

**AN APPRAISAL OF THE AWARENESS OF INDIGENOUS KNOWLEDGE IN THE CRIMINAL JUSTICE SECTOR IN NIGERIA\***

**Abstract**

*The research examined the extent to which indigenous knowledge is recognized and applied in the formal justice system and identifies the challenges and opportunities for its integration. The study employed a doctrinal methodology, relying on primary and secondary sources of data, including statutes, case law, academic journals, and books. The research focuses on the Nigerian context, with a specific emphasis on the criminal justice sector. The study revealed that there is a low level of awareness and recognition of indigenous knowledge in the criminal justice sector in Nigeria. The formal justice system is often biased towards Western legal traditions, with little recognition of indigenous knowledge and customary laws. However, there are opportunities for the integration of indigenous knowledge, particularly in the areas of alternative dispute resolution and restorative justice. The study recommended the following the establishment of indigenous knowledge units within the formal justice sector can help to promote the recognition and application of indigenous knowledge. Also, capacity building programs for judges, lawyers, and other justice sector officials can help to enhance their understanding and recognition of indigenous knowledge. Community engagement and participation are essential for the successful integration of indigenous knowledge into the formal justice system. The study concluded that there is a need for greater recognition and application of indigenous knowledge in the criminal justice sector in Nigeria. The integration of indigenous knowledge can help to promote justice, equality, and cultural sensitivity. The study's recommendations provide a framework for the promotion of indigenous knowledge in the formal justice system.*

**Keywords:** Indigenous Knowledge, Criminal Justice Sector, Awareness, Recognition, Integration

**1. Introduction**

Nigeria is a culturally diverse country with over 250 ethnic groups, each with its unique customs, traditions, and knowledge systems.<sup>1</sup> Indigenous knowledge refers to the traditional knowledge and practices developed by these communities over time. Indigenous knowledge is essential for addressing various social, economic, and environmental challenges in Nigeria. In the criminal justice sector, indigenous knowledge can provide valuable insights into conflict resolution, mediation, and restorative justice. Despite its significance, there is a lack of awareness and appreciation for indigenous knowledge in the Nigerian criminal justice sector. This is partly due to the dominance of Western legal systems and the marginalization of traditional knowledge systems. An appraisal of the awareness of indigenous knowledge in the criminal justice sector in Nigeria would involve a critical examination of the current state of knowledge, attitudes, and practices among stakeholders. This would include an analysis of the extent to which indigenous knowledge is recognized, respected, and integrated into the formal justice system.

**2. Conceptual Clarification**

**Indigenous Knowledge**

Indigenous knowledge (IK) refers to the traditional knowledge and practices developed by indigenous peoples over thousands of years.<sup>2</sup> It encompasses the cultural, spiritual, and philosophical beliefs and practices of indigenous communities, which are often deeply connected to their natural environment. IK is characterized by several key features which include but not limited to the fact that it is often holistic, considering the interconnectedness of all living things and the natural environment,<sup>3</sup> it is based on traditional practices and beliefs passed down through generations,<sup>4</sup> it is specific to a particular geographic location and cultural context.<sup>5</sup> It is often developed and shared within indigenous communities, rather than being controlled by external authorities.<sup>6</sup> Indigenous Knowledge encompasses a wide range of knowledge systems, including knowledge of the natural environment, including plants, animals, and ecosystems<sup>7</sup> knowledge of traditional medicines and healing practices,<sup>8</sup> knowledge of traditional farming practices and crop management,<sup>9</sup> knowledge of cultural traditions, customs, and histories.<sup>10</sup>

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<sup>1</sup> T O Obilade, *The Nigerian Legal System*. Sweet & Maxwell. 1978.

<sup>2</sup> United Nations. United Nations Declaration on the Rights of Indigenous Peoples, 2007.

<sup>3</sup> F Berkes, *Sacred Ecology: Traditional Ecological Knowledge and Resource Management*. Taylor & Francis, 1999.

<sup>4</sup> M Gadgil, In the Realm of the Sacred: Traditional Ecological Knowledge in India. *Nature*, 1993.

<sup>5</sup> L Maffi, *Language, Culture, and Linkages: A Matter of Survival*. Terralingua, 2001.

<sup>6</sup> W LaDuke, *All Our Relations: Native Struggles for Land and Life*. South End Press, 1999.

<sup>7</sup> R E Johannes, *Traditional Ecological Knowledge: A Collection of Essays*. IUCN, 1999.

<sup>8</sup> N R Farnsworth, Screening Plants for New Medicines. In E. O. Wilson & F. M. Peter (Eds.), *Biodiversity*, 1998 (pp. 83-97). National Academy Press.

<sup>9</sup> M A Altieri, *Agroecology: The Science of Sustainable Agriculture*. Westview Press, 1995

<sup>10</sup> Battiste, M. (2000). *Reclaiming Indigenous Voice and Vision*. UBC Press.

Indigenous Knowledge is important as it helps to preserve indigenous cultures and traditions,<sup>11</sup> it provides valuable insights into sustainable environmental practices,<sup>12</sup> it can contribute to community development and self-determination.<sup>13</sup>

### Criminal Justice Sector

The criminal justice sector in Nigeria refers to the collective institutions and processes responsible for administering justice in relation to criminal matters.<sup>14</sup> This encompasses the entire process, from the investigation and arrest of suspects to their prosecution, trial, and punishment or rehabilitation. The key components of the Criminal Justice Sector include law enforcement. This includes the police, sheriffs, marshals, and other agencies responsible for investigating crimes and arresting suspects.<sup>15</sup> Judicial Process. This involves the courts, judges, prosecutors, and defense lawyers who work together to adjudicate criminal cases.<sup>16</sup> Corrections. This refers to the prisons, probation services, and parole boards that manage the punishment and rehabilitation of offenders.<sup>17</sup> There are challenges facing the Criminal Justice Sector in Nigeria which includes but not limited to; inefficient Investigation and Prosecution. Cases are often delayed or dismissed due to lack of evidence or poor investigation.<sup>18</sup> Corruption. Corruption is rampant within the justice system, leading to unfair treatment of suspects and offenders.<sup>19</sup> Overcrowding in Prisons. Nigerian prisons are often overcrowded, leading to poor living conditions and increased risk of disease transmission.<sup>20</sup> Lack of Access to Legal Representation. Many suspects and offenders lack access to legal representation, making it difficult for them to navigate the justice system.<sup>21</sup> There are reform efforts already made to improve the system. They include; Administration of Criminal Justice Act (2015). This law aims to reform the criminal justice system by introducing measures such as plea bargaining and accelerated trial procedures.<sup>22</sup> Alternative Dispute Resolution. Alternative dispute resolution mechanisms, such as mediation and arbitration, are being promoted as a way to reduce the backlog of cases in Nigerian courts.<sup>23</sup>

### Awareness

Awareness refers to the state of being informed, knowledgeable, or cognizant of something, such as one's surroundings, thoughts, feelings, or behaviors. It involves having a clear perception, understanding, or recognition of oneself, others, or the environment. There are various forms of awareness which includes the following; Internal Awareness. Refers to being aware of one's own thoughts, feelings, emotions, values, and motivations. External Awareness. Involves being aware of one's surroundings, environment, and the people around them. Self-Awareness. The ability to have a clear understanding of one's own strengths, weaknesses, values, and emotions. Social Awareness. Being aware of the needs, feelings, and perspectives of others. Cultural Awareness. Understanding and appreciating the customs, values, and beliefs of different cultures. In the same manner, there are levels of awareness which includes; Unconscious. Lacking awareness or knowledge of something. Pre-conscious. Having some awareness, but not actively thinking about it. Conscious. Being fully aware and actively thinking about something. Meta-cognitive. Having awareness of one's own thought processes and learning strategies. Awareness is important for various reasons which include; Personal Growth. Awareness is essential for personal growth, self-improvement, and self-awareness. Decision Making. Awareness of one's surroundings, values, and goals inform decision-making. Relationships. Awareness of others' needs, feelings, and perspectives fosters empathy, understanding, and effective communication. Problem Solving. Awareness of problems and challenges enables individuals to develop effective solutions. There are various ways of developing awareness. There are; Mindfulness. Practicing mindfulness meditation and engaging in mindful activities. Self-Reflection. Regularly reflecting on one's thoughts, feelings, and experiences. Feedback. Seeking feedback from others to gain new insights and perspectives. Education. Engaging in lifelong learning and expanding one's knowledge and understanding of the world. There are also challenges to awareness which includes; Unconscious biases and assumptions can limit awareness. Assumptions. Making assumptions about others or situations can lead to a lack of awareness. Distractions. Distractions, such as technology or stress, can reduce awareness. Fear. Fear of change, failure, or the unknown can prevent individuals from seeking awareness. Awareness is a complex and multifaceted concept that plays a crucial role in personal growth, relationships, decision-making, and problem-solving. By understanding the different types and levels of awareness, individuals can develop strategies to cultivate awareness and overcome challenges to awareness.

### 3. The Ways People Lived and Dispensed Justice in Various Traditional Non-Western Communities in Nigeria

In pre-colonial Nigeria, various traditional non-Western communities had their unique ways of dispensing justice. These systems were often based on customary laws, cultural practices, and spiritual beliefs.

<sup>11</sup> Smith, L. T. (1999). *Decolonizing Methodologies: Research and Indigenous Peoples*. Zed Books.

<sup>12</sup> F Berkes, *Community-Based Conservation in a Globalized World*. Conservation Biology, 2007.

<sup>13</sup> S Wilson, *Research is Ceremony: Indigenous Research Methods*. Fernwood Publishing, 2008.

<sup>14</sup> E E O Alemika, Criminal Justice in Nigeria: An Overview. *Journal of Social Sciences*, 2013, 34(2), 147-158.

<sup>15</sup> National Judicial Council. (n.d.). About Us. Retrieved from < (link unavailable)>

<sup>16</sup> National Judicial Council. (n.d.). About Us. Retrieved from < (link unavailable)>.

<sup>17</sup> Nigerian Correctional Service. (n.d.). About Us. Retrieved from < (link unavailable)>.

<sup>18</sup> Human Rights Watch. (2019). Nigeria: Corruption, Inefficiency Undermine Justice System. Retrieved from < (link unavailable)>.

<sup>19</sup> Transparency International. (2020). Corruption Perceptions Index 2020. Retrieved from < (link unavailable)>.

<sup>20</sup> Amnesty International. (2019). Nigeria: Overcrowding and Poor Conditions in Prisons. Retrieved from < (link unavailable)>.

<sup>21</sup> Nigerian Bar Association. (n.d.). Access to Justice. Retrieved from < (link unavailable)>.

<sup>22</sup> National Assembly. (2015). Administration of Criminal Justice Act, 2015. Retrieved from < (link unavailable)>.

<sup>23</sup> Nigerian Institute of Advanced Legal Studies. (n.d.). Alternative Dispute Resolution. Retrieved from < (link unavailable)>.

**Igbo Traditional Justice System:** In Igbo land, justice was dispensed through a complex system of councils, assemblies, and age-grade associations.<sup>24</sup> Disputes were often resolved through mediation and arbitration, with the goal of restoring balance and harmony within the community.

**Yoruba Traditional Justice System:** In Yoruba land, justice was dispensed through a hierarchical system of courts, with the Oba (king) serving as the highest authority.<sup>25</sup> Cases were often heard by a council of elders, who applied customary laws and traditions to resolve disputes.

**Hausa Traditional Justice System:** In Hausa land, justice was dispensed through a system of Islamic courts, with the Emir serving as the highest authority.<sup>26</sup> Cases were often heard by a council of Islamic scholars, who applied Sharia law to resolve disputes.

**Efik Traditional Justice System:** In Efik land, justice was dispensed through a system of councils, with the Obong (king) serving as the highest authority.<sup>27</sup> Cases were often heard by a council of elders, who applied customary laws and traditions to resolve disputes.

Despite their differences, traditional justice systems in Nigeria shared some common features, including; Community-based. Justice was often dispensed at the community level, with cases heard by local councils or assemblies. Restorative. The goal of traditional justice systems was often to restore balance and harmony within the community, rather than to punish offenders. Customary. Traditional justice systems were based on customary laws and traditions, which varied from community to community.

#### **4. Level of Awareness and Understanding of Indigenous Knowledge in the Justice Sector**

The level of awareness and understanding of indigenous knowledge in the justice sector in Nigeria is relatively low.<sup>28</sup> Despite the importance of indigenous knowledge in the country's cultural heritage, it is often marginalized in the formal justice system. Several factors contribute to the low level of awareness and understanding of indigenous knowledge in the justice sector. They include but not limited to the imposition of Western legal systems during the colonial era led to the suppression of indigenous knowledge and customary laws.<sup>29</sup> Also, much of Nigeria's indigenous knowledge is not documented, making it difficult for justice sector officials to access and understand.<sup>30</sup> The formal justice system in Nigeria is often biased towards Western legal traditions, with little recognition of indigenous knowledge and customary laws.<sup>31</sup> The low level of awareness and understanding of indigenous knowledge in the justice sector has several consequences, which are the failure to recognize and apply indigenous knowledge and customary laws can lead to injustice and marginalization of indigenous communities.<sup>32</sup> Indigenous communities may lack access to justice due to the dominance of Western legal systems and the lack of recognition of their customary laws.<sup>33</sup> The failure to document and recognize indigenous knowledge can lead to the loss of Nigeria's cultural heritage.<sup>34</sup> Despite the challenges, there are efforts to promote awareness and understanding of indigenous knowledge in the justice sector, including; training programs for justice sector officials on indigenous knowledge and customary laws.<sup>35</sup> Efforts to document Nigeria's indigenous knowledge and customary laws.<sup>36</sup> Engagement with indigenous communities to promote awareness and understanding of their rights and interests.<sup>37</sup>

#### **5. Perception of Stakeholders in the Criminal Justice Sector on Indigenous Knowledge**

The perception of stakeholders in the criminal justice sector on indigenous knowledge is crucial in understanding the potential for its integration into the formal justice system.<sup>38</sup> Some stakeholders in the criminal justice sector have positive perceptions of indigenous knowledge, viewing it as complementary. Indigenous knowledge is seen as complementary to the formal justice system, providing alternative dispute resolution mechanisms and promoting restorative justice.<sup>39</sup> Culturally relevant. Indigenous knowledge is recognized as culturally relevant, taking into account the unique cultural practices and traditions of Nigeria's diverse ethnic groups.<sup>40</sup> Some stakeholders believe that indigenous knowledge can be

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<sup>24</sup> V C Uchendu, *The Igbo of Southeast Nigeria*. Holt, Rinehart and Winston. 1965.

<sup>25</sup> P C Lloyd, *Yoruba Land Law*. Oxford University Press, 1962.

<sup>26</sup> M G Smith, *Government in Zazzau, 1800-1950*. Oxford University Press, 1960.

<sup>27</sup> D Forde, D, The Efik of Old Calabar. In D. Forde (Ed.), *African Systems of Kinship and Marriage*, 1950 (pp. 237-253). Oxford University Press.

<sup>28</sup> E O Ojo, Indigenous Knowledge and the Justice System in Nigeria. *Journal of African Law*, 62(2), 2008, 147-163.

<sup>29</sup> J F A Ajayi, *Christian Missions in Nigeria, 1841-1891*. Longmans, 1969.

<sup>30</sup> A B Fafunwa, *A History of Education in Nigeria*. Allen & Unwin, 1974.

<sup>31</sup> T O Obilade, *The Nigerian Legal System*. Sweet & Maxwell. 1978,

<sup>32</sup> T O Elias, *The Nature of African Customary Law*. Manchester University Press, 1956.

<sup>33</sup> A N Allott, *Essays in African Law*. Butterworths.1960

<sup>34</sup> D Forde, The Efik of Old Calabar. In D. Forde (Ed.), *African Systems of Kinship and Marriage* (pp. 237-253). Oxford University Press, 1950.

<sup>35</sup> National Judicial Institute. (n.d.). Capacity Building for Judges and Judicial Officers. Retrieved from < (link unavailable)>.

<sup>36</sup> Nigerian Institute of Advanced Legal Studies. (n.d.). Documentation of Nigerian Customary Laws. Retrieved from < (link unavailable)>.

<sup>37</sup> United Nations Development Programme. (n.d.). Community Engagement and Participation. Retrieved from < (link unavailable)>.

<sup>38</sup> E O Ojo, Indigenous Knowledge and the Justice System in Nigeria. *Journal of African Law*, 62(2), 2008, 147-163.

<sup>39</sup> O Elechi, *Doing Justice without the State: The Afikpo (Ehugbo) Nigeria Model*. Routledge, 2006.

<sup>40</sup> V C Uchendu, *The Igbo of Southeast Nigeria*. Holt, Rinehart and Winston, 1965.

effective in resolving disputes and promoting community cohesion.<sup>41</sup> However, other stakeholders have negative perceptions of indigenous knowledge, viewing it as backward. Some stakeholders see indigenous knowledge as backward and incompatible with modern legal principles.<sup>42</sup> Informal. Indigenous knowledge is often viewed as informal and lacking in legitimacy, particularly when compared to the formal justice system.<sup>43</sup> Limited. Some stakeholders believe that indigenous knowledge is limited in its scope and application, and may not be suitable for complex or serious crimes.<sup>44</sup> Several factors influence the perception of stakeholders in the criminal justice sector on indigenous knowledge, including: cultural background. Stakeholders from diverse cultural backgrounds may have different perceptions of indigenous knowledge.<sup>45</sup> Level of Education. Stakeholders with higher levels of education may be more likely to view indigenous knowledge positively.<sup>46</sup> Professional Experience. Stakeholders with experience working in the criminal justice sector may have more nuanced perceptions of indigenous knowledge.<sup>47</sup>

## 6. Challenges of the Recognition of Indigenous Knowledge in the Formal Sector and Way Forward

The recognition of indigenous knowledge in the formal sector faces several challenges. Indigenous knowledge is often not documented, making it difficult to access and recognize.<sup>48</sup> The formal sector is often biased towards Western knowledge systems, making it challenging to recognize and value indigenous knowledge.<sup>49</sup> Indigenous communities often lack the power and influence to assert their knowledge and rights in the formal sector.<sup>50</sup> The formal sector may lack the capacity to recognize and incorporate indigenous knowledge, due to limited resources and expertise.<sup>51</sup> To address these challenges, the following strategies can be employed. Documenting and preserving indigenous knowledge through digital archives, museums, and cultural centers can help to make it more accessible and recognizable.<sup>52</sup> Providing cultural sensitivity training for formal sector officials can help to address cultural bias and promote a more inclusive approach to recognizing indigenous knowledge.<sup>53</sup> Engaging with indigenous communities and involving them in the decision-making process can help to address power imbalances and promote more effective recognition of indigenous knowledge.<sup>54</sup> Building the capacity of formal sector officials to recognize and incorporate indigenous knowledge can help to address limited capacity and promote more effective collaboration.<sup>55</sup> Policy and legislative reforms can help to create a more enabling environment for the recognition of indigenous knowledge, by providing a framework for its protection and promotion.<sup>56</sup> It is therefore recommended that there should be an establishment of indigenous knowledge units within the formal justice sector can help to promote the recognition and incorporation of indigenous knowledge. Developing cultural sensitivity training programs for formal justice sector officials can help to promote cultural understanding and sensitivity. Supporting community-based initiatives that promote indigenous knowledge and justice can help to enhance community engagement and participation.

## 7. Conclusion

The integration of indigenous knowledge in Nigeria's criminal justice sector is a crucial step towards promoting justice, equality, and cultural sensitivity. As we conclude this discussion, it is essential to reiterate the significance of recognizing and valuing indigenous knowledge in the country's formal justice system. Indigenous knowledge has the potential to enrich Nigeria's criminal justice sector by providing alternative dispute resolution mechanisms, promoting restorative justice, and enhancing community engagement. The formal justice system must be sensitive to the cultural practices and traditions of Nigeria's diverse ethnic groups. Effective collaboration between formal justice sector officials and indigenous communities is necessary for the successful integration of indigenous knowledge. Building the capacity of formal justice sector officials to recognize and incorporate indigenous knowledge is essential for promoting cultural sensitivity and justice. Integrating indigenous knowledge in Nigeria's criminal justice sector is a complex and ongoing process. However, by recognizing the value of indigenous knowledge, promoting cultural sensitivity, and collaborating with indigenous communities, we can work towards a more just and equitable justice system.

<sup>41</sup> D Forde, *The Efik of Old Calabar*. In D. Forde (Ed.), *African Systems of Kinship and Marriage* 1950, (pp. 237-253). Oxford University Press.

<sup>42</sup> J F A Ajayi, *Christian Missions in Nigeria, 1841-1891*. Longmans, 1969.

<sup>43</sup> A B Fafunwa, *A History of Education in Nigeria*. Allen & Unwin, 1974.

<sup>44</sup> T O Obilade, *The Nigerian Legal System*. Sweet & Maxwell, 1978.

<sup>45</sup> T O Elias, *The Nature of African Customary Law*. Manchester University Press, 1956.

<sup>46</sup> A N Allott, *Essays in African Law*. Butterworths, 1960.

<sup>47</sup> National Judicial Institute. (n.d.). Capacity Building for Judges and Judicial Officers. Retrieved from <(link unavailable)>.

<sup>48</sup> United Nations. 2007. United Nations Declaration on the Rights of Indigenous Peoples.

<sup>49</sup> M Battiste, *Reclaiming Indigenous Voice and Vision*. UBC Press, 2000.

<sup>50</sup> L T Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*. Zed Books, 1999.

<sup>51</sup> O Fals-Borda, *The Challenge of Action Research*. In W. F. Whyte (Ed.), *Participatory Action Research*, 1987, (pp. 127-144). Sage Publications.

<sup>52</sup> International Council of Museums. (n.d.). Indigenous Peoples and Museums. Retrieved from <(link unavailable)>.

<sup>53</sup> Australian Government. (n.d.). Cultural Competence in the Workplace. Retrieved from <(link unavailable)>.

<sup>54</sup> United Nations Development Programme. (n.d.). Community Engagement and Participation. Retrieved from <(link unavailable)>.

<sup>55</sup> National Judicial Institute. (n.d.). Capacity Building for Judges and Judicial Officers. Retrieved from <(link unavailable)>.

<sup>56</sup> African Commission on Human and Peoples' Rights. (2010). Report of the African Commission's Working Group on Indigenous Populations/Communities.