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A Mertonian Assessement of the Criminal Justice System in Nigeria

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ABSTRACT

The criminal justice system is an integral part of the society and pertinently forms an important core of the subject matter of criminology. Nevertheless, theoretical applications in the criminal justice system have not been adequate in Nigeria. This paper therefore, appraises the administration of criminal justice in Nigeria from the perspective of the Merton's theory. The paper utilizes secondary data, and employed the multidimensional research approach comprising the ethnographic and historical research methods. The components of the criminal justice system were examined, and the Merton's theory was discussed in depth. Also, loopholes in the Nigerian criminal justice system were highlighted and remedies on how to address the loopholes were suggested. The paper recommends, among other things, that corruption and inefficiency need to be tackled by reforming and equipping the oversight agencies to make them more capable and effective. It is also suggested that the Federal government should fund the entire criminal justice system, especially in the areas of staff training and facilities to enable the staff to be equipped with the skills and professionalism needed for the effective discharge of their duties.

KEY WORDS: Merton, criminal, justice, assessment, system

INTRODUCTION

The Criminal Justice System in Nigeria commences with the commission of a crime and continues with subsequent interventions by the law enforcement agencies of the system that has the power to arrest, arraign, trial, sentence, and punish the offender. A criminal trial involves the state, the society and the offender who commits the act. The process of determining whether the accused or defendant did the act or committed the omission alleged against him or her, depends on sentencing him/her for his/her wrongdoing or deeds (Alemika, 2014).

Criminal Justice System which comprises the judiciary, police, prosecutors, prison and the legal aid scheme is not functioning effectively in Nigeria (Kolo, 2002). Despite claims that it is reducing crime, the system is in fact slowly collapsing, with inadequate manpower, unaccountability, corruption, and no common vision. The Nigerian pre-colonial criminal justice system for instance differs both substantially and procedurally

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from contemporary criminal justice system in Nigeria. While it cannot be posited that there was no crime in the traditional society, the justice system procedure involves almost all members of the society (Sa'ad, 1988; Kolo, 2002).

The field of criminal justice has accumulated a large body of knowledge based on much empirical testing; it has also accumulated a variety of rather specific theories such as the Merton's theory. Some attempts have been made to apply components of some theories to the criminal justice system in Nigeria. However, these attempts toward a theoretical revival of the criminal justice system in Nigeria are not succinct, as there is a dearth of studies in this regards. There are issues that have not been adequately clarified arising from paucity of studies in the area of the criminal justice system, such as the type of organization within the criminal justice system (e.g., police, courts, corrections) and underlying theoretical applications in the system. The application of theories in solving issues in the criminal justice system presents a way to reform the administration of criminal justice which has been the bane of the criminal justice system in Nigeria. The study aims at suggesting the simplest and most straightforward way to apply Merton's theory in the Nigeria criminal justice system.

METHODOLOGY

The present research made use of the ethnographic research survey which involves participant observation and historical methods. The observational technique provides the researchers with the ability to perceive events as they occur in an experiential manner. Again, this approach provides the researchers with the chance to accurately summarize; systematize and simplify the discourse at hand.

The historical approach on the other hand enables the researchers to engage in critical analysis and scrutiny of the events and developments in the criminal justice system in Nigeria across time and space. It evaluates past and current developments in the system and allows the researchers to move forward. It is in this context that the participant observation and the historical approaches are adopted as appropriate tools and instruments for appraising the criminal justice system in Nigeria using the mertonian perspective (Berger, 2000). Secondary data was used in this study.

THE CRIMINAL JUSTICE SYSTEM IN NIGERIA: A CRITICAL APPRAISAL

The fundamental mandate of the criminal justice system is to ensure that those who violate the law are brought to book through the institutional process laid down to dispense criminal justice in accordance with due process or rule of law. Nigeria justice system composes of three major elements: the police, the court and the prison. In the course of this discourse attempt will be made to demonstrate the six stages of treatment of offenders through the activities of the components of Criminal Justice System.

The Police and the Criminal Justice System in Nigeria

The police have a function of enforcing laws; in addition, they arrest those who are suspected of breaking the law, investigation

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of crimes and prosecution. According to Alemika (2014), the police system in Nigeria consists of the Nigeria Police Force and several specialized policing organizations with limited jurisdiction. On the other hand, the function of the courts is for adjudication and interpretation of laws, as well as making case laws; while the prisons' mandate is to punish those found guilty, as well as reforming and reintegrating them back to the society. Alemika (2009) posits that the criminal justice system consists of several agencies and decision stages that operate as a production chain or participants in a relay race.

According to Adeola (2009), the offender suffers a lot from the hand of the police. In most cases the offender get more implicated when the officer in charge of his or her case find out that the offender is not lettered. They use this avenue to exploit the offender. For instance, it is boldly written on the walls of police station that bail is free but the reverse is the case with the Nigerian Police. Moreover, there is no gainsaying the fact that police are very corrupt in the Country, an offender who is ready to bribe his way out might be eventually set free without presenting his case before the law court. At the cell where accussed persons are detained pending investigation, the offender are faced with problem of overcrowding, in certain instances offenders are kept in police custody for several days without fair hearing which is contrary to the law of the land.

The Court and the Criminal Justice System

After the police, the next component of the criminal justice system according to magnitude is the criminal court. Alemika (2014) defined the court as an agency set up by government to define and apply the law, to order its enforcement, and to settle dispute points on which individuals or groups do not agree. The importance of the courts in criminal justice system cannot be overemphasized.

As a matter of fact, one will observe that in the process of prosecuting an offender in court, the attitude of the judge and other court staff involved in the prosecution process towards the offender is in most cases very hostile and even do assumed emotionally as if the alleged offender is already guilty of the offence. Again, the offender at times has to buy his or her way to avoid the judge being harsh or to avoid miscarriage of justice. This type of situation could be referred to as justice purchased in the inner chamber before the court sits in the open. Besides, there are occasions where the offender's relatives of even defence counsel would have to offer bribe to the judge first in term of gratification. In essence, corruption is the bane to justice system in Nigeria. The personality, status and ethnic group to which the offender belongs to do influence the outcome of cases in Nigeria Justice System; As a matter of fact most offenders that are sentenced to jail are in most cases from the lower strata in the society in terms of financial capability and social connectivity.

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The Prison and the Criminal justice System

The last component of the criminal justice system is the prison. Nigerian prisons are supervised by the Nigerian Prisons Service whose mandate is primarily to keep custody of the legally interned. It also has the mandates of identifying the cause of the antisocial behaviours in the legally interned, and to ensure their rehabilitation, reformation and reintegration into the society (Ugwuoke and Otodo, 2015). However, the Nigerian prison system is bedeviled by a myriad of challenges which bug down its operation. Some of these challenges are internally caused, while a whole lot of them are externally generated (Ugwuoke and Otodo, 2015).

In Nigeria, most prisoners, particularly awaiting trial persons, look emaciated, skeletal with bones almost visible from the skin, curved back and often "decorated" with rashes all over the body (Adelola, 1994). As for the female inmates, they are not given soap, contrary to the provision in the Standard Minimum Rules for the Treatment of Offenders (CLO, 1995). Worse still, they are not given sanitary towels. As for ailment, Adelola (1994) discovered that they reported mostly abdominal pains, skin diseases, fever and cough.

MERTON'S THEORY

Like many sociologists and criminologists, Robert Merton was interested in explaining the root of social deviance; however, unlike most theorists, who posited that crime and deviance arise from individual causes such as a biological defect (Cullen & Agnew, 2006), Merton argued that certain groups participate in criminal behaviour because they are "responding normally to the social situation in which they find themselves" (Tierney, 2006). His theory of the five personal adaptations to anomie, also known as "strain theory", arose from the earlier sociological theory of anomie developed by Emile Durkheim (Gomme, 2007). Anomie is a sort of psychological "state of confusion" in which an individual observes a conflict between the prescribed and commonplace social goals and the culturally-acceptable, "legitimate" ways to pursue those goals (Gomme, 2007).

The first, and most common, reaction to anomie is conformity. Most people are conformists. Conformists accept both the culturally-defined goals, and the societally-restriced means of achieving such goals, as legitimate. They strive for success through the socially-acceptable avenues of educational and occupational advancement. The second possible reaction to anomie is that of innovation. Merton believed that much of criminal behaviour could be categorized as "innovative". Innovators are people who continue to embrace monetary and material success as a worthy goal (Lilly et al., 2007) but who turn to crime or deviance upon realization that their social status or experience limits access to legitimate means for success (Winfree & Abadinsky, 2003). Another of Merton's possible adaptation mechanisms to anomie is called ritualism. Ritualists alleviate the strain of anomie by lessening their own aspirations of success to a point where goals are more practically attainable (Gomme,

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2007). The fourth adaptation reaction – possibly the most discouraging – is retreatism. Retreatists make a more dramatic response to the stress of anomie. Strained by the forced expectations of social "success" through conventional and traditional avenues, retreatists essentially "give up": they renounce both their obedience to cultural goals and to the social norms that dictate acceptable ways to reach success (Lilly et al., 2007). The fifth type of adaptation to anomie outlined by Merton is rebellion. Rebellion can be called the most threatening and dangerous reaction mechanism, and it is certainly the greatest challenge to (and biggest critic of) established, normative society (Winfree & Abadinsky, 2003).

CRIMINAL JUSTICE SYSTEM IN NIGERIA: A MERTONIAN ASSESSEMENT

The criminal justice system is only one response to deviance; it is one of a range of formal responses that have come to rely upon to guard against certain forms of unwanted conduct. In Nigeria, the criminal justice system is bedeviled by a myriad of challenges which affects the smooth dispensation of justice. Some of these challenges which has been discussed under the components of the Criminal justice system can be attributed to the non-application of some criminological theories like the Merton's theory. Merton (1997) nicely points out that his contributions on anomie and deviance can help to reduce the challenges of saturation of the criminal justice system.

That the Nigerian criminal justice system has become an important subject of theoretical, social and political discourse is axiomatic. It is seen as the source of most of the woes befalling the country today. Its impact remains negatively profound and fundamentally debilitating on human rights and national development. Starting from the point of lodging a complaint with the police, through the trial process, to conviction and sentence, the overwhelming role of the inadequacies in the system can easily be felt; with the major problem being corruption, which leads to the miscarriage of justice.

The crucial question then is, how do we de-emphasize the over bearing role of financial inducement which is a manifestation of the Nigerian factor in the criminal justice process in Nigeria. It may be suggested that one way of doing this is for concerted efforts to be made on the revival of our social values, through the application of the theoretical postulations of Robert Merton. Like many sociologists and criminologists, Robert Merton was interested in explaining the root of social deviance; however, unlike most theorists, who posited that crime and deviance arise from individual causes (such as a biological defects), Merton argued that certain groups participate in criminal behaviour because they are responding normally to the social situation in which they find themselves. It hardly needs to be mentioned that there is an overwhelming need to engineer a change of attitude and a re-discovery of our traditional norms and values, which placed much emphasis on merit and respect for achievement attained through legitimate means. There is no doubt

that the arrival of Europeans and the commercial economy they introduced had the negative effect of relegating our customs and values to the background.

As have been demonstrated earlier on, the quest for material possession has been the driving force in the enthronement of the corruption in the criminal process. Officers and men of the Nigeria Police often engage in some of the despicable things highlighted above such as insistence on payment before grant of police bail, changing of the complaint such that a complainant becomes a suspect, etc because of financial inducement from one of the parties. In the same vein, Judges, Magistrates and Court Clerks do some of the things they do in relation to the criminal process largely because of financial consideration. It is only through such a re-orientation that the required social values can be entrenched in the consciousness of Nigerians.

As has been rightly observed, corruption has blossomed in Nigeria not because of absence of relevant legislation to tackle the problem, but essentially due to the weakness of key public institutions such as those in the criminal justice system, and the lack of political will to enforce the laws. In this connection one must mention the commendable roles of the Economic and Financial Crimes Commission and the Independent Corrupt Practices and other Related Offences Commission. While the relevance, usefulness and efficiency of these corruption watchdogs remain the subject of intense controversy, the point remains that it serves as a constant reminder to public officers of the need to maintain moral rectitude in the performance of their official duties. The same can also be said of the Code of Conduct Bureau, which has very recently succeeded in arraigning some prominent Nigerians, involved in economic crimes before the Tribunal established under the Act.

It is only when we begin to tackle this hydra-headed monster through these avenues that we can have a society where the criminal justice system will become efficient. This will ultimately create greater confidence in the criminal justice system in the country for a better dispensation of justice.

CONCLUSION/RECOMMENDATIONS

Although Merton does not fully spell out limits to the scope conditions of his anomie theory, he emphasizes money generating property crime as a key innovative response to the pecuniary cultural and structural imbalances upon which he focuses and, as far as one can tell, he is notably silent in his writings on anomie in the regards of the criminal justice system. this study has set out to discuss the problems of the criminal justice system in Nigeria from the Mertonian perspective. The study has discussed in depth, the Mertonian theory and its applicability in the Nigerian setting as it pertains the administration of criminal justice. This study suggests that functional specialization needs to be introduced in the Nigeria Police Force, and credible system of performance evaluation and rewards should be introduced in the criminal justice systems, Corruption and inefficiency need to be tackled by reforming and equipping the

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oversight agencies to make them more capable and effective.

The list of areas of reform in the criminal justice system in Nigeria is in no way exhaustive. There are still many more problems that are not enumerated. What is however certain is that the general consequence of these problems has been a poor criminal justice system leading to a denial of justice either to the defendant or the victim. However, many of the persons caught up in the criminal justice system are usually the poor and less privileged. Thus it is imperative that in discussing the way forward one must ensure that any suggestions must have a pro poor content. With the level of explosion and the way the country has developed in recent time, the experience in Nigeria has shown us that the reforms of the criminal justice system is not something to be taken for granted.

Consequently upon the above, the following recommendations are proffered by this study:

1. The starting point of the modernization of the criminal justice system in Nigeria and reducing the congestion therein is by providing a well-articulated policy that is geared towards reduction of caseload per judge and increasing the disposal rate of cases. It can also be achieved by creation of specialized criminal courts, introduction of plea-bargaining, appointment of more judges, case management and tracking system etc.
2. The research paper shows that early contact with a lawyer reduces the chances of detainees being tortured or even summarily executed by the police. For many pretrial detainees, access to counsel is an unrealistic dream. They are often too poor to afford the services of a lawyer; the institution primarily responsible for filing this gap—Legal Aid Council of Nigeria—is as under-staffed as it is underfunded. Any serious reform effort must prioritize provision of legal assistance for criminal suspects within the first 48 hours of arrest.
3. The Federal government should be encouraged through advocacy to fund the entire criminal justice system, especially in the areas of staff training and facilities to enable the staff to be equipped with the skills and professionalism needed for the effective discharge of their duties.
4. The English law which we copied has been reviewed severally to meet the ever expanding challenges of the modern time, while our own criminal justice laws remain the same with no recent review for it to fit to the present situation of the country. The two principal codes which govern the criminal prosecution in the country are the criminal procedure code which is applicable in the northern part of Nigeria and Federal Capital Territory; and the criminal procedure act which is applicable in the Southern States. These codes did not make clear provisions on the issue of venue of trials, timelines for role players to perform their statutory functions, sentencing guidelines, alternatives to imprisonments, holden charges etc which all serves as an avenues for delays of trials and detention without trials.

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Therefore, this study suggests a review of these laws to meet up with current trends.

5. Justice should be made available to the accused, the society and to the victim. Presently, the criminal justice systems in Nigeria do not recognize the right of the victim. For a criminal justice to be effective, victim of criminal acts should be placed in high esteem and should always be catered for.

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