TURKISH ACADEMIC RESEARCH REVIEW

Persecuted Colonial Gambia Chiefs

Zulüm Gören Gambiya Sömürge Şefleri

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Öz

Nitel analiz yoluyla, Gambiyalı şefler ile sömürgeci efendileri arasındaki bozulmuş ilişkiyi, ikincisinin birincisine uyguladığı disiplin cezalarının yasal sonuçları zemininde inceledi. Makale, adaletin dağıtılmasında adaleti sağlayan yasal süreç kavramını ele almadan önce konuyla başlamıştır. Sömürge yöneticileri, normal standart yasal prosedürleri, Magna Carta hükümlerini ve yasal emsalleri göz ardı ederek, kalıpların dışında düşünmeye cesaret eden şeflere acımasız cezalar verdiler. Bu makale, arşiv materyalleri, sömürge yazışmaları ve bilimsel dergi yayınlarından yola çıkarak, sömürgecilerin, şeflere uygulanan ikamet kısıtlamalarına dönüşen zorbalıklarına dair açıklamalar geliştirmiştir. Avrupalı personel eksikliğinden kaynaklanan idari güçler ayrılığının yokluğu, Gambiya'daki sömürge yönetiminin hukukun üstünlüğünden ziyade insan üstünlüğünün ön planda olduğu bir duruma dönüşmesine neden olmuştur. Şefler ve sömürge idarecileri arasındaki işbirliği eksikliğinden kaynaklanan zorlayıcı yaklaşım anlaşmazlıkları körüklemiştir. Çalışmada atıfta bulunulan içtihatlar, Gambiya'daki sömürgeciliğin, sömürge yönetiminin kaçınılmaz sonuçlarına katlanmaktan başka seçeneği olmayan zayıflar üzerinde güçlülerin kontrol uyguladığı bir vaka olarak kaldığını göstermektedir. Çeşitli kaynaklardan elde edilen bilgiler ışığında, tarihteki sürgün örnekleri ve bu eski uygulamanın Gambiya'ya nasıl uygulandığı, sömürge yöneticilerinin adil oyundan ödün veren yasal standartları nasıl benimsediklerini aydınlatmak amacıyla ele alınmıştır. Gambiya Ulusal Arşivi'nden elde edilen birincil materyallerle, Avrupalı sömürgecilerle anlaşmazlığa düşen şeflerin durumları ele alınmış, böylece bozulan ilişkilerin nedenleri ve doğası tespit edilmiştir. Bulgular, yerel yöneticilerin neden İngiltere'deki normal durumla çelişen durumlarla boğuştuğunu ortaya koymuştur. Bu durum, bir dizi meseleyi ele alırken benimsenen alışılmışın dışındaki taktikleri kısmen açıklamaktadır. Sonuç olarak, Gambiyalılar medeniyete muhtaç bir halk olarak algılandığından, denizaşırı sömürge yöneticilerinin faaliyetleri sömürge ofisi ve İngiliz parlamentosu tarafından görmezden gelinmiştir. Dolayısıyla İngiltere'deki koşulları Gambiya gibi bir sınır bölgesinde taklit etmek boşuna bir çaba olacaktı çünkü Avrupa koşullarını anlayabilmeleri için medeniyet merdiveninin daha üst basamaklarında olmaları gerektiğini düşünüyorlardı. Sömürgecilerin zorba yaklaşımı, nihayetinde sömürge tebaasının işbirliği eksikliğini daha da şiddetlendirerek anlaşmazlığa yol açtı.

Anahtar Kelimeler: Sömürgecilik, Gambiya, Sürgün, Yasal Süreç, Sömürge Yönetimi, İkamet Kısıtlama Politikası.

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Abstract
Through qualitative analysis, the paper examined the soured relationship between Gambian chiefs and their colonial masters against the backdrop of the legal implications of the disciplinary actions the latter meted out to the former. The article commenced with the theme, before addressing the legal concept of due process, which ensures fairness in the dispensation of justice. By disregarding normal standard legal procedures, the provisions of Magna Carta, and legal precedence, the colonial administrators inflicted draconian punishments on chiefs who dared think outside the box. From archival materials, colonial correspondences, and learned journal publications, the paper advanced explanations for the highhandedness of the colonialists, which degenerated into residency restrictions imposed on the chiefs. The absence of separation of administrative powers, caused by an acute shortage of European personnel, resulted in a situation whereby colonial rule in The Gambia amounted to a situation through which rule of man took precedence over the rule of law. The compelling approach resulting from the lack of collaboration among the chiefs and the colonial administrators fomented discord. The case laws cited in the paper indicate that colonialism in The Gambia remained a case of the strong exerting control over the weak, who had no option but to put up with the inevitable consequences of colonial rule. From diverse learned sources, instances of banishments in history and how the ancient practice was applied to The Gambia received attention with the aim of elucidating how the colonial administrators adopted legal standards which compromised fair play. With primary materials derived from The Gambia National Archive, instances of chiefs who were at loggerheads with the European colonialists was addressed hence, the paper ascertained the causes and nature of the soured relationship. The findings revealed why the local administrators grappled with situations that were at variance with the normal state of affairs in England. This partly accounts for the seemingly unorthodox tactics adopted while addressing a number of issues. Consequently, the activities of overseas colonial administrators were glossed over by the colonial office and British parliament as Gambians were perceived to be a people in need of civilization. Therefore, replicating the conditions in England in a frontier territory as The Gambia would be tantamount to an exercise in futility, as they felt that they should be on higher rungs of the civilization ladder before they could comprehend European conditions. The overbearing approach of the colonialists ultimately exacerbated the lack of cooperation from the colonial subjects leading to the bone of contention.

Keywords: Colonialism, The Gambia, Banishment, Due Process, Colonial Rule, Residency Restriction Policy.

Introduction

Colonial Governor Robert Baxter Llewellyn (1845–1919), in reorganising the administrative region of The Gambia, partitioned the protectorate into districts in 1894. The chiefs he appointed to oversee the districts were surrogate administrators who were meant to serve colonial interests. Those who maintained their viewpoint against colonial antics were either deposed or banished, depending on the degree of their disagreement with the authorities and even the temperament of the administrators. The strategy made the implementation of the indirect rule policy which was necessitated by the shortage of European administrators possible. The administrative system that put traditional rulers and institutions to use was deployed by the British colonial authorities to oversee their colonies.

> "After conquest, the governing structure placed *seyfos* (chiefs) in charge of regions of the river under the authority of the British administration. The rules for the protectorate were established in Bathurst, and travelling commissioners were designated for each river region who would visit at regular intervals to check on the progress of the *seyfos*, the conditions of the road, and, occasionally, to act as a high judge in contentious cases." (Park, 2016: 6).

By this policy, the British indirectly administered the people through the appointed chiefs. As the protectorate and the colony (seat of government) were administratively distinct, the need existed for a workable alternative to the antecedent traditional structure. Hence, the appointed chiefs were accountable to the travelling commissioners appointed by the governor in Bathurst, the capital city.

Different aspects of British colonial activities in The Gambia are in print (Brooks, 1975; Floyd, 1966; Martin, 1927; Southorn, 1944; Wright, 2004). However, none addressed the relationship the surrogate chiefs and the colonial masters maintained while enhancing the colonial agenda. Among the vital issues involved in the establishment of colonial rule in Africa is "the relationship between the colonial administration and the traditional machinery of government of the people concerned" (Ajayi, 1974: 435). Though The Gambia is among the territories where the policy of indirect rule was adjudged successful, a thorny issue has been the perception the European administrators had of the local chiefs. The degree to which this measure varies – from under 40 percent in Gambia and Zimbabwe to over 90 percent in Nigeria – suggests that different colonies relied on traditional institutions to different extents, hence measuring the extent of indirect rule is not a straightforward task. Measure of legal penetration (for 14 former British colonies in mainland Africa) is intended to proxy the overall extent to which colonial rule relied upon traditional institutions (Richens, 2009: 14). The rapport was bleak as far as the loyalty of the chiefs to the colonial cause was concerned. As an inevitable consequence of foreign domination, the appointed chiefs put up with conditions different from those that existed in Britain of that era. Those considered recalcitrant suffered deposition, banishments, and other punishments that fell short of expected norms.

1. Literature

The banishment of undesirables as a means of removing the irredeemably bad from societies is rooted in antiquity. Black Law Dictionary defined the practice as a punishment inflicted for criminal offences by compelling the criminal to quit a city, place, or country for a short time or for life (Henry, 1968:183). Anderson (2016) propounded that banishment and exile were important elements of the penal repertoire of precolonial states and polities, with prisoners cast out of their home district or city and denied the right of return. In the book of Genesis, the Bible narrates the expulsion of Adam and Eve from Eden, while Psalm 137 highlighted the grief of Jewish

captives in Babylon. Other mentions of banishment in the Bible include Ezra 7 v. 26, Exodus 12 v. 15, Leviticus 7 v. 20-21, Numbers 15 v. 30 and 2 Samuel 14 v. 13. Metellus Cimber and Brutus entreated Caesar to grant Publius Cimber freedom from banishment in Shakespeare's Julius Caesar. Victor Hugo returned from exile in 1879 after the reign of Napoleon III, while Napoleon Bonaparte spent his last days on St. Helena. Alfred Dreyfus, a French military officer, spent some time on Devil's Island after his conviction for allegedly leaking military secrets, while Emile Zola, who criticized the French military establishment during the Dreyfus affair, was an exile in London after his conviction. Exiling Soviet literary and political dissidents to Siberia was a prevailing order. In the United States, judges use it as a condition for probation and a suspended sentence. Cameron (2010) described banishment as a contemporary use of an ancient punishment.

The inequalities generated by the industrial revolution escalated poverty and crime rates in Britain; hence, the increasing number of prison inmates necessitated the need for penal colonies. Places like Gibraltar, Cuba, Bermuda, Mauritius, Sakhalin, Sumatra, French Guinea, and the Antilles were among the choices for various European powers (Wellis, 2017). Gillespie (1923:360) reasoned that the practice enabled the British government to overcome the burden of imprisoning or executing offenders of the day. Thus, banishment was necessary for reform and punishment, and as a means of saving expenses on offenders. Judges, continued Gillespie, used it to mitigate the severity of the law. Hence, as an experiment, some hundreds of convicts were forcibly relocated to West Africa. However, some reasoned, "the gallows would rid them their lives in a far less dreadful manner than the climate or the savages of Africa (Gillespie 1923: 360)." In the seventeenth century, Britain transported numerous convicts to her colonies, with about 2,000 sent annually to America; however, the American Revolution eventually stopped the practice. After the American War of Independence, Australia and other adjoining colonies received over 160,000 convicts before England gave up the practice in 1868 (Armstrong, 1963: 759).

During the African colonial wars (Benin Empire Punitive Expedition 1897, Anglo-Ashanti Wars 1823-1831, 1863-1864,1873-1874 etc.), the seemingly unending list of banished kings and chiefs who resisted colonial rule and its concomitant dominance include: the French deported King Behanzin of Dahomey to Martinique before being relocated to Algeria, where he eventually died. In addition, when they defeated the Gaza Empire of Mozambique, they banished King Gungunhana to the Azores. Cheikh Amadou Bemba was first deported to Gabon in 1895 and then to Mauritania in 1903. They likewise banished Samouri Touray of the Wassoulou (Mandika) Empire to Gabon, where he died in 1900. The British banished Prempeh I of the Ashanti Empire, Oba Ovoramen of Benin, Nana of Itsekiriland, Jaja of Opobo, Ya Asantee Wa of the Ashanti Empire, and countless others to various destinations (African Heritage, 2016; Tunde, 2003: 553-571; Boahen, 1985). It was an era when African kings suffered exile by European colonisers for resisting domination.

Gambian chiefs did not mask their repugnance to a number of colonial antics. Hence, those who resented domination suffered banishment, among other imposed draconian punishments adopted to keep them in check. Chief Foday Kebba (1832-1901), for example, spent some time in exile in Medina, Senegal, in 1892, while King Foday Sillah (1830-1901) was at loggerheads with the British before being killed on March 23, 1901, at Cayor, Senegal. King Musa Molloh (?-1931) spent four years (1919-1923) in exile in Sierra Leone before he received a conditional pardon to return home (Saliu, 2020).

Virtually all the misunderstandings that necessitated the highhanded measures against the chiefs gyrated around the colonial interference in their internal affairs. In addition, the inability of the European administrators

to understand Gambian traditions, coupled with their aversion to traditional practices, complicated matters. Hence, contrary to popular opinion, Gambians eschewed colonial dominance. To curtail what the colonialists perceived as indigenous opposition to colonial rule and to enhance the colonial agenda, numerous orders and ordinances came into force. Section V of the Protectorate Ordinance of 1939, for instance, empowered the governor to expel any person from the protectorate or any part thereof. The World War II measures were a continuum of the draconian tactics to which Gambians were already accustomed. Hence, it was not unexpected that in pursuance of British colonial objectives, and in response to the security concerns unleashed by the war, Section V of the Protectorate Ordinance of 1939 was promulgated (Omasanjuwa, 2014: 3). In addition, the governor can order expelled persons to reside within the limits of the colony or protectorate when he deems it expedient to do so in the interest of peace and order.

2. What Due Process Entails

The British colonial administration was ostensibly meant to be on a civilising mission. However, the implementation of the agenda necessitated the administrators to adopt standards that were at variance with what prevailed in Britain, one of which was the neglect of due process of law, a phrase first coined by an English statute in 1354. Under Liberty of Subject (1354),

> "None shall be condemned without due Process of Law. No Man of what Estate or Condition that he be, shall be put out of Land or Tenement, nor taken, nor imprisoned, nor disinherited, nor put to Death, without being brought in Answer by due Process" (Cornell Law School, Amendment v. Rights of persons (n.d)).

Concomitantly, Magna Carta ensures fairness in the dispensation of justice, irrespective of personality. Therefore, the public expects impartiality from legislators and law enforcement agents. Hence, procedurally, elaborate standard procedures exist in common law countries to ensure fair treatment of subjects. During trials, the prosecutor and the accused have equal opportunities to present their version of the contention before an impartial judge. Additionally, laws regulate how arrests are effected. Furthermore, guidelines direct the procurement of evidence. Additionally, regulations are in place governing the conduct of law enforcement officers during searches and confiscation of exhibits. Besides, the law regulates the identification of suspects for prosecution. It is illegal for investigators to plant incriminating materials on accused persons. Suspects merit representation by counsel and a speedy public trial. If the outcome of a verdict is unsatisfactory, defendants can refer the case to an appellate court. No one should be compelled to testify or give self-incriminating evidence. Defendants have the right to confront witnesses, while prosecutors have the burden of proving the guilt of accused persons. Moreover, the trial should take place in the jurisdiction where the alleged crime was committed. A defendant should be tried only once for a particular offence. This explains why in the United States for instance, plethora of case law such as Heath v. Alabama, 474 U.S. 82 (1985), Gore v. United States, 357 U.S. 386, 392- 93 (1958), Albernaz v. United States, 450 U.S. 333, 343-44 (1981.), and Bell v. United States, 349 U.S. 81(1955), are testament that the Fifth Amendment guaranteed the double jeopardy clause in which a defendant cannot be retried for an offence for which he has been previously found guilty or acquitted. Though, if the offence violates the laws of more than one statute that do not derive their authority from the same source, a retrial could take place for the same offence. In addition, if the action violates the laws of the same statute more than once, that could be another ground for retrial.

Magna Carta made it imperative that the government cannot deny a person life, liberty, or property in contravention of due process of law. By implication, a government can abridge stipulated rights "pursuant to a coordinated effort of separate state institutions that make, execute, and adjudicate claims under the law" (Chapman and McConnell, 2012: 1672). Magna Carta further stipulate that

> "No freeman shall be taken, or imprisoned, or disseised of his freehold, or his liberties, or free customs, or be outlawed, or exiled, or otherwise destroyed, nor will be passed upon him, nor condemn him, but by lawful judgement of his peers, or by the law of the Land. We will sell to no man; we will not deny or defer to any man either Justice or Right…" (Acts of English Parliament, 1297).

It is in conformity with the premise that all punishments are crime-predicated as they cannot be ostracized from outside influences.

The due process of a criminal justice system commences with the identification of a crime committed. Either by legislation or by customary law, the executive and legislature must have classified the transgression as a crime. This means that "there must be no punishment without a previously existing law providing for it, and that all statutes should have only prospective and not retrospective operation" (Myddelton, 2012). Thereafter, law enforcement agencies will investigate the alleged crime. The defendant, after being charged, will appear in court for the determination of his/her guilt or innocence. If the prosecutor secures a conviction, a sentence follows, otherwise, the accused regains his/her freedom.

These provisions subject the executive, legislative, and judicial arms of government to the laws of the land while executing their functions. Consequently, it is the law, rather than man, that govern free societies. Hence, a government cannot abridge the rights of individuals except in accordance with normal standard legal procedures. While substantively, the abridgement of rights must conform to either customary law or an act of parliament in common law jurisdictions. However, national security could supersede civil liberties in times of emergency. Aihe (1971: 217) opined that when the liberty of the subject comes into conflict with the safety and corporate existence of the state, the liberty of the individual must give way to the latter, *Salus Populi supre ma lex,* particularly during times of war or national emergency. Nonetheless, history has witnessed instances of overzealous officers overreacting in times of emergency. For instance, during the Yakubu Gowon military dispensation in Nigeria, the Nobel Prize-winning playwright Wole Soyinka was in detention for two years for allegedly having contact with secessionists with the intention of averting the outbreak of the Nigeria/Biafra war in 1967 (Soyinka,1972).

These safeguards ensure that the courts are beyond manipulation; rather, the supremacy of the law depends on the reverse. Under such a condition, defendants can be confident of having fair hearings in court. These measures are among the chief cornerstone of the separation of powers. With powers apportioned among authorities, agreed-upon rules and procedures free of manipulation can safeguard rights.

Crimes and Criminal Due Process (1973) explained how the legislature is responsible for formulating laws in common law jurisdictions. Subsequently, the laws come to public knowledge as published statutes, as it is part of the fundamental rights of subjects to have foreknowledge of what constitutes a crime. Criminal law addresses cases of lawlessness in society, thereby discouraging prospective lawbreakers. Hence, should a person's conduct be at variance with that of society, he or she will suffer appropriate retribution. It is for this reason that the action

of a presiding judge who defines new crimes during a trial is *ultra vires*. As it will be injudicious to regulate the behaviour of persons who are ignorant of what society expects, common law constitutions acquaint subjects with fundamental rights. In consonance with the views expounded by Chapman and McConnell, (2012) the executive is expected to implement laws made by the legislature rather than making its own laws independent of parliamentary approval, while the courts interpret the laws in accordance with approved procedures. The legislature makes law for future implementation, implying the illegality of *ex-post facto* laws. This ensures, for example, that retrospective divestitures of properties, rights, and privileges are *ultra vires*. It will therefore be illegal to confiscate belongings or restrict freedom without legal authority rooted in law or statute.

A bill of attainder is a parliamentary act that extra-judicially sentences a named individual or an identifiable group member to death. A bill of pains and penalties is identical to a bill of attainder, except that the latter prescribes a punishment short of death. These include banishment, disenfranchisement, exclusion of the designated individual's sons from Parliament, or the punitive confiscation of property (Thomas, 201: 3). A bill of attainder issued against the Earl of Lancaster led to his execution in 1822. King Henry III used it to dispose of some of his wives. Thomas Wentworth, the Earl of Strafford, suffered from it too. In all these instances, the bill was an instrument used to bypass the court system; by the same token, Gambia colonial administrators used ordinances to bypass legality.

3. The Gambian Experience

The dethronement and banishment of Gambian chiefs were cases of bills of pain and penalties. Information pertaining to the actions taken against them were gazetted, to shroud it in legality. Besides, as the affected chiefs were not tried, in contravention of due process, the legality of the actions inflicted on them warrant scrutiny.

Gambians' abhorrence for foreign dominance exposed their political leaders to persecution. Although the indirect rule policy in The Gambia was not expository because the acclaimed success was at the expense of the dismantled antecedent political arrangements. "The fact that most African states [The Gambia inclusive] were acquired by conquest and the exile and deposition of some ruling chiefs brought the whole business of chieftaincy into disrepute" (Betts, 2000: 316).

In 1927, a Native Tribunal convicted Saidi Njai, Head Chief of Niani District, on two counts of larceny of two sheep and for allegedly embezzling three pounds (The Gambia National Archive File Number CSO 3/110 (n. d)). On each count, he received a two-month prison sentence that ran concurrently. The crux of the matter revolved around allegations levied against him by some Mauritanians who brought commercial sheep to the country. Despite the internal political wrangling among the ethnic groups in the area, which favoured Saidi's banishment, the Commissioner considered it unnecessary as long as he maintained the peace.

On May 12, 1932, the Commissioner of the North Bank Province, Major R.W. Macklin, informed the Colonial Secretary of a complaint lodged by an ex-Chief, Mansanjang Sanyang of Kantora District, Upper River Province (The Gambia National Archive File, Number CRN1/6 (n. d). The complainant demanded to know the reason for his banishment to Kinti Kunda, North Bank province. Ultimately, the Acting Colonial Secretary directed Major Macklin to arrange a meeting for Mansanjang Sanyang and the Commissioner of Upper River Province, Captain Jeffs, on June 22, 1932, at Kerewan Wharf. Although the meeting took place, the complainant was

dissatisfied with the choice of interpreter imposed on him, as they were not on good terms. Mansanjang Sanyang had a list of grievances against the colonial authorities.

Some time ago, Captain Jeffs interrogated him in respect of a donkey fine paid by a convict in a court session in Bathurst. Police Officer Lussack handed the animal to him. When he returned to his district, he brought the matter to Captain Jeffs' attention, who told him to keep and look after the animal. Eventually, the donkey died, and he took the tail of the dead animal to Jeffs, who expressed satisfaction over the proof of death. That was four years ago.

In a court session presided over by Captain Doke, someone alleged that Mansanjang obtained a cow from a Fula named Alanso Jawo. Consequently, Doke admonished him to stop receiving presents from court attendants before ordering him to return the cow, an order he complied with in the presence of the other court members.

The 1931 tax returns of Kukuyel were lower than expected, and Jeffs publicly deducted the shortfall from his salary before instructing him to collect the balance from the tax defaulters.

During an interview with Governor Armitage, the issue of his demand for the return of the westerly portion of his district amalgamated with Fuladu East featured.

At the Kerewan Wharf meeting, he demanded to know why the governor had banished him to Kinti Kunda. " If I have done wrong to anybody I ought to have been taken to court, and if the court found me guilty I ought to be punished, but I have not been taken to court, but merely taken away and dismissed by the governor." he asserted. (The Gambia National Archive file 2/1046 (n. d)). Prior to the end of the Kerewan meeting, he received a warning not to discuss its outcome with Major Macklin; rather, he could later demand pardon from Captain Jeffs, who would help him return to his family.

Also, he objected to the interrogation of his people in his absence in the Upper River Province regarding the wrongs he purportedly committed.

Mansanjang complained about an erotic incident. A man named Kandora, who claimed a wife from him, protested to Captain Doke about the matter. According to him, Kandora had not paid her dowry when Doke interrogated him about the incident and instructed Kandora to refer the matter to Captain Jeffs, who was due for leave, but Mansanjang said that was the last time the issue received attention (The Gambia National Archive file 2/1046 (n. d)).

Lastly, he disapproved of the manner in which three armed police officers paraded him through Baddibu, whereas he had committed no crime.

Mansanjang Sanyang therefore appealed to the governor for justice and demanded a public inquiry into the offences alleged against him, for he believed that in England no person would be punished unheard in his own defence. His wish was to inform the governor that Captain Jeffs had stated that he disliked him. In addition, after his banishment, the people of his district assembled in order to file complaints against him. For these reasons, Captain Jeffs should not head the inquiry. In addition, he demanded the replacement of Mousa Dumbuyah as an interpreter, who was his enemy (The Gambia National Archive File Number CRN1/6 (n. d)).

Mansanjang Sanyang's continuous absence from social functions at which local etiquette demanded his presence was cause for concern for the Head Chief of Kinti Kunda, where he is exiled. Besides, his yard was

becoming a rallying point for malcontents. Consequently, suggestions floated for him to set up a village of his own. However, the idea was futile, as the indigenes could not appreciate the necessity of giving up their land for the sake of an exile. On his part, Major Macklin kept the reasons that necessitated his banishment to Kinti Kunda confidential. Meanwhile, it caused a great deal of apprehension among other chiefs, who felt that they were at risk of dismissal at the mere whim of any commissioner who may dislike them. As the government was tight-lipped over what necessitated the action, ludicrous rumours, and gossips in circulation created unrest and weakened the status of chiefs.

Another case of banishment pertained to Kemo Cham. Section V of the Protectorate Ordinance of 1913 empowered the governor to banish any person from the protectorate or from any part of it. However, Kimo Cham was the heir apparent to a chieftaincy position in Kombo North when Karanta Cham, the sitting chief, resigned. However, the colonial authorities found him inappropriate for the appointment as he had been stirring dissension among his people. Kemo ignored caution by refusing to acknowledge the authority of the serving chief, and he served two prison terms for interrupting native court sessions and inciting others to defy the authority of Karanta Cham. After his discharge, an ordinance dated February 15, 1921, directed him to proceed with his banishment from the Kombo and Foni Provinces The Gambia National Archive Number CSO 2/426. (n. d).

The Gambia National Archive number CSO 4/320, recorded another incidence which involved Elias Joseph Annah, a settler in Jowara, where he had been doing business in the surrounding villages, including Nauleru, since 1925. The governor issued an order under Regulation 4 of the Aliens Restriction Regulation (No. 13 of 1939) requiring him to vacate the village of Nauleru to take up residence in Bathurst, and he must not leave there without the permission of the police superintendent. Furthermore, he had one month of grace to wind up his business at Nauleru. On receiving the order, he complied before the expiration of the grace period. On July 31, 1942, he travelled from Bathurst to Jowara on business under a permit that was subject to the condition that the Commissioner of North Bank Province would tolerate his presence. The Commissioner declined his request and ordered his return to Bathurst.

As the reason for his banishment from the North Bank Province was confidential, he appealed to the governor for a reconsideration of the restriction order; save for some minor infractions for which he appeared before the Commissioner, he has been law-abiding.

In another event in Fulladu contained in The Gambia National Archive file Number CSO 3/70 (n.d) the Travelling Commissioner notified the Colonial Secretary of his resolve to remove Asumana Danso, the Head Chief of Fulladu, from office. In his opinion, the said Chief committed acts of omission that are tantamount to negligence by failing to implement instructions on the cleanliness of towns and the repair of fences. He did not have it impressed on the inhabitants that the towns must be in clean and proper order, and yard owners who failed to comply would face prosecution. Besides, levies imposed by the native tribunal remained uncollected for over four months. Also, the names of the parties before the tribunal were not on record, and in contravention of a standing order, he allowed village elders to partake in the Native Court deliberations. Another shortcoming was his failure to report the French claims to the border town of Charji. Such consistent and wilful neglect on the part of a chief was liable to have a negative impact on other chiefs if left unchecked. Consequently, for incompetence and dereliction of duty, the commissioner recommended his dismissal.

A correspondence dated August 26, 1942, documented in The Gambia National Archive file Number Cso 4/459 contained reasons for the detention of the Head Chief of Lower Saloum District, Barra Turay. The Travelling Commissioner, on instructions, investigated allegations levelled against him: he facilitated the escape of two French Africans placed in custody on suspicion of having interfered with the movement of cattle from Senegal to The Gambia. Also, he actively participated in smuggling cotton goods from The Gambia into Senegal at a time when he was fully aware that supplies were inadequate to meet the requirements of the local population, besides engaging in clandestine correspondence with certain Senegalese chiefs and paying surreptitious visits to villages in Senegal. Consequently, an issued proclamation ordered his removal from office, and he was subsequently incarcerated in Bathurst prison (Omasanjuwa, 2014: 10-11).

As of March 20, 1933, Musa Sanyang, an ex-convict, ex-head messenger, and ex-Royal West African Frontier Force sergeant, was among those under surveillance (The Gambia National Archive file 2/1046). From 1925-1926, he gave the authorities trouble; hence, the governor banished him in March 1926. He lived in Sine, Senegal, where he also spent some time in prison before returning without permission in 1930, for which he went to prison. The governor revoked his banishment order upon the completion of his prison term. However, he relocated to Senegal when he learned of his impending arrest order for obtaining money under false pretenses.

Bajo Sanyang, an ex-head messenger and brother of Mansanjang Sanyang, was also under surveillance. Bajo featured in the Wuli District disturbance of 1926. He attained prominence after his brother was exiled before joining him at Kinti Kunda, where he acted as his messenger. Mansanjang returned with him temporarily in 1926 for a re-investigation of his case. Others on the watch list were Aruna N'jie, dismissed Headman of Fatoto in 1928 for a shortfall in tax collection, and Sunkunya Sanyang of Sotomanding, ex-headman of Kantora, believed to be a *juju* man for Mnasanjang Sanyang.

Daniel Sanyang, an ex-headman of Farintumbung, was fined ten pounds in 1903 for inflicting punishment on an alleged witchcraft practitioner. In February 1905, for stirring up trouble, he was banished to Battelling in Kombo together with other offenders like Kemingtang Sanyang, son of Sunto Kong, another troubleshooter. Daniel Sanyang was arrested when he returned to Kantora in May 1905 in defiance of the banishment order. He, however, fled into French territory and lived in Courubambey, near Sere Batch, in The Gambia. Kementang Sanyang, son of Sunto Kong, another troublemaker kept behind bars, escaped into French territory. Standing orders remained in place for the instant arrests of Daniel Sanyang, Jumo Sanyang, Mansamang Sanyang, and Kemintang Sanyang should they enter British Gambia. Fodi Tenning Maneh, headman of Badari in Fuladu East District and a member of the Native Court on May 25, 1929, suffered a deposition. Cherno Abdulai Jallow was in prison for three months in 1925 for practicing witchcraft before being banished from the district by Captain Sporston for his misunderstandings with the chief of Kantora. Fali Kora, the first Head Chief of Fuladu East, died in 1911, after which Mamadi Kora, the eldest son of Tanda Mamadu Kora, took over the position. After a brief spell, Kemo N'Ding Kora, another son of Tanda Mamadu Kora, became the Head Chief in 1912 but was deposed, and Mamadukora assumed the position. He too got into problems, went to prison in 1915, and left for exile in 1924. Another was Bakari Ba Kora, another son of Tenda Mamadu Kora, who suffered banishment and relocated to Lambatara in French Cassamance. Bakari Jarju was an ex-headman of Sibito, Central Kiang District. After his banishment, the Head Chief of the District and his elders reported his being at Jamakuta in French territory. N'Derri Jabu Touray, ex-head chief of Lower Saloum, relocated to Georgetown, McCarthy Island Province, from Lower

Saloun District on the governor's order of March 24, 1926. From 1906 until 1931, people who suffered banishment intersected various segments of Gambian society. (The Gambia National Archive file 2/1046, n. d).

4. Analysis

The write-up explained the nature and causes of the soured relationship Gambian chiefs had with their colonial masters. These were among the reasons why the colonial policy of indirect rule in The Gambia was not as successful as earlier adjudged. A number of factors caused the chequered relationship. The situations the local administrators faced were at variance with the normal state of affairs in England. That partly explained the unorthodox approach to a number of issues; hence, the activities of overseas colonial governors were not under the periscope as they administered a people perceived to be savages in need of civilization. Therefore, replicating what was obtained in England in the frontier territories amounted to an exercise in futility, as they felt that Africans should be on higher rungs of the civilization ladder before they could appreciate the conditions in England. Consequently, the residency restriction on the chiefs was a European ploy to overcome obstacles preventing them from creating Europeans out of Gambians. The situation enabled Europeans who do not understand Gambian customs to impose their ways on the people. Such in-depth consequences motivated Betts (2000: 316) to assert that "if the vast majority of the African population was not regularly affected by the European presence, basic political institutions were."

Fundamentally, colonial administration enhanced British interests as attested to by the United States President, Franklin Roosevelt:

> "drew on his personal experience in The Gambia at a press conference in February 1944: It's the most horrible thing I've seen in my life…. The natives are five thousand years back of us. Disease is rampant, absolutely. It's a terrible place for disease. For every dollar the British, who have been there for two hundred years, have put into Gambia, they have taken out ten. It's plain exploitation of those people" (Pearce, 1982: 24).

To appreciate the effects of residency restrictions on Gambian chiefs, there is a need to understand some underlying motives that shaped the actions of the colonial administrators on the frontier line. They were in an uncharted terrain plagued with unique situations. Foremost, there was an acute shortage of serving European personnel, as the whole of West Africa was euphemistically 'The White Man's Grave.'

In 1939, at the beginning of World War II, the European staff strength in The Gambia had 57 officers. The number plummeted to 42 as World War II progressed and military service expanded. The workload of every department increased exponentially, prompting a request to fill a number of vacant positions in order to alleviate the staff shortage. On August 9, 1942, the Government of The Gambia had cause to alert the colonial office in London to the necessity of adequately staffing the colony with the requisite workers (Omasanjuwa and Phebean, 2014: 91).

Under these desultory conditions, which necessitated the introduction of indirect rule, it was impossible to have enough staff to effect a complete separation of powers. This partly explains the fusion of both the executive and legislature, thereby necessitating the expediency of maintaining law and order. In British parliamentary democracy, the executive is a subset of the legislature. The Prime Minister is a Member of Parliament who sits in

the House of Lords and an elected member of the House of Commons. Therefore, the overlap of the various arms of the Gambian colonial administration was not a novel development.

The highhanded approach is necessitated by the desire to minimise the cost of maintaining order. With the growing apathy toward foreign rule, the administrators devised ways of keeping troublemakers in check. A case in point was a January 11, 1901 incident of a punitive expedition at Sankandi, where the intervention of the travelling commissioners in a land dispute led to the deaths of two travelling commissioners and six police constables. There was another in Foni Jarrol, where a number of people died. Taking the relatively scanty population of the country into account, the number of those banished is considerable, an indication of the discontent with foreign rule. The authorities preferred banishment to deploying expeditionary force in curtailing troublemakers (Freudenberger and Sheehan, 1994: 14-16).

A case of banishment without trial was that of Elias Joseph Annah. He could not think through the cause of his punishment. The prevailing situation at the time called for the classified nature of his problem. At the onset of World War II, the Aliens Restriction Regulations (No. 13 of 1939) came into force. One can assume that Annah's case had some security dimensions in a period when the right to *habeas corpus* was in abeyance. The governor deemed his banishment expedient for security reasons, as Nauleru was a frontier village.

Edgerton (2007:1036) ascertained that "as is commonly noted, conviction and punishment for a crime rely on all three branches [of government]: the legislative to pass laws, the executive to enforce, and the judiciary to [interpret]". In colonial Gambia, the judiciary played no significant role, if any, in examining the conduct of chiefs and determining their fate.

Legally, sentencing is normally based on four penological principles: retribution, rehabilitation, deterrence, and incapacitation (Mackenzie, 2001). Banishment was an inadequate solution to the chief's refusal to think outside the box. It had no 'rehabilitative' impact on the victims, as some preferred exile to compromise, while a number developed thick skin towards colonial antics. This explains why banishment remained unabated until the country attained independence in 1965. It is noteworthy that England had lost interest in banishing her citizens since 1868 (Willis, 2017; Armstrong, 1963: 759).

There were however glaring instances of abuse of power by the colonial administrators (Omasanjuwa, 2014). The authoritarian rule is comparable to an incident in Ottoman history. To forestall the fatal consequences of espionage and other disloyal acts that endanger state security, Article 113 of the 1876 Ottoman constitution armed the Sultan with unbridled powers to banish subjects without trial in uncivil times. Hence, to avert an imminent defeat, the Sultan invoked an order to facilitate the transfer of Ottoman Armenians to designated parts of the empire, beyond the war zone, for engaging in fifth column activities during World War I. The development resulted in what some historians denote as the Armenian Deportation, and others refer to it as the Armenian Relocation.(Gabor and Bruce, 2009: 54).

The Ottoman incident demonstrated the exercise of a constitutionally vested power during a state of emergency. Although its invocation engendered sufferings that resulted in a number of deaths. However, its constitutionality, in principle, could absolve the Sultan of blame hence, some historians are of the opinion that the imperial directive could not be *ultra vires.*

The authoritarian posture of the colonial administrators negated the principles of English law, particularly due process and the provisions of Magna Carta. There were instances of public officers who performed official duties abusively. Unlike the Ottoman scenario, which had constitutional backing, there was no law backing the arbitrary decisions of the colonialists. The actions of the colonial administrators in depriving the chiefs, who refused to reason within the box, of their liberty and traditional inheritance paralleled the famous Youngstown Sheet and Tube Co. v. Sawyer (1952). This case concerns the United States Supreme Court's decision on the confiscation of private property based on an executive order. During the Korean War of 1950, an industrial action by United States steel workers threatened the country's supply of steel. President Harry Truman ordered the Secretary of State, without congressional backing, to confiscate the nation's steel for the war effort. The cause of the disagreement centred on the constitutionality of confiscating private property based on presidential powers. The Supreme Court annulled the order (Letizia, 1953).

The administrators issued ordinances on authority, comparable to Truman's directive, enabling them to use their discretion in banishing colonial subjects. Unlike the Ottoman Sultan, who operated within the confines of a constitution he did not make, the administrators were both lawmakers and adjudicators. A public officer could exercise delegated powers provided the law props the action. Hence, the discretionary powers vested in the governors should be within the permissible limits of the law, as was the case with the Sultan, rather than being discretionary. Besides, ordinances promulgated by the governors were powers delegated by Parliament, the only body authorised to make laws. Hence, if "…the King could not trench upon private rights, by royal decree, without authority under the common law or an act of Parliament" (Chapman and McConnell, 2012: 1785). In its dealings with overseas governors, Parliament delegated legislative powers to the governors without regulatory mechanisms in place. Chapman and McConnell (2012: 1786) are of the view that, armed with the understanding that it is the legislature, not the executive, that makes laws, courts should interpret statutes narrowly to ensure that any delegation is the genuine intention of Parliament and not an instance of executive overreach.

In colonial Gambia, the absence of effective control measures to curtail excesses made checks and balances impossible, as the line delineating the various arms of government was blurred. Consequently, similar to the rash decisions taken in times of siege, the administrators were lawmakers whose executive orders equated to acts of parliament in a situation where ordinances ought not to be, as Parliament should ideally enact laws. The administrators had the power to hire and fire chiefs at will and sentence them to prison terms and banishment without independent investigations. Rather, the judicial system in place expected discontented chiefs to grovel and tolerate heart-wrenching humiliations should they wish to express their dissatisfaction with glorified judicial rulings that were unilateral executive orders. Undisputedly, the empowerment of the administrators by the collusive British Parliament and the Colonial Office significantly enhanced the underdevelopment of The Gambia.

Chapman and McConnell (2012: 1788) opined that when due process rights entangle executive action, courts should be attentive while ensuring that any deprivation was pursuant to a congressional decision rather than deferring to a broad assertion of power by the executive. In the case of the protectorate of Gambia, there were no courts, even if they had existed; like in the colony, it was practically inaccessible to most subjects.

In The Gambia, other than the two world wars, whose causes had no bearing on the people, emergencies did not occur. The manner in which the administrators handled chieftaincyrelated problems was tantamount to abuse of power caused by the absence of control measures to curtail excesses. Even during uncivil times, "the

existence of a military emergency was not enough cause to dispense with the due process" (Chapman and McConnell, 2012: 1791). The situation was different in colonial Gambia, even in civil times.

Unlike the Ottoman experience, neither the law nor normal standard legal practice backed the banishment because banishment had been outlawed in the United Kingdom since 1868 (Wallis, 2017). Other imperceptible forces were at play. The humiliation that pervaded the chieftaincy institution compelled men of integrity to shun the coveted positions to the extent that settlers, those of lower castes, and the malleable in society became the preferred class interested in the Whiteman's appointments, which in no small measure eroded the credibility and dignity accorded the chieftaincy institution. Some, endowed by birth to become chiefs, resolved to be commoners. Others who could not tolerate the situation relocated to neighbouring colonial territories. Their reaction to repression engendered no surprise, going by the opinion of Justice Louis Brandeis:

> "Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

The statement was part of a U.S Supreme Court ruling, which determined whether the use of taped conversations by federal agents, without court approval but tendered in evidence, amounted to a violation of the defendant's rights enshrined in the Fourth and Fifth Amendments. The court ruled that the action did not violate either of the Amendments. Katz v. United States (1967) later squashed the decision. Olmstead v. United States, 277 U.S. 438, 479 (1928).

As the Gambian royal family members discussed in this paper were the equivalent of revered kings, earls, counts, dukes, viscounts, marquees, and barons in English tradition, the colonial contempt for them engendered puzzlement.

Major Macklin reasoned that nothing was in the public domain regarding the reason that necessitated the punishment meted out to Mansanjang Sanyang. Gambian colonial experiences revealed that when the same organ of government legislates and adjudicates concurrently, bias becomes inevitable. The actions against Mansanjang and others that caused a great deal of apprehension among the victims violate the spirit of Magna Carta, (*nemo judex in causa sua*).

Hessick and Hessick (201: 46) explained, "increasing a defendant's punishment based on a previous conviction – a conviction for which the defendant has already served a sentence constitute a second punishment for the first crime conviction". Prior to completing his prison term, Kemo Cham received instructions to proceed into exile. As the punishment was not part of his sentence, the order contradicted the protection against double jeopardy which entails trying an offender more than once for a particular offence. Besides, Cham never had the opportunity for a retrial or an appellate hearing. Baim, 279 A.D.2d at 788-89, 718N.Y.S.2d at 720. N.Y. CRIM. PROC. LAW § 40.20(2) (McKinney, 1992) states in pertinent part:

"A person may not be separately prosecuted for two offenses based upon the same act or criminal transaction unless: (a) The offenses as defined have substantially different elements and the acts establishing one offense are in the main clearly distinguishable from those establishing the other; or (b) Each of the offenses as defined contains an element which is not an element of the other, and the statutory provisions defining such

offenses are designed to prevent very different kinds of harm or evil; or (c) One of such offenses consists of criminal possession of contraband matter and the other offense is one involving the use of such contraband matter, other than a sale thereof." (As cited in Zuckerman, 2016 : 2).

The colonial administrators ignored age-long English legal precedent in their dealings with Gambian chiefs. In 1610, for example, in Thomas Bonham v. College of Physicians, Chief Justice Coke remarked, no one should be punished twice for the same offence (Hessick and Hessick, 2011: 50-51; Berger, 1969). The imprisonment of Saidi Njie merits some comment. In Islam, regulations govern the *Zakat* (annual Payment under Islamic law on specific properties and utilised for charitable and religious purposes, one of the Five Pillars of Islam). given on animals. From the convoluted narratives of the complainants during his trial, the herdsmen seem to have played some pranks.

"In Islam, sheep has five taxable limits: The first taxable limit is 40, and its *Zakat* is one sheep. And as long as the number of sheep does not reach 40, no *Zakat* is payable on them. The second taxable limit is 121, and its *Zakat* is 2 sheep The third taxable limit is 201, and its *Zakat* is 3 Sheep. The fourth taxable limit is 301, and its *Zakat* is 4 Sheep The fifth taxable limit is 400 and above, and in this case calculation should be made in hundreds, and one sheep should be given as *Zakat* for each group of 100 sheep. And it is not necessary that *Zakat* should be given from the same sheep. It will be sufficient if some other sheep are given, or money equal to the price of the sheep is given as Zakat" (Al-Islam.org (n. d)).

Mischievous herdsmen conspire to evade paying the correct number of sheep or other animals on *Zakat.*

The Travelling Commissioner was not conversant with the idea propping the payment of the animals, as he saw things from the English perspective. He no doubt perceived the whole affair as import duties on animals from other lands, grazing fees, or, at best, income tax. He was ignorant of the religious significance of the matter.

Ansumana Danso's matter was a case of a bill of pains and penalties. The case demonstrates disregard for African traditions. Traditionally, it is improper for a Gambian chief to supervise a sanitation exercise. Status and age exempted Danso from partaking in the cleaning of towns and the mending of fences. Additionally, Gambian chiefs and kings are not tax collectors. The technique of colonial domination, as Betts (2000) remarked, identified the universal imposition of European planned taxes as a disruptive measure colonial domination had on Africa. Ansumana Danso, Mansanjang Sanyang, and Aruna N'Jie were not responsible for the actions of the tax defaulters or evaders. In law, every person is liable for his or her actions.

In the Gambian traditional setup, a council of elders resolves issues affecting communities. Within that context, it was appropriate for Danso to invite elders to put their heads together while societal problems are under consideration. Therefore, the actions taken against them are unjustifiable, as the court is the Native Court, which is by extension a council of elders.

Chapter forty of the Magna Carta guarantees that "to no one will we sell, to no one deny, or delay right or justice." Failure to disclose the offences committed by Mansanjang Sanyang, Elias Joseph, and others, for which they served punishment, contravened the spirit of Magna Carta by denying them the right to justice. Whatever the allegations might be, they and their like suffered defamation for so long, besides putting up with mental agony as banished persons. Having spent considerable years in exile, the presumption of innocence until proven guilty became devoid of common sense. Exile did not favour them as the evidence, for or against them, rested on oral

testimonies that became unreliable as time went on, coupled with the deaths of witnesses. Uncertainties compelled some victims to abandon their cause, while others preferred relocating to contiguous French territories rather than putting up with unrealistic conditions.

Ansumana Danso allegedly failed to alert the authorities of the French claim to the border town of Charji. (Omasanjuwa, 2012: 118) explained that: … one of the reasons why a number of the indigenes fall prey to colonial machinations of being suspected spies is the novel concept of the alien international boundaries that came into existence after the Berlin Conference of 1885. The boundaries separated French interests from British interests, not the indigenes, who often are not aware of these interests. Free movement of persons within the sub-region has historically been the norm before this period for people and neighbours with family ties. The peoples of the Guineas (Bissau and Conakry), Senegal, Mauritania, and The Gambia were not accustomed to presenting themselves to "foreign international" crossing points to register their presence in an area that was historically their home. In most cases, they simply travelled to markets or to see family, unaware they were "crossing borders," where geographically physical demarcations delimiting territories were nonexistent. Family and community farmlands lay astride "borders" in most places, and some pedestrians unintentionally found themselves in adjacent countries.

As Ansumana Danso was not among the Berlin delegates, he had no clue about the resolutions taken at the forum where European powers partitioned Africa. He was not in a position to offer an opinion, let alone advice, on matters relating to border delimitation. His dethronement from his traditional entitlement was an executive action embellished as a court judgement hence it falls within the ambit of a bill of pains and penalties.

Cherno Abdouli Jallow, accused of being a witchcraft practitioner, spent three months in prison on that account in 1925. This was another instance of a bill of pains and penalties, as no law criminalised the practice of witchcraft. His sentence was a case of the rule of man, as it is contrary to the rule of law.

Associated with banishment orders were instances of arrests and detentions without charge or trial. This was under the guise of security measures during the First and Second World Wars. These overbearing measures infringed on the civil liberties of Gambians in general. Incidents involving detentions without trials and the denial of rights to *habeas corpus* in colonial Gambia constitute the theme of (Omasanjuwa, 2014).

Park (2016) narrated an incident depicting the haphazard fashion in which power was exercised by the Gambian colonial administration. In its early days, Bathurst was always on shaky financial footing given the fact that it had no legislative apparatus capable of raising funds and relied solely on import and export duties. Cheap labour was thus always at a premium, and the administration took advantage of this by attempting to force men and women to labour against their will. In one instance, the sheriff of Bathurst and a magistrate ordered the wife of a Christian convert to perform forced labour in the bush, chopping wood. When they resisted, several men seized the woman in question, took her to the bush, and beat her husband. When he went to the government house to resolve the situation, the husband was told the chief magistrate could do nothing without the authority of the governor. When he went to the governor, he was told that his wife was in the bush, and the bush was out of the governor's jurisdiction.

In another incident, an employer was taking undue advantage of the labour of a young man and refusing to pay him his wages. Once it became clear that he would not be paid, the young man decided to desert his employer.

The employer responded by declaring the young man to be in debt and taking him to the Court of Common Pleas, where the Colonial Secretary, a man with no legal training whatsoever, sentenced the young man to prison as a debtor (Macbriar 1837: 213).

Such was the justice system colonial Gambia chiefs tolerated. Macbriar (1837) explained that:

> "the arbitrariness and corruption of the entire system were so severe that it would almost be preferable if no criminals were tried at all. Without Macbriar these stories would not have come to light which suggests, despite a lack of documentation, that labour exploitation was far more common than the records indicate" (as cited in Park, 2016: 67).

The exclusive power to define crimes and stipulate punishment, which belongs to Parliament, was delegated to travelling commissioners and other administrators who were neither law learned nor lettered. The limitless powers of the governor and their lieutenants were way above what accountability and rectitude required, to the extent of enabling them to violate the double jeopardy clause with impunity. They were simultaneously the judge, jury, and executioner.

Concluding Remarks

Reactions to the banishment orders and the number of chiefs involved indicate that Gambians never sanctioned colonial rule. This explains the inharmonious relationship the Europeans and the surrogate chiefs maintained. Banishment in the context of colonial Gambia had a political undertone; hence, the chiefs were the principal targets. Besides, those who acquiesced to serve the dispensation were nothing short of civil servants embroidered as chiefs. The write up shows that punishments imposed on those tagged as rebellious contravened due process and the double jeopardy clause and fell short of the requirements for criminal conviction in common law jurisdictions.

Saidi Njai's contention ought to be resolved in favour of lenity, in conformity with common law precepts. Ambiguities in penal codes are resolved in favour of the defendant to clear doubts concerning legislative intent (Carlton, 1981: 819-826).

The write- up illustrated that the administrators had virtually no regard for the consequences of their actions. Mansanjang Sanyang's situation demonstrated one of the consequences of banishment. Exiles who were foisted on receiving communities became liabilities on their hosts for what they knew nothing about. Additionally, the presence of the exiles can, in some cases, foment problems that the host communities are ill-prepared to address. The abnormality of the Gambian situation rests on the government's non-compliance with normal standard legal traditions.

Another problem posed by banishment is that the victims were legally dead, as their absence from their communities hindered the execution of a number of traditional family and community functions.

Among the reasons that propped up the practice of banishment was the colonial desire to detach the 'erring chiefs' from their support base. However, Edgerton (2007: 1036) stated that "A political unit does not make the world a safer place when it banishes a criminal." The chiefs relocated to exile because of their discontent with colonial rule. While in the neighbouring contiguous colonial territories, their kith and kin offered them sanctuary. As exiles, they had the unwitting privilege of rubbing minds with those opposed to the French and Portuguese brands of colonial subjugation, thereby reinforcing their resistance to foreign rule.

The Gambia had insufficient detention facilities during the period under review; hence, they proved inadequate to accommodate the number of opposing chiefs and their supporters, so banishment proved economical. Moreover, as the chiefs were high-profile personalities to whom their people paid obeisance, the authorities felt that banishment would minimise the possibility of communal disturbances. Besides, the transformation of the society, which included the creation of districts that are of sociocultural irrelevance to the inhabitants, shattered its social fabrics by fuelling feuds associated with power struggles and produced a country that was sociologically neither African nor European.

The posture of the colonialists undermined English law precedents. It embarrassed and harassed chiefs and caused anxiety in the country as the indigenes endured punishments severer than what English law stipulated for frivolous offenses. Gambian chiefs never regained their lost glories, even after the end of colonialism. Five decades after independence (1965), the government has not stopped appointing and firing chiefs arbitrarily, a pointer to the fact that post-colonial Gambia is in principle a continuum of colonialism. Gambians had no alternative but to put up with the inevitable consequences of the colonial and post-colonial dispensations.

Hence, the overbearing approach due to the lack of cooperation from the chiefs connotes a conflict of interests. Thucydides, in The Melian dialogue (416 B.C.) averred that the standard of justice depends on the equality of power to compel and that in fact the strong do what they have the power to do and the weak accept what they have to accept.

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