Abuja alone, and by decentering the #ENDSARS movement from the phrase “Sòrò Sókè,” Lorenz mis-narrativizes the Nigerian experience.²⁴⁹ Even worse, Lorenz went as far as claiming to have named Nigeria’s young people, the “soro soke generation.”²⁵⁰

For context, “Sòrò sókè” is a Yorùbá phrase that means both “speak out” and “speak up,” often simultaneously.²⁵¹ It was used by the #ENDSARS protesters, many of whom called themselves the “Sòrò Sókè generation” to characterize their speaking up against police brutality as well as their demand that the government clearly set out (i.e. speak out) its plan to address police impunity in the country.²⁵² While many young Nigerians greeted the announcement of Lorenz’s book with criticism and claims of appropriation,²⁵³ other Nigerians argued that Lorenz’s work is the result of a loophole created by the Nigerian failure to properly record the #ENDSARS protests.²⁵⁴ This argument ignores, for example, the anthology of poems patterned after indigenous practices, and inevitably endorses the notion that there is a correct (anglicized) way to do history.

²⁴⁹“Talking down on speaking up”, online: <<https://africasacountry.com/2022/07/talking-down-on-speaking-up>>.

²⁵⁰ “Meet the fellow: Trish Lorenz - CRASSH”, (19 November 2021), online: *CRASSH - CENTRE FOR RESEARCH IN THE ARTS, SOCIAL SCIENCES AND HUMANITIES* <<https://www.crassh.cam.ac.uk/blog/meet-the-visiting-fellow-trish-lorenz/>>. In this interview with Crassh UK, Lorenz claimed to have named young Nigerians “the soro soke generation.” Following criticisms about her claim, the interview was edited to remove her statement.

²⁵¹ When translated as “speak up” it can also mean “speak to” that denotes challenging authority or speaking to power.

²⁵² “European author Trish Lorenz falsely claims she named #EndSARS movement ‘Soro-Soke’ in Cambridge interview”, (29 May 2022), online: *Peoples Gazette* <<https://gazettengr.com/european-author-trish-lorenz-falsely-claims-she-named-endsars-movement-soro-soke-in-new-book-on-young-africans/>>.

²⁵³ *Ibid.*

²⁵⁴ Ikhide [@ikhide], *Thoughtful piece. On balance I appreciate Trish Lorenz’s intervention in chronicling #EndSars. Of the three books in the market, hers is better researched and more helpful, outside social media’s rich chronicle. She did what Nigerian thinkers should have done. Stop the whining.* (2022). “Ikhide [@ikhide], *Well, Until Trish Lorenz wrote hers, there was ONE, if you call an anthology of poetry dedicated to #endSARS an authoritative work on the subject (it is not!). She shouldn’t have misappropriated the term “Soro Soke” but I’m glad she wrote the book. I bought it, I might read it!* 🍌 <https://t.co/fHDgeZdz89> (2022).

A refusal to read literature as history exposes us to the danger of again having our experiences (mis)accounted through a western telling of the Nigerian reality, as happened with the colonial mission in the pre-colonial communities. The law and literature approach to Nigerian legal history in this work—my decision to rely on a literary account of pre-colonial life as told in TFA—apart from serving the objective purpose of giving a fuller account of history, is also an act of re-centering pre-colonial historizing practices, of resisting neo-colonialism.

Finally, I note that TFA achieves the vision for Achebe's ideal post-colonial reality: one where the hunted have their own historians, and even more, one where the tale of the hunt causes a colonially inherited language system to work in service of non-colonial ends. To draw some inspiration from Achebe's achievement for the broader objective of this project, the Nigerian police force is a colonial inheritance that continues to work with the vision bequeathed by the British colonizers. By rejecting the colonial narrativizing and seeking out non-colonial narratives through a law and literature lens, the Nigerian police force may yet work towards non-colonial ends.

The purpose of my discussion so far in the chapter has been to provide a foundation to ground my argument for construing literary traditions, including post-colonial literary texts, as a record of history. In the following and penultimate section of this chapter, I, at last, come to my account of the precolonial Igbo legal and social order to draw out a picture of policing that can offer a non-colonial vision of policing.

4.4.Pre-colonial Policing in Igboland

Policing in pre-colonial Igbo societies was so interwoven with the social order and spiritual belief system that it is impossible to discuss pre-colonial policing without first discussing how the society was organized and what it believed. Pre-colonial Igboland is famously constituted of

different small communities, each with its own distinct political authority, and without the control of any central government.²⁵⁵ The pre-colonial Igbo society has been described as “broken into small polities”²⁵⁶ that were “democratic but... tended to develop similar answers to the problems of governance and social control.”²⁵⁷

Achebe’s description of Umuofia, the primary setting of TFA, as a clan made up of nine villages, and as one of several other clans²⁵⁸ captures this structure of pre-colonial 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.²⁵⁹

Onyeozili has described the Village/Clan structure in Igboland:

The village consists of a number of extended families living in a given area, often within shouting distance from each other. They may be closely related by kinship ties or may be unrelated groups possessing only a common cult and speaking the same linguistic dialect. In communities where migrations have taken place, a village may also consist of families of totally different stock, but who bind together due to their peculiar circumstances and intermarriage...The clan is a group of families bound together by a sense of relationship based simply on possession of a common ancestor. It is more heterogeneous than the village, and in some regions is made up of subtribes instead of a single extended family. The term “clan” is such a complex social unit that a uniform definitional application may vary among the various peoples of Nigeria. For the purpose of this study, we define it as the next communal unit beyond the village. Collectively, clans form the nucleus of a city-state.²⁶⁰

A tribe, which Onyeozili describes as “an ethnical and a social group of people who share the same language, physical appearance, and customs, and is often composed of families and clans

²⁵⁵ There are some differing opinions to the claim that the pre-colonial Igbo Society was acephalous. Some scholars have noted that there existed in pre-colonial 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 4. Page 74

²⁵⁶ *Ibid.* Page

²⁵⁷ Onyeozili page 88.

²⁵⁸ Achebe, *supra* note 29. Page 3.

²⁵⁹ 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).

²⁶⁰ Onyeozili, *supra* note 4. Page 53.

of common social origin,”²⁶¹ would be, in the example of TFA, Igboland. Values and belief systems were more varied at this level than at the clan level.

These definitions of “village”, “clan”, and “tribe” are made vivid by Achebe’s story world in TFA. Where Onyeozili tells of details such as dialects and ancestral connections, TFA demonstrates how these elements worked to organise the pre-colonial social systems, including rulemaking and rule enforcement. For example, the homogeneity of values and beliefs at the clan level meant that taboos were defined differently by different clans, and the consequences of an offence committed in one clan did not carry over to other clans. Also, the proscriptions around taboos, such as the taboo against the shedding of blood, was anchored on ancestral connections, and thus only protected members of the same clan. Two incidents in TFA illustrate these points.

The first is when Okonkwo accidentally kills a kinsman, a taboo in Umofia.²⁶² The prescribed punishment for this taboo is banishment. However, he is able to go to Mbanta, a village in another clan, and re-establish himself and his family while waiting out the period of his banishment because 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 another clan.²⁶³ Ikemefuna was given to the people of Umofia to atone for their killing of a “daughter of Umofia”. He was fostered by Okonkwo’s family for three years until it was decided that the boy was to be sacrificed in a 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

²⁶¹ Ibid

²⁶² Achebe, *supra* note 29. 124 -125.

²⁶³ *Ibid.* Page 57 – 62.

connection to Okonkwo, was not a kinsman, even though he had effectively become a part of Okonkwo's family.²⁶⁴

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 feature of policing in the pre-colonial society. Rules were construed primarily for the welfare of the community, and were enforced equitably, regardless of the offender's social-standing (i.e. class) in society. The policing of offences against these rules similarly centered the collective will of the people.

4.4.1. A Community-Centered Approach to Policing

The systems of policing in pre-colonial 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, I noted earlier, necessarily translated into a democratized system of rulemaking and rule enforcement,²⁶⁵ and the will and assent of every member of the society was regarded in the communal decision-making process. As Onyeozili notes,

At the apex of Igbo political culture is the Oha. This concept, which sometimes is used synonymously with Obodo (the state), can be extended to mean the people, an assembly, a sovereign body, an authority, government, and a way of life affecting a community (Njaka, 1974, p. 13).²⁶⁶

In TFA, the concept of *Oha/Obodo*, the collective will, is practiced in clan meetings where decisions on important matters of clan administration, from the organisation of the ancestral

²⁶⁴ 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"

²⁶⁵ Page 51.

²⁶⁶ Onyeozili, *supra* note 4. Page 75.

feasts²⁶⁷ to the imposition and enforcement of levies on the members of the clan,²⁶⁸ was settled through discourse 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, when 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,”²⁶⁹ a meeting was convened to discuss how to handle this development, 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 themselves,” prevailed.²⁷⁰ In another incident, after a neighbouring clan kills a villager from Umofia, the people hold a meeting to decide on whether to go to war with the offending clan. The popular opinion that the village first attempt a peaceful resolution to avoid fighting a “war of blame” was accepted.²⁷¹

Achebe emphasizes the centrality of the *Oha* in pre-colonial 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.²⁷² 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.²⁷³ The significance of this incident, which illustrates the utility of this work’s law and literature approach,

²⁶⁷ Achebe, *supra* note 29. Page 26

²⁶⁸ *Ibid.* Page 196 – 197.

²⁶⁹ *Ibid.* Pages 156 - 157

²⁷⁰ *Ibid.*

²⁷¹ Achebe, *supra* note 29. Page 12.

²⁷² *Ibid.* Page 203.

²⁷³ Achebe, *supra* note 29. Pages 203 – 204.

is that by juxtaposing the pre-colonial 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.

4.4.2. Community-Constituted Policing Institutions

The second element of the pre-colonial approach to policing is that the rules were enforced by institutions and groups already existing within the social structure. In this sense the “police” were not a differentiated class of people, specially designated to wield enforcement powers as in colonial and post-colonial policing. Rather, policing was undertaken by groups and institutions that performed other functions within the society, and these institutions were organized and represented by the society’s every-person.

Scholars have noted that policing in pre-colonial society was undertaken by institutions such as the age-grade,²⁷⁴ the Umuada,²⁷⁵ and the Umunna,²⁷⁶ all social groups that served to socialize, educate, entertain, and importantly were constituted by peers within the community.²⁷⁷ The utility of this approach to policing is captured in TFA when the Umunna converge to enforce the consequences of Okonkwo killing a kinsman. Within the group of policing agents is Okonkwo’s best friend Ezeulu, 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,

²⁷⁴ 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.

²⁷⁵ Achebe, *supra* note 29. The Unmuadas is a union consisting of the women in a family, village or clan. They performed similar responsibilities as the age grade. Page 212

²⁷⁶ *Ibid.* The Umunnas are the male equivalent of the Umuadas.

²⁷⁷ Onyeozili, *supra* note 4. Pages 74-76. See also: Femi Adegbulu, “FROM WARRANT CHIEFS TO EZESHIP: A DISTORTION OF TRADITIONAL INSTITUTIONS IN IGBOLAND?” (2011) 2:2 25.

neutralising the effect of the taboo.²⁷⁸ This construction of community policing—policing by peers, friends, and well-wishers—ensures the humanness of the policing process and the policing agents. The offender sees themselves in the police and the police see themselves in the offender.

Similarly, the institution of the *Egwugwu*, regarded as the masked spirit of the ancestors, which is the tangible representation of Igbo spirituality, was constituted by known members of the clan.²⁷⁹ While the society's normative system prescribed that the *Egwugwus* be regarded as dead ancestors who return to earth to, among other functions, police especially grave offences, and while this belief was central to Igbo spirituality, it was understood by many in the community that beneath the mask of the *Egwugwu* were ordinary men within the clan. In TFA, Achebe shows the operation of this belief when the *Egwugwus* gather to settle dispute in the community.²⁸⁰ 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 among 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.²⁸¹

Indeed, when the *Egwugwu* asks if a complainant knows who they are, the man responds, “how can I know you father, you are beyond our knowledge.”²⁸²

Accordingly, in TFA, we see 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 pre-colonial policing that may not be captured in scholarly

²⁷⁸ Achebe, *supra* note 29. 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.

²⁷⁹ *Ibid.* Page 89.

²⁸⁰ *Ibid* at Page 89.

²⁸¹ *Ibid* at Pages 89-90.

²⁸² *Ibid.* Page 90.

accounts of the same society. TFA 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 duties. For example, the priestess of the Agbala deity, a revered policing 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.”²⁸³

This pre-colonial approach to policing—that is, community-centered *and* community-constituted—directly contrasts with the colonial (and post-colonial) approach that centers the interest of a central government and its loyalists, and is enforced by strangers (or persons unaccountable) to the community. The pre-colonial 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**

The community-centered approach adopted in pre-colonial 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. Where scholars of the Igbo pre-colonial policing system have established that different social institutions “kept social ills in check,”²⁸⁴ TFA demonstrates how the nature of the offence dictated which institution would exercise police powers:

When a minor offence such as a cow breaking free and destroying a neighbour’s crop occurred, the Umuada acted as police;²⁸⁵ where 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

²⁸³ Achebe, *supra* note 29. Page 48 and 49.

²⁸⁴ Onyeozili, *supra* note 4. Page 92

²⁸⁵ Achebe, *supra* note 29. Page 114.

harvest) was committed, the rules were enforced through the priests;²⁸⁶ and where the more severe desecration of *Egwugwu* happened, then police authority rested in the masked spirit of the ancestors.²⁸⁷

The details offered by TFA's account 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 tailored to the perceived seriousness of the offence, and this nuance informed the approach to policing. TFA emphasises 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 spirit, 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.²⁸⁸

The pre-colonial policing apparatus relied on the community's acceptance of the social order so, the role of the police was not to compel an acceptance of state powers but to maintain an already accepted social structure. Accordingly, different institutions, based on their sphere of influence in the society, could be called on to intervene in instances of deviation from the norm. This nuance shows that the state powers of policing in the precolonial society were construed as a persuasive authority to maintain the social and legal order, rather than as an imposing force to establish (as in colonial policing) or preserve (as in post-colonial policing) an illegitimate system.

²⁸⁶ Ibid. Page 31.

²⁸⁷ Ibid. Page 188-189.

²⁸⁸ Achebe, *supra* note 29. Page 94.

- **Policing agents remained bound by the norms of the society**

Another important feature of pre-colonial policing, which flowed from the community-constituted character of rule enforcement institutions, was that policing was not regarded as “status conferring.” In other words, the pre-colonial approach to policing did not translate into the installation of a class of powerful people seemingly above the prescriptions of the law, and able to wield power to oppressive ends.

Importantly, policing agents, in the exercise of their duties were bound to observe the society’s normative prescriptions, and could not, under the guise of rule enforcement, engage in tabooed conduct. Where a taboo was construed as grave enough to warrant a 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.²⁸⁹ As Onyeozili observed,

...the city-state or general assembly had no power to impose capital punishment. This would have gone against the religious principle that forbade the shedding of a kinsman’s blood. The whole community could, however, bring such pressure to bear on a murderer that he would be left with no option but to go and hang himself. Whether the murderer fled or hung himself the chief priest would still be invited to conduct a cleansing ceremony to the Ani (earth deity).²⁹⁰

Achebe demonstrates how this inviolability of social norms informed the policing practices in the community. For example, 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.²⁹¹

²⁸⁹ 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.

²⁹⁰ Onyeozili, *supra* note 4. Page 90

²⁹¹ Achebe, *supra* note 29. Page 31 -32.

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.”²⁹² Thus, policing powers enables agents to do things that average citizens cannot, which things are done to preserve government control over citizens.

- **The goal of policing was the preservation of the social and legal order**

The final feature of pre-colonial policing, which is informed by the centralizing of the will of the people in the policing apparatus, is that the goals of policing were defined around the preservation of the community’s social and legal order. Rules and the methods of enforcing them were thus 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. In his description on the powers of the age grade and elders as policing institutions, Onyeozili notes,

It was largely the fear of falling out with the community, and especially with the dead ancestors, that made all citizens abide by the rules of the polity. It was also the general understanding that the age grades would not hesitate to exercise their police function of bringing a recalcitrant individual into forceful compliance as ordered by the elders, that ensured order in community affairs (Nnam, 1989). In spite of the democratic set-up, no individual wanted to become Achebe’s (1959) proverbial nza (little bird) who ate and drank so much that it challenged his chi (god) to a wrestling match.²⁹³

TFA supplements Onyeozili’s account by showing that what is “feared” is that one should be seen as having no regard for the rules of the community or the authority of the gods, which is, perhaps, better described as a “worry” or “concern.”

²⁹² Section 33 of the constitution of Nigeria.

²⁹³ Onyeozili, *supra* note 4. Page 79.

In TFA, 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.”²⁹⁴ 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.²⁹⁵

The priest then goes on to prescribe the fine to be paid to forestall the earth God’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.²⁹⁶

In the passage 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. However, by failing to demonstrate outward repentance for his offence, Okonkwo is not restored to good standing in society, the second goal of policing.

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

²⁹⁴ Achebe, *supra* note 29. Pages 29-30.

²⁹⁵ Ibid. Page 30

²⁹⁶ Ibid. Page 31.

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 society. 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 TFA.

One example of self-policing is contained in the Week of Peace example above. Okonkwo paid the fines prescribed by the priest without complaint, and added a pot of palm wine to the fine.²⁹⁷ 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 only possible because of the legitimacy of the underlying political process that has prescribed the rules. 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—again, another act of self-policing.

The picture provided shows that the goal of policing was to secure restorative justice which prioritized the welfare of all members of the community, including the offender. The legitimacy enjoyed by the pre-colonial institutions and the resulting practice of self-policing translated into efficient, effective policing which, although described by Onyeozili as ensuring “forceful compliance”²⁹⁸ remained bound by the ethos of the normative order that proscribed the non-commensurate use of force, or killing for any reason.

²⁹⁷ Achebe, *supra* note 29. Page 30-31.

²⁹⁸ Onyeozili at page 96, footnote 283.

To summarise, three major features marked the community-centered and community-constituted approach to policing in pre-colonial 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 the preservation of a social and legal order that enjoyed the legitimacy of its subjects. This approach to policing is markedly different from the mercenary, militarised approach of the colonial and post-colonial era discussed in the previous chapter. The post-colonial structure concentrates police power and authority in a central government that is far removed from the local community and works towards the maintenance of political power in a government installed through a political process that violates popular will.

A series of related incidents narrated in TFA provide a helpful comparison between the pre-colonial approach to policing and the (post-)colonial approach. It starts when an *Egwugwu* is unmasked by an overzealous Christian convert at a sacred festival.²⁹⁹ Unmasking an *Egwugwu* was an unprecedented abomination, a desecration of the community's fundamental spiritual beliefs. The new convert's action was a sacrilege so fundamental that even his fellow converts recognized the weight of the abomination. Following the incident, the masked spirits of the ancestors, after deliberation, and other members of the clan go to the church to address the abomination. The conversation between the head missionary and the head *Egwugwu* is reproduced below:

Tell the white man that we will not do him any harm," he said to the interpreter.

"Tell him to go back to his house and leave us alone. We liked his brother who was with us before. He was foolish, but we liked him, and for his sake we shall not harm his brother. But this shrine which he built must be destroyed. We shall no longer allow it in our midst. It has bred untold abominations and we have come to put an end to it."

²⁹⁹ Achebe, *supra* note 29. Page 188 -189.

He turned to his comrades. "Fathers of Umuofia, I salute you," and they replied with one guttural voice.

He turned again to the missionary. "You can stay with us if you like our ways. You can worship your own god. It is good that a man should worship the gods and the spirits of his fathers. Go back to your house so that you may not be hurt. Our anger is great but we have held it down so that we can talk to you."

Mr. Smith said to his interpreter: "Tell them to go away from here. This is the house of God and I will not live to see it desecrated."

Okeke interpreted wisely to the spirits and leaders of Umuofia. "The white man says he is happy you have come to him with your grievances, like friends. He will be happy if you leave the matter in his hands."

"We cannot leave the matter in his hands because he does not understand our customs, just as we do not understand his. We say he is foolish because he does not know our ways, and perhaps he says we are foolish because we do not know his. Let him go away."

"Mr. Smith stood his ground. But he could not save his church. 'When the Egwugwu went away the red-earth church which Mr. Brown had built was a pile of earth and ashes. And for the moment the spirit of the clan was pacified.'³⁰⁰

The approach adopted by the *Egwugwu*, even when dealing with intrusive strangers to whom they owed no legal obligations, as they did kinsmen and members of the clan, respected the tenets of pre-colonial policing already identified. First, after the abomination, the ancestral spirits from the different villages of the clan hold a meeting to discuss how to address the incident and it was decided that the appropriate consequence is a destruction of the church, the site of missionary activities that resulted in the abomination. When the *Egwugwu* arrive at the church, they make clear their intention, emphasizing a reconciliatory position and only exercise policing powers to the extent necessary to see to the demolishing of the church building and leave.

By contrast, in response to the "crime" of destruction of property by the villagers, the D.C. invites the elders of the clan for a meeting to discuss the incident.³⁰¹ These men, leading with good

³⁰⁰ *Ibid.* Page 191.

³⁰¹ *Ibid.* Page 193 -194

faith, organized themselves to attend the meeting with the D.C. At the venue of the meeting, the D.C. asks to hear the villager's account of what happened:

Ogbuefi Ekwueme rose to his feet and began to tell the story.

"Wait a minute," said the Commissioner. I want to bring in my men so that they too can hear your grievances and take warning. Many of them come from distant places and although they speak your tongue, they are ignorant of your customs. Jamesi Go and bring in the men."

His interpreter left the courtroom and soon returned with twelve men. They sat, together with the men of Umuofia, and Ogbuefi Ekwueme began to tell the story of how Enoch murdered an egwugwu.

It happened so quickly that the six men did not see it coming. There was only a brief scuffle, too brief even to allow the drawing of a sheathed machete. The six men were handcuffed and led into the guardroom.

"We shall not do you any harm," said the District Commissioner to them later, "if only you agree to cooperate with us. We have brought a peaceful administration to you and your people so that you may be happy. If any man ill-treats you we shall come to your rescue.

But we will not allow you to ill-treat others. We have a court of law where we judge cases and administer justice just as it is done in my own country under a great queen. I have brought you here because you joined together to molest others, to burn people's houses and their place of worship. That must not happen in the dominion of our queen, the most powerful ruler in the world. I have decided that you will pay a fine of two hundred bags of cowries. You will be released as soon as you agree to this and undertake to collect that fine from your people. What do you say to that?"³⁰²

The D.C. as a representative of a foreign and hostile government prioritized the interests of regime-compliant Christians over the indigenous social and legal order. In this sense, he demonstrates the features of colonial policing—a top-down approach to policing by a central government that is not constituted by or accountable to the community it governs. The policing agents under this regime are a special class of people outside the community's social order who

³⁰² *Ibid.* .

wield power to protect the interests of a special protected class (i.e. the British missionary and their adherents), and suppress the will, and values of the members of the community.

The arrested elders of Umofia were tortured in police custody for days until the clan gathered enough money to satisfy both the fine and the additional mark-up illegally imposed by the corrupt prison guards. Afigbo appropriately remarks that the British system of policing introduced via indirect rule, “marked the end of an era of justice...Immediately the white men came, justice vanished.”³⁰³

What becomes clear in the law and literature approach adopted by this work is 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. In this sense, literary accounts can correct inaccurate representations of pre-colonial life, and supplement other historical narratives by offering a picture of pre-colonial life. Literature shows—and not just tells—the elements of the society under consideration. The writer of literary texts is not merely engaged in imaginative fictionalising but is drawing on oral history to enter the pre-colonial world and share in the lived experience of the people who inhabited that world.

4.5. Re-situating the history of Police Dysfunction

Importantly, in TFA, Achebe offers a linear narrative of the history of Igboland, from pre-colonial to colonial governance, and captures the emotional experience of colonisation from the point of view of the indigenous victims of the enterprise. This structure helps to emphasise that government-citizen estrangement in colonial times preceded police-community estrangement, and the latter is a consequence of the former.³⁰⁴ As told through the story of the people of Abame who

³⁰³ Onyeozili, *supra* note 4. Page 407.

³⁰⁴ Achebe, *supra* note 29. Page 93.

recognised that “the strange man would break their clan and spread destruction among them,”³⁰⁵ the indigenous communities, even before the introduction of colonial policing, already recognised the British as a hostile occupying force. Colonial policing evolved to ensure the effective subjugation of the communities under colonial rule, and the policing agents were rejected by the community because they represented the colonial enterprise.³⁰⁶

In the songs composed by members of the pre-colonial societies to taunt the court messengers and prison guards, the association of the (illegitimate) policing to (illegitimate) governance is also demonstrated. In TFA, as the prisoners in the colonial prison perform hard labour, they chant,

Kotma of the ash buttocks,
He is fit to be a slave.
The white man has no sense,
He is fit to be a slave.³⁰⁷

The policing agents likewise saw themselves as agents of a hostile government and understood that they were imposed on communities to force the people to conform to colonial rule. Again, TFA shows how the policing agents understood their roles in host communities.

In the aftermath of the arrest and torture of the titled men of Umofia, as the villagers meet to discuss how to restore their society, the meeting is interrupted by a court messenger who orders it to a close on the authority of “the white man whose power you know too well.”³⁰⁸ In another part of the book, when Okonkwo, after being tortured in the colonial prison, suggests that the men would have been spared their harrowing experience if they had killed the white man, a messenger “rushes in” and asks, “who wants to kill the white man?” When none of the men answer, he

³⁰⁵ *Ibid.* Page 65.

³⁰⁶ *Ibid.* Pages 55-61.

³⁰⁷ *Ibid.* Page 175.

³⁰⁸ *Ibid.* Page 204.

subjects them to another round of physical torture; the messenger has interpreted his duty as preserving the authority and esteem of the British colonisers.³⁰⁹ Another example is offered when the head messengers threaten to bring the weight of the white man's government against the village if they do not pay the fines that were assessed against the village for burning the church.³¹⁰ These colonial policing agents clearly inhabited the mandate of the colonial administrators and related to the communities primarily as agents protecting the colonial enterprise, its institutions, and administrators.

This pattern that connects policing to governance is similarly demonstrated in TFA's account of the precolonial society as one that was marked by communal self-governance, and so communal self-policing as discussed in the preceding part.³¹¹ The folktale of why the chicken scratches the earth, analysed earlier in this chapter similarly notes how democratic governance in precolonial societies preceded the society's democratised approach to rule enforcement.³¹²

Through literature, we have access to a fuller account of history that captures the nuances that can be elided in non-literary narratives, and this fuller account can help contextualise our understanding of the country's evolution, including its policing problems and steps that can be taken to address it. The literary account of history shows the proper order of the evolution of police dysfunction in the country, thus revealing that the colonial roots of police dysfunction is implanted, not in the policing institutions themselves but in the governance and political process.

In the next, concluding, chapter of this work, I demonstrate how these literary insights can inform the country's approach to police reform, and how disregarding these insights translate into a mis-reading of Nigeria's police problem. These lessons that have been gleaned from our law and

³⁰⁹ *Ibid.* Page 195.

³¹⁰ *Ibid.* Page 196.

³¹¹ *Ibid.* Pages 86-92

³¹² *Ibid.* Pages 74-75.

literature approach to pre-colonial history guide my recommendations for a re-defined path to police reform.

CHAPTER FIVE

“Stories serve the purpose of consolidating whatever gains people or their leaders have made or imagine they have made in their existing journey through the world.”

- Chinua Achebe

5.0. A RE-DEFINED PATH TO POLICE REFORM

In the introductory chapter, I compared this project to an archaeological expedition, a journey back in time to uncover what policing looked like before colonization introduced police impunity and dysfunction. In the previous chapter I laid out a narrative of pre-colonial policing in Igboland, highlighting the importance of literary narratives as a source for pre-colonial history. Now that I have uncovered what I set out to discover, that is, a pre-colonial and non-colonial system of policing, the expedition is, in one sense, complete. However, as the heart of this work is police reform, a more generative end to the expedition is to apply the insights gleaned from history to Nigeria’s current police reform aspirations. This final chapter does just that. It takes the elements that have been identified as the hallmarks of policing in pre-colonial Igboland and situates them in Nigeria’s current social and legal order to help identify what needs to change about the modern approach to policing, if we are to finally arrive at a reformed police institution that is detached from its colonial legacy.

5.1. Pre-colonial methods in a Post-colonial reality.

There is an obvious concern: Nigeria has far evolved beyond pre-colonial times and is now confronting the multifaceted legal problems of a heterogenous society whose component communities have differing, often opposing belief systems. So, how prudent is it to look to pre-colonial methods that presumed and relied on the commonality of values among members of the community? This question especially nags given the fact that in Nigeria today, the government

controls the police, and this structure is congruent with the inviolability of state sovereignty in our federal political system. On the other hand, the pre-colonial Igbo societies generally had no central political authority and delegated the task of policing to multiple social groups.

This concern reveals what I consider one of the greatest tragedies of colonization, which is that it froze the development of our indigenous, autochthonous social systems in time and supplanted them with flawed systems that continue to burden us today. And now, we may never know what types of systems we would have evolved, and how we would have shed the harsher aspects of our belief systems as our societies inevitably heterogenized and modernized to conform to the current reality of globalization.³¹³ This sad fact notwithstanding, this work takes the things we know about the indigenous methods and suggest them as guiding principles to inform our attempt to create policing institutions that are in harmony with host communities, as happened in pre-colonial times.

This thesis does not advocate a return to the pre-colonial methods; I know that such methods, if transplanted to our current social and legal realities, will undoubtedly fail. Rather, I am attracted to pre-colonial methods of policing first because they are the only non-colonial, and so truly autochthonous, systems that we evolved to police ourselves. Secondly, pre-colonial methods of policing operated in its peace keeping function with the cooperation of members of the community and without the shortcoming of widespread violence, corruption, and impunity by agents of the system. These pre-colonial methods were accepted and respected by the community

³¹³ An example that occurs to me here is the practice of the ritual abandonment of children born from a multiple birth based on the misguidance of Taboo practices. Mary Slessor, the Christian missionary is widely credited to have stopped the killing of twins, and this narrative is often held as a positive aspect of colonial intervention. However, historical accounts drawn from oral history shows that indigenous had already begun to evolve past the practice and crediting Slessor as the spearheading the eradication of the practice mis-narrativizes the history of the indigenous peoples. David Lishilinimle Imbua, "Robbing Others to Pay Mary Slessor: Unearthing the Authentic Heroes and Heroines of the Abolition of Twin-Killing in Calabar" (2022) 21. In TFA, while Umofia still retained the practice of ritual abandonment, Achebe captures the peoples growing uneasiness with the tradition foreshadowing the evolution that would eventually come to the society had it been spared the violence of colonization. Achebe, *supra* note 29.

and the policing agents were enforcing the rules of a legitimate political system and government, and thus enjoyed the legitimacy of the system they represented. Juxtaposing these systems with our post-colonial experience of policing can reveal what is lacking in our post-colonial reality that has translated into our persistently flawed policing system.

5.2. Understanding Police Legitimacy in Post-Colonial Nigeria

Earlier in this work, I noted that the pre-colonial society's political process placed the people, their interests, and their will at the center of governance, and thus the policing apparatus.³¹⁴ Accordingly, that society's legitimate governance translated into its legitimate and effective policing, which was characterised by strict proscriptions against police impunity. By contrast, the current Nigerian policing apparatus, which continues to bear the features of its colonial forebear is characterised by police violence and impunity. The violence and impunity associated with the NPF has impacted the public's perceptions of the institution and its legitimacy.³¹⁵

In *Why do Nigerians Cooperate with the Police*,³¹⁶ Akinlabi studies existing scholarship on police legitimacy in Nigeria and notes,

Studies have shown that in contexts where police legitimacy is judged to be low or non-existent, citizens are less likely to obey the law (see Agbiboa 2015; Akinlabi 2016; Alemika 2013); in these contexts, police officers often cannot rely on citizens' normative commitment to obey the law (Bradford et al. 2014). The result is that policing in these contexts may become arbitrary, coercive, and repressive (Akinlabi 2016). It has also been shown that when people experience coercion, abuse, or repressive policing, procedural justice may become inconsequential (Akinlabi 2016; Alemika and Chukwuma 2003; Gerber and Mendelson 2008). This in turn diminishes legitimacy and people's expressed willingness to cooperate with police (Anderson and Tverdova 2003; Tankebe 2010).³¹⁷

³¹⁴ Page 84.

³¹⁵ Alemika, *supra* note 151.

³¹⁶ Oluwagbenga Michael Akinlabi, "Why do Nigerians cooperate with the police?: Legitimacy, procedural justice, and other contextual factors in Nigeria" in *Police–Citizen Relations Across the World* (Routledge, 2017).

³¹⁷ *Ibid.* Page 129

These studies, including Akinlabi's work, analyse police legitimacy as distinct from the political process and conclude that perceptions of police legitimacy lead to a higher likelihood of obedience to the law. Some scholars have gone as far as asserting that perceptions of procedural justice (i.e. a just legal and governance process) do not translate into police legitimacy.³¹⁸ Akinlabi concludes of his own study,

The results indicated that public perceptions of procedural justice were not relevant in fostering public perceptions of police legitimacy in Nigeria. The research established a more important role for perceived police effectiveness in predicting perceived police legitimacy.³¹⁹

Akinlabi's study presumes that oppressive policing *can* develop without an oppressive governance, or that the legitimacy of the police can be determined without considering the legitimacy of the government and the political process.

This presumption is evident from the questions posed to the study participants, and the questions left out of the inquisition. For example, in the section interrogating the colonial origin of the police, the study asks the participants if they believe the Nigerian police is a conception of the British colonialist (most of the participants believed that it is)³²⁰ but not if they believe that the Nigerian government and its political process is a conception of British colonialists. Participants are asked about their perceptions of police legitimacy and their likelihood to obey if the "police are doing the wrong thing" (most participant answered in the negative)³²¹ but not their perceptions of government legitimacy or if the police will be regarded as doing the wrong thing if they are obeying state order. Finally, the study limits its interrogation of perceptions of procedural justice to policing activities, such as if the police treat people fairly and equally, and with dignity and

³¹⁸ Ibid

³¹⁹ Ibid. Page 148

³²⁰ Ibid. Page 139.

³²¹ Ibid at Page 138

respect (most participants responded in the negative),³²² but does not pose these questions about the governance and political process. Other studies on the perceptions of police legitimacy in Nigeria similarly avoid an interrogation of government legitimacy.³²³

While Akinlabi does not indicate what historical sources inform his approach to the study, his assumption around legitimate policing reveals the utility of studying literary accounts to inform our understanding of history. The literary account provided in TFA shows how colonial policing developed *because of*, and *in service to*, governance, and the (perceptions of) illegitimacy of the colonial police force flows from and is inseparable from the (perceptions of) illegitimacy of the colonial governance and political process.

Similarly, the legitimacy enjoyed by pre-colonial policing institutions was connected to that community's perception of the legitimacy of their political and governance process. Therefore, a study of the legitimacy of the Nigerian police, especially one that acknowledges the colonial origins of the institution, will, if anchored on a fuller understanding of the history and evolution of policing and police dysfunction in the country, necessarily interrogate perceptions of legitimacy of the government and the political process. The narrative in TFA, which shows how government (il)legitimacy precedes police (il)legitimacy, and how the latter is anchored on the former, shows that there can be no true understanding of the legitimacy of the Nigerian police without an inquisition into the legitimacy of the Nigerian political process, and the government birthed from that process.

Any attempts to reform the Nigerian police must first interrogate if (and the ways that) the Nigerian government and political process bear a colonial character, and is served by the current

³²² Ibid.

³²³ See generally ; Alemika, *supra* note 151. Daniel E Agbiboa, “‘Policing Is Not Work: It Is Stealing by Force’: Corrupt Policing and Related Abuses in Everyday Nigeria” (2015) 62:2 Africa Today 95–126.

colonial nature of the policing institutions. The history of police reform and the relationship between policing and the political process, discussed in the second chapter of this work, shows how the police reform recommendations proposed or attempted in the past have been handicapped by the illegitimacy of the government.³²⁴ This indicates that even if reform measures are theoretically sound—the community policing proposal to have members of the community cooperate with the policing institutions, should, for example theoretically improve police-community relations—if these measures are to be implemented by an illegitimate government, they will inevitably fail. Police powers flows from the political process and a government born from an illegitimate process cannot be expected to install a legitimate policing apparatus.

The issue of police legitimacy is germane to Nigeria’s police reform agenda because the self-defined vision of optimised policing is one where the police is seen as the “friend” of the every-person. Thus, the goal of police reform is to get citizens to accept and respect the authority of the police. The Lagos JPI’s recommendation—which is representative of on-going conversations around police reform—sets bridging the divide between the police force and citizens, as a target of police reform.³²⁵ This goal to increase police legitimacy must proceed from an inquisition into the divide between government, the political process, and citizens. This approach offers a viable chance for reform measures to impact how the police functions in society and how the public perceives the actions of the police, in other words, to impact police legitimacy.

5.3.A Non-colonial Vision of Policing in Nigeria

Non-colonial policing contemplates a reality where the policing institutions are stripped of the handicaps placed on them by the experience of colonisation; this vision of policing evokes an institution that enjoys the legitimacy of the community. Policing in the pre-colonial Igbo society—

³²⁴ Pages 37-41

³²⁵Supra at Footnote 3. Item xxv. See also page 9 of the Lagos State White Paper.

as described in TFA—realised this goal. As I noted, policing in those communities was community centered and community constituted, and marked by three features:

- a. Policing was nuanced and specific to the offence committed.
- b. Policing agents remained bound by the norms of the society.
- c. The goal of policing was the preservation of the social and legal order.³²⁶

The clear thread that ties the structure of pre-colonial policing together i.e. what made policing work in pre-colonial times, is that the people, their interests, and their will were at the center of governance and thus the policing apparatus, and this is what I propose should guide Nigeria's police reform agenda.

Police reform cannot merely install parts of the elements of non-colonial policing and hope to achieve police legitimacy. Reform measures cannot, for example, propose that agents obey social norms against corruption, indiscipline, and misconduct while simultaneously encouraging the use of force, as with Balogun's proposed reform under the fire-for-fire era.³²⁷ Similarly, a government suffering from a legitimacy crisis like the current Buhari presidency cannot make a mark on the landscape of police dysfunction by introducing legislation to encourage nuance in the exercise of police powers, because police officers, as agents of a hostile government, will eventually (be ordered to) perform violent acts to preserve the political power structures.

Police reform must embrace the underlying ideology that puts the will and welfare of the people (including potential offenders) at the center of governance and policing, and the above three elements of non-colonial policing will flow from this guiding principle. A non-colonial vision of policing is one that understands policing as an exercise in self-governance, and as an extension of

³²⁶ Pages 80-84

³²⁷ Page 30.

legitimate governance. This insight is a distinct revelation of history through literature. The law and literature methodology of this project makes clear that the first brushstrokes towards a non-colonial image of policing, that is a policing approach that does not reproduce or rely on the methods fostered by colonisation, must be applied, not over the policing institutions themselves, but to the governance and political process.

The legitimacy of the police force is connected to the legitimacy of the political and governance process. Therefore, to even come close to achieving a police force that is in harmony with host communities, Nigeria must get to a place where government becomes truly representative of the people, and people see their will validated in whatever political processes are adopted to manage transfer of political power. Put differently, policing flows from governance and the political process, so the people must see themselves represented in government and the political process if the police will evolve into a legitimate, effective, and non-violent institution, as reform measures aspire to achieve.

5.4.A Possible Future for Non-Colonial Policing in Nigeria

In his essay, *Colonial Political Re-engineering and the Genesis of Modern Corruption in African public Service*,³²⁸ Njoku notes that the dysfunction of the Nigeria's public institutions today is because the structure has remained *Oru Bekee* (as bequeathed by the British Colonizers) and has failed to return to *Oru Oha* (as conceptualised in pre-colonial Igboland.)³²⁹ He notes,

Public service has remained Oru bekee many decades after political independence. Oru bekee is not just an issue of vocabulary but an issue of the structure, visions and operations of public service in general (which manifests the same patterns of colonial governance as, arrogance of power, exploitation, being above the people, deriving from outside the community, aiming to satisfy other forces to the disadvantage of the local environment, paying little attention to local challenges of the people, being above local control, feeling little or no commitment of accountability to the immediate environment and above all, working just to make

³²⁸ Njoku, *supra* note 185.

³²⁹ *Ibid.* Page 110.

money). The same system that raised and nurtured the corruption of the Warrant Chiefs, court clerks and court messengers is still the same system that has survived till date and continues to dictate our public life. It is the beneficiaries of this system or the descendants of these beneficiaries, who still control power.³³⁰

Njoku's observation, which he notes makes the task of reform "herculean" is applicable to the NPF, which is considered an institution for public service. The current policing structure which retains the structure of the British policing apparatus manifests the patterns of colonial governance and rule enforcement in socio-political reality today. To effectively reform this, the country must embrace the principles of *Oru Oha*, it must appreciate that policing is linked to governance, and the political process must reflect the will of the people.

In *Elections and Democratic Deficits in Nigeria's Fourth Republic*,³³¹ the authors emphasise that the country's political process has consistently sidelined popular will in democratic elections.

This situation is complicated by the character of Nigeria's political class which is not in tune with the ideology of liberal democracy. To be sure, the dominant political class does not possess the requisite democratic ethos, such as tolerance, discipline and democratic temper to engage in credible elections (Fadakinte 2013). Due to the desperate desire by politicians to win elections at all costs in order to enjoy the perquisites of power, elections in Nigeria have often been characterised by violent confrontations, bringing about outcomes that negate democratic consolidation and sustainability. In the process, the country at every turn of election becomes crisis ridden and prone to instability.³³²

The activities of the major political parties in preparation for the 2023 general elections in Nigeria continue the pattern of overriding the collective will of the people in the electoral process. For example, Bola Ahmed Tinubu has emerged as the APC³³³ presidential candidate on the basis that

³³⁰ Ibid. Page 112.

³³¹ Okoli, Chigozie & Izang, "ELECTIONS AND DEMOCRATIC DEFICITS IN NIGERIA'S FOURTH REPUBLIC", *supra* note 100.

³³² Ibid at Page 148.

³³³ The All Progressives Congress is current governing political party at federal presidential level.

it was his “turn” to rule,”³³⁴ and that he deserved to be rewarded for having helped others achieve their political ambitions. A majority the candidates that contested in the televised primary elections announced their decision to step down from the race at the election venue, and assigned their electoral mandates to Tinubu, thus securing him the win.³³⁵

Tinubu has been publicly disdainful of Nigeria’s young people and assigned blame for the Lekki Massacre on the protesters whom he said had to “explain why they were there [at the toll gate] in the first place.”³³⁶ He has also been similarly disdainful of young people’s participation in the political process and has gone as far as placing curses on members of Labor Party.³³⁷ Labour party is primarily young people driven and Peter Obi, its presidential candidate in the 2023 elections, is popularly regarded as offering a much needed change from the old guard of establishment politicians.

This account of the country’s political landscape paints a bleak picture for police reform in the country. Hope abides only if the political process can withstand clear attempts to, again, wrestle power from the people and install another politician cut from the same cloth as the colonial elites. If the political process is fixed, if the process can birth a truly democratic government, then the police will no longer be seen as representative of a government that is hostile to the people, and a police-community harmony, a non-colonial vision of policing, becomes attainable.

³³⁴ Ima Elijah & Motolani Alake, “Emi lo kan and City Boy: The PR strength of Tinubu’s campaign [Pulse Editor’s Opinion]”, (10:55 200AD), online: *Pulse Nigeria* <<https://www.pulse.ng/news/politics/emi-lokan-the-pr-strength-of-tinubus-campaign-pulse-editors-opinion/hgeqrg0>>.

³³⁵ *FULL VIDEO: APC Holds National Convention 2022* (2022).

³³⁶ Page 23 at Footnote 43.

³³⁷ “*Mushroom Groups*”: *Tinubu Slams Labour Party Supporters In Osun* (2022). At the 9:28 mark, Tinubu says in Yoruba, “And the members of the Labor party will labour in vain their lives. May God not allow you (APC apologists) labor in vain.”

5.5.A Final Note: Literature, History, and Police Reform

Literary accounts of the country's experience of colonisation offers the unique contribution of showing the community's experience of police-public estrangement. While official and other historical sources account for how the police was used by the colonial administrators to invade communities, the communities' experiences of this invasion, which is passed down in their oral histories and have been set into writing in literary texts, offers the community's account of the police-public schism. If the goal of police reform is to bridge the police-public divide, then literary accounts of how and when this schism happened, of how this schism is rooted in government-citizen estrangement are critical sources to consider on the path towards police reform.

While Nigeria has far evolved from its pre-colonial societies and no longer organizes itself around pre-colonial ideologies alone, history, as contained in literary accounts, offers a different path to police reform that gets to the root of police dysfunction, and thus stands a better chance of success than previous reform measures.

EPILOGUE

The animals had gathered once again to discuss the problem of the Ants. Tiger as the new king of the animals had received multiple complaints from his subjects over the past year and he knew that if he didn't do something soon, the animals might unseat him the way they had done the Lion. Tiger nodded at the little Bird *Nza* who sat on a branch observing the proceedings; Tiger owed his political victory to the Birds.

He called on the complainants to present their cases.

Lion came first.

The Ants had chewed through the wood of his house bringing the whole thing crashing down. Tiger barely hid his smile as he listened to Lion speak; revenge was delicious.

In a corner, at the back of the hall, old Tortoise sat and waited, maybe this was the year he would be allowed to speak, and the animals would finally take heed.

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