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The Common Man and the Cross of the Law in Nigeria: The Parody and Crisis of Life

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Abstract:
The Common man in Nigeria is closely knitted to nature and he perceives himself as the subject of the divine, regulated by native law and customs. He is aware of law in the sense of justice and does not need any written source to distinguish the right as appropriate and to abhor the wrong. His own sense of law does not require interpretation and the judges of his own dispute are not influenced by idiosyncrasies or subterranean forces. Justice in his own native society is tailored towards social solidarity, hence there is no absolute winner or loser. The advent of modern society and the arrival of colonial masters made it imperative for human or positive law. There was a paradigm shift of the sense of law and justice. The common man reluctantly enters the vehicle of the English law but chose to carry the cross of the law in his journey to the modern society. Here is the parody and the crisis. This study examines the disorientation and the position of the common man and why law has remained lame in curing the fundamental ills of society in Nigeria with a view of making law to serve all including the common man.
This study is a doctrinal research and the resources are obtained from both primary and secondary sources. The primary source includes the Constitution, Statutes and decided cases in Nigerian courts while the secondary sources are books, journals, newspapers, magazines.
The study reveals that a large chunk of the statutes, regulations and rules are like paper tiger as they are ignored in preference to the divine / native law considered sacrosanct.
There is a large disconnect therefore between the human law and what society believes to be law. The idea of justice from the court of law is received with mix feelings. The law can be made more efficacious if it is made to reflect the values, traditions and beliefs of society.

Keywords: *Common man, common law, justice, natural law, palace court*

1. Introduction

The Common man in the society of English law in Nigeria is a refugee in his own land. He is like a fish outside the water in his day-to-day interaction with the phenomenon called law. This is so because of the language, the procedure, purpose, the interpretation source and all other features associated with the English law which are completely different from his own perspective of law. The English law, he believes, does not serve him, but he has an obligation to bend for the law, hence there are occasional breaches. This study examines who is the Common man in Nigeria; the English law; the Common man and historical jurisprudence; implication of English law to the Common man; how to harmonize the common man with the English law.

2. The Common Man and the Nigerian Legal System

Legal systems and the functioning of law in the system influence the growth of theories and scientific views that are related to law. Nigeria operates a Common law legal system as opposed to civil law[1]. In the common law system, the system of precedents created by the courts creates a major form of law making[2], whereas in civil law countries, law making is predicated on legislation. A legal system means the law and the administration of justice system in a given state, country or a given geographical entity[3]. Legal system as observed by Dias, provides a framework within which people conduct their affairs… while the overall task is to achieve justice in society[4]. A detailed study of the Nigerian legal system should include its characteristic features, the sources of its laws and how the various institutions interact within a defined social, economic and political milieu. Nigeria gained her independence from Britain on 1st October, 1960 but before this period the colonial masters administered the various nationalities with the imposition of foreign laws. With the amalgamation of the Northern and Southern protectorate in 1914, there came into being a new political entity. Thus, we have an agglomeration of nationalities with their different native laws and customs merged

[1] Gasiokwu, M. O, U. (1999) Sociology of law. Enugu, Mono Expressions Ltd. P. 8.
[2] Ibid P. 8
[3] Malemi, E. (1999) The Nigerian Legal System (Text and Cases) Lagos. Princeton Publishing Coy, P. 1.
[4] Dias, R. W. M (1985) Jurisprudence London. Butterworth & Coy (Publishers) Ltd P. 62.

into an alien political entity[5]. The point must be stressed that the existing different nationalities had their laws founded on their customs which were all subordinated to the foreign laws. The British imperial power had to impose a legal system to keep this new entity together. This system of administration and laws laid the foundations of the Nigerian legal system and outlined the laws that would be applicable to this new entity. It provided that the English common law, the doctrine of Equity and statutes of general application in force in England as at 1st January,1900 would be deemed to apply throughout Nigeria and thereby inaugurated the reception of the English Common law[6]. The received English law covers both the rules of evidence and procedure since as Maitland once observes, "the English common law rules are embedded in the interstice of procedure"[7]. It is important to have a sharp understanding of what common law connotes.

As observed by Glanville Williams, it is "the law that is not the result of legislation, that is, the law created by the custom of the people and decision of the judges[8]". It may mean the law developed by the old Courts of Common Law as distinct from the systems (technically called equity) developed by the old Court of Chancery[9]. According to Akomolede[10], it is not called common law because it is common to the whole of England, but because it developed complex system of law that became acceptable to the generality of the people in such areas as inheritance, divorce, custody of children etc.

The promulgation of Ordinance No.3 of 1863 formally introduced English law to Lagos and from there to the rest of the country[11]. The gradual imposition of the laws of the colonial Britain on Africans was borne out of the race supremacist attitudes of the British who considered it an abomination for a whiteman to be subjected to trial in the court of an African chief. The truth is as observed by the famous jurist, Kayode Eso, it does not mean that the British met an anarchical state. There were laws before the so called Pax Brittania, even though they were regarded by the settlers and merchants as barbarous. There was in existence a full system of law known as the local customary law which was variously but despicably referred to as "native law and custom" or "local custom". These epithets, however, had judicial backing, notwithstanding the derogatory attitude which was directed to anything native[12]. The African legal mind and particularly the Nigerians was not a tabula rasa before the arrival of the British. There is plethora of authorities to fortify the fact that the concept of law and legal system had existed in Nigeria and Africa countries before the colonization and attainment of independence by many of the African countries. In the Nigeria case of Oke Lanipekun Laoye & Ors V Amao Oyetunde[13], Lord Wright in delivering the judgment of the Privy Council made the following pronouncement:

The policy of the British Government in this and in other respect is to use for purposes of the administration of the country the native law and customs in so far as they have been varied or suspended by statutes or Ordinances affecting Nigeria. The courts which have been established by the British Government have the duty of enforcing these native laws and customs, so far as they are not barbarous, as part of the law of the land in particular, native law and customs regulating the appointment and election of chiefs have been recognized as having the force of law.

It is clear that the concept of a legal system was not alien to the people. Either through the Oba, Obi or Emir or Clan heads, rules were made and enforced. However, with the coming of the white man, a foreign legal system was superimposed on our various communities, so much so that it is from the period of the colonial take-over that that the history of the legal system as we know it today really begins.[14]

The different ethnic nationalities in Nigeria before the arrival of the colonial overlord did not have any problem with the use of their law and legal system to govern the society with minimum disorder. The laws were engraved at the palms of the elders, hence there was no need for discovering through interpretation what the law was that applied to a particular situation. The system of justice was simple and not complex as being witnessed by the common man today. The language of the traditional court was the dialect of the parties. Hence there was no need for interpreter as we have in the English legal system. The parties did not need paid advocates and no litigant dared say anything other than the truth. Falsehood was known by everybody to attract supreme consequence and wrath of God. The essence of the justice in the traditional African societies of Nigeria was reconciliatory, hence there was neither a victor nor vanquished in the administration of justice.

English law brought with it English culture and gradually the minds of the people became twisted to the extent that they started to see Anglicization as being synonymous with civilization.[15] The common man is alienated and estranged like a fish outside the water, yet he has no option that to surrender to the dictates of positive law and rules of procedure which to him do not meet the end of the African concepts of justice. Polygamy is his way of life and would not see any justification for being castigated for taking a second wife. To him, stealing is a crime. The presumption of innocence and the need to prove his case beyond reasonable doubt is uncalled for. The Yoruba man believes that a thief should be condemned rather than the victim of theft, hence the Yoruba

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[5] Onyiuke, C. M. (1986) "How foreign Are our Nigerian Laws? In Nwogu E. I. (Ed) Current Legal problems in Nigeria. (Proceedings of the Anambra State Law Conference, Enugu, Fourth Dimension Publishers Coy., Ltd P. 36.

[6] Ibid

[7] Elias, T. O. (1990) Judicial Process in the Newer Commonwealth, Lagos, University of Lagos Press. P. 13.

[8] Williams, G. (1982) Learning the Law London. Stevens & Sons. P. 25.

[9] Ibid.

[10] Akomolede, T. I. (2008) perspectives on Nigerian Business Law. Lagos Niyak Print & Law Publications. P. 7

[11] Oyebode, A, (2005) Law and Nation Building in Nigeria (Selected Essays) Lagos Centre for Political and Administrative Research P. 164.

[12] Eso, K. (1990) Thoughts on Law and Jurisprudence. Lagos M. I. J. Professional Publishers Limited. P. 260

[13] (1994) A.C 170. See also Elias, T.O. Op. Cit. P. 27.

[14] Oyebode, A. Op. Cit PP 165-166

[15] Ibid P. 165

adage……"Won ni ka pa enu po ka ba ole wi, e nso wipe ibi ti oninkan fi eru si ko dara" meaning in English (we should rebuke a thief rather than condemning the owner of the property for not keeping the property safely).

In the pre-colonial days, the Yoruba man would display his farm products along the road with a symbol indicating the price without anybody attending as sales clerk. A potential buyer would pick his quantity and deposit the price with a clear mind not to steal. It was difficult in the era for murderer to escape the sword of justice as it is in the contemporary Nigerian society where cases of murder remained unraveled.

English law…became a most powerful tool for the penetration of the traditional African economy and the subversion of the social- ethical values of our people such that their erstwhile communalistic ethos was replaced by the individualistic, beggar-thy neighbours, dog-eat-dog syndrome characteristic of capitalism of the state of primitive accumulation.[16]

The English law is substantially at variance with the esteemed and cherished value of the common man. The common man believes in equality but the English law as practiced, he believes, echoes only equality but pragmatically it abhors equality. The justice for the common man is not the same justice for the privileged few. The uncertainty of law makes it practically impossible for the common man to assimilate the law and the legal system. This uncertainty makes it also inevitable to engage the service of a lawyer for the purpose of ascertaining what the law is in adjudication over clash of social interest between the members of the society.

The English law and legal system were imposed to serve the economic ends of the colonial masters and not because they were superior to the African ideas of law and legal system. The consequence of imposition is that of "things falling apart" and the law has failed to cement the fabric of social order. The objective of the judicial process in traditional African societies was captured by Gluckman in his statement:

when a case came to be argued before the judges, they conceived their task to be not only detecting who was in the wrong, and who in the right, but also the re-adjustment of the generally disturbed social relationships, so that these might be saved and persist. They had to give judgment on the matter in dispute, but they had also, if possible, to reconcile the parties, while maintaining the general principle of law.[17]

The common man seeks reconciliation but the English law has foreclosed the goal, hence the Yoruba proverbs…… "A kii ti kootu de wa se ore" meaning in English (We cannot become or continue friendship after leaving the court).

The sense of solidarity in a cause became gradually eroded by the English law and legal system. It is very common in African societies for a dispute to involve, not only the direct parties to the incident which cause it, but also the family or kinship groups of both immediate parties.[18] It was not common for members of the family and the community to have unresolved disputes leading to acrimony or war. The imposed legal system was a hand maiden of the colonial enterprise, more potent in many ways than the maxim gun. The people have refused to shed their prejudice against the white man's method of doing things with rules. The alien language of the judicial process together with its strange paraphernalia, court forms, procedure technicalities has assured it a hard hearing of the people's court.[19] The common man has a feeling of nostalgia and he does not hide his frustration and distaste to the English law and legal system. The increasing resort to mob justices, self-help and vigilantes by aggrieved Nigerians should be enough evidence to convince the doubting Thomases that the country is perilously close to the nadir of the legal process.[20] The rising cases of ritual killing, hired assassination, kidnapping for ransom, cases of baby factory, armed robbery, corruption,jail break, etc is a pointer to the failure of the English law and legal system to ensure social order. The law has not been animated by the spirit of the people which it is meant to serve and according to Oyebode, a legal system that fails to carry along the population generally while catering to the needs of a miniscule is actually nurturing the seed of its own destruction.[21]

3. Historical Jurisprudence and the Common Man in Nigeria

The search for a definitive concept of law has fragmented jurists into different schools of jurisprudence, one of which is the historical school. The historical school jurists of Germany headed by Savigny intended to find the origin of law in the society came up with an idea of Volkgeist -i.e national will or popular consciousness of the people which is mostly a hypothetical concept difficult to be identified with reference to use in any particular community. Although by the use of that concept, they succeeded a great deal in finding out that every law is rooted in the past and the legal norms are not the product of abstract reasoning or laid down by the authorities. That law is a matter of unconscious growth.[22]

The common man in the Nigerian legal system is the average Nigerian whose inner man or real self is governed by his native laws and customs, and by so doing, is closely affiliated to his historical past. His own sense of justice is as dictated by the historical past of his society of natural rights and not technical justice. The common man therefore is not the affluent or the poor; neither is he the literate or the illiterate. He is the seeker of justice but whose mind is subordinated to the value of the historical past in his society. Therefore the common man is not gauged by status, education or achievement.

The historical jurist thought of law as something that is found not made. Hence they studied the past rather than the present of law.[23] The (so called) historical school of the nineteenth century, led by the very theory of Von Savigny and Maine, shows us that

[16] Ibid .
[17] Elegido, J.M. (1994) Jurisprudence Ibadan. Spectrum Books Limited P.128
[18] Ibid P. 129.
[19] Oyebode, A. Op. Cit P.135
[20] Ibid P.6.
[21] Ibid P.5
[22] Ladan, M.T. (2010) Introduction to Jurisprudence (Classical and Islamic) Lagos. Malthouse Press Limited. P.60.
[23] Ladan Ibid P.60

law cannot be fully understood until its historical content is studied and appreciated.[24] Savigny "propounded the theory that the nature of any particular system of law had to be a reflection of the spirit of the people who had evolved it.[25] Maine pioneered a new approach, studying the history of different legal systems and the legal set-up of primitive societies, to enable a full understanding of law.[26] Historical jurisprudence came to prominence during the German debate over the proposed codification of German law. Friedrich Von Savigny argued that Germany did not have a legal language that would support codification because the traditions, customs and beliefs of the German people did not include a belief in a code. The Historicists believe that law originated with the society.[27] The gravamen of the historical approach lies in her insistence on the existence of a link or relationship between law and the historical past especially in relation to the values or norms of such past. It seeks to answer the question as to how much norms of the present time have been influenced by the historical past. It emphasized the connections between law and other aspects of the culture of the people and further insisted that it is necessary to investigate the antecedents of the present law in the past to be able to fully understand it.[28]

The historical school of jurisprudence is premised on the belief that the study of existing law requires an understanding of historical roots and growth. Therefore, such questions as to what extent has law been moulded by its historical development and to what degree do contemporary legal doctrines and institutions bear the mark of past centuries can only be answered by examining and interpreting the history of law.[29] Savigny, a leading light of the school postulated that "law originated as a custom and a sentiment, and was then later elaborated by the legal science and inculcated into human belief and in the final phase, was determined by a binding act of legislation. He thus recognized the relationship between law and social change.[30] The historical school posited forcefully in their reaction to natural law "that each nation and era had its own unique character. This character and the national spirit (*Volkgeist*) should not have a universal natural law imposed on it, since this would affect its free development. The idea of a unique national spirit which must be respected is the basis of much of what Von Savigny says.[31] Von Savigny's central idea was that law is an expression of the will of the people. It does not, he said, come from deliberated legislation but arises as a gradual development of the common consciousness of the nation.[32] He was unequivocal in his view that 'the nature of any particular system of law was a reflection of the spirit of the people who evolved it"[33] He was strictly speaking not opposed to codification but to him "the time for codification is when the legal system has added the technical skill of specialist lawyers to the nations convictions".[34] He identified three stages of developmental process as opposed to the six –stage identified by Maine in his construct. First, principles of law deriving from the convictions of the people, second, law reaches its pinnacle, with juristic skills added to these convictions. It is at this stage that codification is desirable to retain the perfection of the system. The third stage is one of decay.[35] Maine in his own construct identified six stages which he coded as – Royal judgements, custom, codes, legal, fictions, equity and legislation.

The postulations of the historical school have been greeted with vicious attack by critics who believe that the comment of *volkgeist* is out-modeled. Doherty in his evaluation observed that "many countries have groups of different races and different culture, different religions or totally different political persuasion. Differing sprit exists even in countries with strongly totalitarian governments such as in Poland".[36] To Doherty even though Savigny allowed for inner circles of groups and localities within a country, his theory cannot accommodate these many countries where a choice of spirit exists. The criticism of the school should not be over-emphasized otherwise it would amount to throwing away the baby with the bath water. The contribution of the school is an eye- opener to the fact that imposition of alien norms will be counter -productive as it would not guarantee the cherished social order of the society. Applying the postulation of the historical school to censorial jurisprudence in Nigeria will enhance the efficacy of law as an instrument of social engineering. There is no doubt the fact that Nigeria is a federation and a conglomeration of many ethnic nationalities. There are thirty six states in the federation with the Federal Capital Territory, Abuja. Each state is structured into local governments of various cultural identities. The truth is that notwithstanding the diversity in culture and ethnicity, the interactions among the different groups have created a unity of beliefs in certain ethical and cultural values. There is the culture of respect for elders among all the tribes. The notion of man and woman coming together in marriage is not in doubt in all the tribes, hence homosexual behavior is perceived as abnormal traits. The man is perceived as the head of the wife with a duty to protect and cater for the welfare of the woman, hence the woman must bear as surname, the name of the husband. Children are subject to the control of the parents and must defer to the parents. In almost all the ethnic nationalities, the monarchy is the exclusive preserve of the male counterpart. The argument could be that the society is growing but that does not mean that the people are detached completely from their past. Western religion has not prevented the celebration of traditional and

[24] Doherty, M. (1997) Jurisprudence: The philosophy of Law. London. Old Bailey Press P.234.
[25] Eso, K. (1990) Thoughts on Law and Jurisprudence: Lagos. MIJ Professional Publishers Limited P.259.
[26] Doherty, M. Op. Cit P. 235.
[27] Govekar, K. Comparison of Historical School with Analytical School of Jurisprudence. Margao, G.O.A. Kare Collage of Law. See www.grkarelawlibrary.yolasite.com.
[28] Akomolede, T.I. (2008) Introduction to jurisprudence and Legal Theory. Lagos Niyak Print and Law Publication S.P. 49.
[29] Akomolede, T.I Ibid.
[30] Gasiokwu M.O.U (1999) sociology of Law. Enugu Mono Expression Limited P.6.
[31] Doherty, M. Op. Cit P. 239.
[32] Ibid.
[33] Ibid.
[34] Ibid. P. 240.
[35] Ibid.Pp. 240-211
[36] Ibid.

cultural festivals. People still wear traditional clothes. The average African man cherished his African meal-pounded yam, *tuwo, gari* etc are eaten with soup bare handed. The corpse are buried and not cremated and they are buried in a private place and not a public place (the Cemetry). The average African man understands the implication of not speaking the truth and would not venture to say anything under Oath in a traditional gathering that is falsehood. The people can be summarized as placing great values on their cultures and customs which include the law. For a modern government to succeed, there is a need to understand the law and shape it to suit modern reality otherwise the failure to understand the values that underscored the norms and a complete jettison of the historical antecedent will create a parallel behaviour. With the growth of society and civilization, certain cultures and values out modeled are gradually being abandoned by the people. For instance, people have embraced the use of tooth paste and brush in replacement of chewing stick. No legislation should canvas the use of chewing sticks. However, some values are constant and should be protected by law.

4. Implication of English Law for the Common Man

Sociological jurisprudence developed as a synthesis to the thesis and antithesis which legal positivism and natural law postulations represent. It proceeded on the pedestal that while positive laws are a means of social control such laws must be constantly fine-tuned to meet the interest and evoke positive changes in the society. Thus any law that fails to serve the interest of the society that it is meant to regulate cannot be law strictly so called.[37] The school believed that law is one of the methods of social control while it is equally concerned with social justice and how best it can be achieved in the society.[38] Law in every society must balance the needs of the society with the needs of the individual. In Nigeria and indeed in all African countries, law is crucial to the survival of social cohesion and fostering of social order. Law exists and equally to enable individual members of society to achieve his aspiration for social well being without interference by another. The state social order in Nigeria is founded on ideals of Freedom, Equality and Justice[39] and in furtherance of the social order.[40]

(a) Every citizen shall have equality of rights, obligations and opportunities before the law;
(b) The sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced.
(c) Governmental actions shall be humane;
(d) Exploitation of human resources in any form whatsoever for reasons, other than the goods of the community, shall be prevented; and
(e) The independence, impartiality and integrity of courts of law, and easy accessibility thereof shall be secured and maintained.

The objective as laudable as it is, is a paradox of the reality to the common man whose cry daily is for justice in the face of discriminatory policies of the government. The law to the common man, exists to serve the interest of the ruling class. The equality of rights, obligations and opportunities before the law is considered a cosmetic idea and it is far from the reality. The law has failed to guarantee the sanctity of human lives in the face of terrorism, increase spate of ritual killing, armed robbery, and hired assassin. Human rights violation persists notwithstanding the existence of various legislations. Nigeria is blessed with abundant human and natural resources. The exploitation of the resources cannot be said to be in the interest of the good of the community in view of the menace of corruption that has pervaded the rank and file of governmental services. Bunkering and oil theft is daily on the increase. Courts in all the climes should be the sentinel of human liberty where the citizens are guaranteed easy accessibility. The procedure in the courts and circumstances in which the courts operate are obstacles to the common man easy accessibility of justice.

The English law compared with the native laws and customs is perceived by the common man as a form of oppression to the down- trodden. For instance, the common man would not see any justification in the Land Use Act which has stripped him of the ownership of his land only to relegate him to the status of a tenant in his own land. The Act Provides:

An Act to vest all land comprised in the territory of each state (except land rested in a Federal Government or its agencies) solely In the Governor of the state, who would hold such Land in trust for the people and would hence forth be responsible for allocation of land in all urban areas to individuals resident in the state and to organizations for residential, agriculture, commercial and other purposes while similar powers with respect to non-urban areas are conferred on local governments.[41]

The Act empowers the government to issue certificate of occupancy to the grantee of land which is for a maximum period of ninety-nine years. The practice is contrary to the perpetual right of owners of land before the land use Act took effect.

The common man in Nigeria believes in the continuity of life after death and with that perception, burial rites or rites of passage for the deceased elders in the family are accorded great priority. The idea of burial in the cemetery or cremation has no historical basis in the various ethnic nationalities in Nigeria.

The English law prohibiting burial in the residential apartment is considered an affront, desecration and pollution of the age-long customary practice of the people maximum period of ninety-nine years. The practice is contrary to the perpetual right of owners of land before the land use Act took effort. The English law prohibiting burial in the residential apartment is considered as affront, desecration and pollution of the age -long customary practice of the people. The law is against the spirit of the people. The common man would pray not to be consumed by fire whether in life or death. It is not the spirit of the people for the dead to be

[37] Akomolede, T.I. OP. at P. 58.
[38] Ibid. P. 59.
[39] S. 17 (i) of the 1999 Constitution of the Federal Republic of Nigeria.
[40] S. 17 (2).
[41] See the long title of the Land use Act Laws of the federation of Nigeria 2004.

cremated. The common man takes pride in visiting the tomb of his deceased parents to pay homage. In the Yoruba speaking part of Nigeria and some tribes, the monarch i.e. the king is buried within the palace and no legislation can change the practice.
Traditional institutions in the various ethnic nationalities are accorded dignity, honour and respect. The monarch known as Oba (Yoruba) Emirs/Sultan/Shehu (Hausa/Fulani/Kanuri) and the Obis/Igwe (Igbo) are regarded as the second in command and the representative of God on earth. It is expected of everybody in the particular domain of a monarch to accord him due respect. For instance, in any social function, everybody must rise in honour of the monarch until he gives direction to the contrary. The monarch is considered ordained by God, hence the process of consultation of the god before a person is installed by the people. The emergence of the monarch in the pre-colonial days is through the king-makers from among the princes of the royal blood. The English law which introduces the staff of office or instrument of appointment was a ploy by the colonial masters to subjugate the leadership of the various ethnic groups. The practice of deposition or banishing a monarch by the government has no historical basis in the custom of the people. As in ancient Oyo kingdom, an erring king would not need to be told before opening the calabash (committing suicide) The order of precedence that subordinated the monarch to the control of the Local Government Chairman who is to issue permits to the monarch before he can travel or the practice which requires the monarch to rise up in honour of the Local Government Chairman in any social function is considered as an assault to the sanctity of the office of the monarch. The monarch under the imposition of the English law has lost their grip and the reverence of their subjects.
The adjudicating system under the English law is another cross of the common man. The language, the solemnity and the atmosphere of the court have created a loss of confidence for the common man in his search for justice. The language of the court is English even in the native court notwithstanding the fact that the presiding officers understand the language of the parties. The requirement of proof in matters within the public domain and the delay in the process of adjudication are sufficient bulwark to the common man in the realization of justice. The court therefore is considered a battle ground hence the saying in Yoruba language……. *"A kii ti kootu de wa se ore"* (No friendship after the court proceeding). The common man which includes both the parties and the public irrespective of where the scale tilts are always with the feelings of injustice.

5. Harmonizing the Common Man and the English Law

The movement from the state of nature to the society made it imperative for man to be saved from himself. Law as propounded by the sociological school of jurisprudence is an instrument of social engineering and therefore a veritable vehicle to move from the state of nature to the society. There is a need for government to be constituted to oversee the affairs of the society as a whole and in the interest of all and not that of an individual. Nigeria is a conglomeration of more than four hundred ethnic nationalities with different customs, cultural /practices and ways of life. English language is the *lingua franca* of Nigeria as a former colony of Britain. The language is a common medium for communication and it has gained worldwide acceptance. English law is imperative for social order especially in a heterogeneous nation like Nigeria. The Nigeria state is structured into states and local governments. The laws of each state must accommodate the historical values of the ethnic groups within the states. The legislature at the federal level must identify the common areas of interest of the ethnic groups and reflect it in the legislation. For instance, the National Assembly in 2014 enacted the Anti-Gay Marriage Law in Nigeria. The various ethnic nationalities are unanimous that marriage is the union of man and woman and not the contrary. A contrary piece of legislation would be deemed as overlooking the spirit of the people in Nigeria. The common man has a duty in the task of harmonizing himself with the reality. The value celebrated and embraced by the common man must be the value of the society and not his own personal value or the value of the minority. The veil must be pierced from the eyes of the common man through education particularly in the functioning of the legal system. The attitude, opinions and values of people are often very difficult to ascertain or measure.[42] The fate of Nigeria cannot be staked on the view of the common man otherwise the goal of becoming a developed nation will be a mirage. Nigeria cannot continue to exhibit undue reverence for the past" in a situation where the world has become a global village in view of technological development. The spirits of the people cannot be the only source of law. The society grows and novel situations such as environmental, security, technology etc are not linked with the spirit of the people, and they must be accommodated in order for the society not to disintegrate.

6. Conclusion

The common man and everybody in the Nigerian society require the English Law (positive law) in order to realize his goals of peace, order and security. The English Law is indispensable in the modern world of technological development and continuing innovation. The common man has the obligation and he must be prepared to shed the conservative toga in order to move with the modern age as the society cannot afford to wait for the common man or do things in the way of the common man. As the common man cannot run away from the use of computer or the modern means of communication and transportation he must also embrace the English legal norms and procedure. However, it is observed that the common man is not without a point, our legislature must strive to accommodate the view of the common man with the modern day reality.

[42] Akomolede, T.I. Op. at P. 57.

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