

RELIGIOUS PLURALISM AND THE INTERACTION OF THE YORÙBÁ LEGAL SYSTEM IN NIGERIA*

Abstract

The great influence that religion has on law has been a source of argument for many schools of thought. The truth is that no matter how hard one tries to separate law from morality, there is still a moral content within the law. What determines the morals of a society or community is dependent on the society's religions, customs, traditions and beliefs. Hence, at the core of its being the legal system of a society is based on the moral value system of the society in which it exists. This article therefore attempts to bring these concepts together by examining the Yorùbá religion, its customs and traditions and juxtaposing them alongside the features of the contemporary legal system in Nigeria. The imperial influence on the Nigerian culture and laws has affected the very core of this nation, mixing with it and birthing a hybridized counterfeit of both cultures. It would seem that the presence of the English law in Nigeria creates a conflict as to which law should apply to a citizen of Nigerian. A crucial question to be asked is why laws of a foreign land are accepted without question, but the laws of the land are forgotten and rejected.

Keywords: Religious Pluralism, Yoruba Legal System, Nigeria, Interaction

1. Introduction

The quest to find a universally accepted definition of law is one that has gone on for years. Its ability to permeate different aspects of societal living is indicative of its fluid nature. Hence law cuts across different societal institutions such as, religion, culture, and economics amongst others. Religion so far has been one of the most important societal institutions to man, it gives man a sense of belonging by tying his beliefs to a god or gods who are interested in his prosperity and success. According to Edward B. Tylor, Religion is the belief in spiritual beings, which has to do with man's belief in other-worldly beings who he believes has control over his life and its content.¹ Religion is a system of faith and beliefs; worship, that usually involves having faith in a Supreme force.² Usually religions have a codified set of rules and conduct in written form called scripture. However, African traditional religions do not write down their own doctrines, which has led to the perception that they are not religions beliefs but rather singular norms held sacred by the people. The various Nigerian traditional religions each have their own beliefs, sentiments and gods; The Yorùbás believe in the Almighty *Èledumare*, as the supreme god over the universe who sent Oduduwa to the world, The Ibos believe in *Amadioha*.³ Each ethnic group in Nigeria possesses a unique blend of customs and religious beliefs. Religion forms the core of the society as it holds its religious values in high esteem. However, it is readily observed in contemporary Nigerian society is that most of its culture are withering away. Since the dawn of colonialism, Nigeria has been desolate in terms of the essence of its cultural and spiritual practices. Thus, it is not surprising that in the case of *Eshugbaya v Government of Nigeria*⁴, the revered Lord Atkins describes the customs and traditions of the Nigerian people as barbarous. In this context, Nnaemeka- Agu JSC described this pathetic state of affairs perfectly when he said that the customary laws of the Nigerian people are still bogged down by this annoying vestige of colonialism. He stated that our own customs were being treated like foreign laws by our own people, in our own country.⁵ The Yorùbá people of the Nigerian society are probably the most popularly known tribe as well as the ones most concerned with the preservation of their norms and customs. The Yorùbás have an adage that says: '*Šaaju ki a to mo ibí ti a nlo, a gbodo mo ibí ti a ti nbo*' ('before we know where we are going, we must now where we come from'). The religious tenets of the Yorùbá society and the relevancy of its customs and traditions, and its role in maintaining law and order, in this modern age will be analysed further in this article.

2. Yorùbá Mysticism

The thought system of a people mirrors their social organisation, political structure and their construction of reality.⁶ It is the desire for the Yorùbá to understand the world around them about myths and legends that explains both natural and unnatural phenomena. These myths and legends created gods what is termed as '*Òrìṣà*.'⁷The building block for all myths and legends within the Yorùbá society is within its creation. The Yorùbá people believe that before the world was created, the universe was made up of only two elements; the sky and water. Two gods ruled over these elements – Olokun was the water god and *Olorun* was the sky god. *Olorun* had two sons; *Odùduwa* and *Òbatala*. *Òbatala* who was the youngest asked his father if he could create a new realm. *Olorun* agreed and so the world was made. *Òbatala* first sought advice from the god of prophecy; *Òrúnmìlà*,⁸ who informed him that he would require a gold chain long enough to reach below that is the eternal abyss where the world would be found. *Òbatala* possessed a snail shell filled with sand, a black cat, a white hen and a palm nut, all of

*By **Yinka OLOMOJOBI, LL.M (Liverpool), PhD (Lancaster) BL, FCIMC**, Professor of Law, Department of Jurisprudence and Public Law, Babcock University, School of Law & Security Studies, Iperu-Remo, Ogun State, Nigeria. Email address: olomjobiy@babcock.edu.ng. Tel: ++234-8100418553; and

***Khadijah Kudirat YERIMA, LLB (Hons), LL.M (Babcock University)**, Lecturer, Babcock University, Department of Jurisprudence and Public Law, Babcock University, School of Law and Security Studies, Iperu-Remo, Ogun State, Nigeria. Email: khadijahkyerima@gmail.com

¹William H. Swatos, Tylor, Edward B, *Encyclopaedia of Religion and Society* (2021) available at <<https://hrr.hartsem.edu/ency/Tylor.htm>> accessed on the 21st January 2020.

²Chris C. Wigwe, *Jurisprudence and Legal Theory*, (Ghana: Readwide Publishers, 2011) 109.

³ Ibid.

⁴ [1913] A.C. 662 at 673

⁵ *Ugo v. Obiekwe*, [1989] 1 N.W.L.R., 566 at 583 – 584.

⁶ Wande Abimbola, *Ifá Will Mend Our Broken World*, (USA: Aim Books, 1997) 93.

⁷ Toyin Falola and Akintunde Akinyemi, *Encyclopedia of the Yoruba*, (USA: Indiana University Press, 2016) 6

⁸ *Òrúnmìlà* is the god of wisdom, he was said to hold all of *Olodumare's* thoughts and wisdom and so it was pertinent to ask him for advice before making any decision.

which he was to carry in a bag. *Ọbatala* acquired all these materials and began his descent to earth. He first hung the chain from a corner of the sky and climbed down. Unfortunately, he reached the end of the chain and realised that it was not long enough. *Ọrúnmìlà* then instructed him from above to pour the sand from the snail shell out and release the white hen to scatter the sand. *Ọrúnmìlà* explained that anywhere the sand landed, dry land would form. The larger piles of sand became mountains and hills and the smaller piles became valleys. *Ọbatala* then dropped from the chain and where he landed he called Ife.⁹ The dry land had expanded greatly, so he dug a hole and planted the palm nut, and it grew immediately. The mature tree released more seeds into the ground and more trees grew from them, the process continued till the world was filled with green foliage. *Ọbatala* then dwelt there with the black cat as company. Soon *Ọbatala* grew bored and began to explore the realm He created and discovered palm wine. He got drunk with it and got distracted from his duties. *Olorun*, enraged at his son, sent his older son *Odùduwa* to complete the mission. *Odùduwa* was successful and was crowned the king of Ile Ife. After waking up from his drunken stupor, *Ọbatala* was filled with anger and jealousy. However, *Ọbatala* pleaded with *Olorun* for forgiveness. *Olorun* forgave *Ọbatala* later and gave him the divine duty of creating mankind.¹⁰ After man was created, the different *Ọrìṣàs* began to descend from the heavens, to teach man how to live and survive. *Ogun*, the god of Iron came first and taught man crafts like hunting, he taught them how to make fire etc. Other *Ọrìṣàs* followed such as *Aganju*, who taught man other survival skills. Another *Ọrìṣà* of importance is *Sango*, the god of thunder who became the punisher of evil.¹¹ It was when the gods descended, that man truly began to truly exist. As the gods began to teach and instruct man, man became sufficient and quasi-independent, which led to the structure of a society similar to the one the *Ọrìṣàs* operated in the heavens. This particular myth of creation, is very prominent amongst the *Yorùbás* and its influence is imparted in all aspects of their cultures.

The Ifá Oracle

The *Ifá* practitioners believe that *Ifá* is the first and oldest religion known to man, proceeding directly from *Olodùmarè* (Supreme Being). It is believed that humanity came from *Ifá* that all other religions were birthed from it. Many worshippers even go as far as using the Bible verse ‘In the beginning was the Word and the Word was with God and the Word is God,’ to explain that *Ifá* is the Word that was with *Olodùmarè* (God) and that God gave us the Word, to ‘dwell amongst us’¹² This Bible verse is interpreted by *Ifá* practitioners to refer to the presence of *Ifá* long before anything else.¹³ Salami describes the Word ‘...as a message, neither human nor spirit but a message that comes from the Supreme Being’.¹⁴ *Ifá* is thought to be one of the major divinities who came down from heaven or (Orun), using an iron chain, into the land of Ife.¹⁵ It is imperative to note here that *Ifá* may be used in many separate contexts:

1. *Ifá* is used to refer to the god of wisdom and knowledge in *Yorùbá* cosmology. In this context, *Ifá* refers to the god *Ọrúnmìlà*.¹⁶
2. *Ifá* is also used to refer to the consultation or divination process of *Ọrúnmìlà*. This is also called *Ifá* divination or *Ifá dídá*
3. *Ifá* is also used to refer to the teachings of *Ọrúnmìlà* .i.e. the *Ifá* Literary Corpus. This body of knowledge is the sacred text of the *Yorùbá* religion and all its branches and denominations around the world. The corpus is made up of 256 *Odù* (.i.e. ‘books’ or ‘chapters’). Each *Odù* contains between 600 and 800 poems.
4. *Ifá* is also used to refer to parts of the scripture that are already subdivided .i.e. the *Odù* or stanzas or verses within the *Odù*.
5. The word also refers to any special herbal mixture or talisman or charm that is prepared for medicinal purposes – the recipes of which are contained in the *Ifá* literary corpus.
6. The word also refers to some powerful prayers or incantations that when uttered, reveal truth in the sense that whatever is stated comes to pass. *Ọrúnmìlà* who was created by *Olodùmarè* to be responsible for the spiritual well-being of those that inhabited earth, was granted this heavenly message. He created *Ọrúnmìlà* especially with the ability to cope with man’s antics and quirks, as well as an uncanny ability to understand man, fish and animals.¹⁷

Ọrúnmìlà was then taught the ways of *Ifá* divination and after fully understanding it, he was initiated into the cult of *Ifá*. Thereafter, he was referred to as *Ifá* in some instances.¹⁸ It is important to note that when the heavens were created by *Olodùmarè*. He also created the sixteen major *Odù* and the *Awoyeroye*, who are the priests of *Ọrúnmìlà*’s house.¹⁹ Each divinity from heaven came with their personal instructions from *Olodùmarè*. *Ifá* was charged, using his wisdom and understanding, with the duty of shaping the world. *Ifá* is thought to have been present when the world was crafted. The *Yorùbás* believe that *Ifá* bears witness to the course of man’s destiny.²⁰ *Yorùbá* mythology conceives that *Ifá* or *Ọrúnmìlà* once lived in a place called ‘*Oke Igeti*’ and that he had eight children. *Ifá* spent some time on earth and returned to heaven after being insulted by one of his children. It is said that upon his return to heaven, the world was flung into utter chaos and pestilence and confusion fell upon the earth.²¹ The people of earth began to seek remedy for the hardship they were enduring and sent the eight children

⁹ Stephen Adebajji Akintoye, *A History of the Yoruba People* (Dakar: Amalion Publishing, 2014) 16.

¹⁰ *Ibid*, 18.

¹¹ Abosede Emmanuel, *Odù-Ifá: Ifá Festival*, (Lagos: West African Book Publishers Ltd., 2000) 60.

¹² Ayo Salami, *Yoruba Theology and Tradition – The Worship*, (UK: NIDD Publishing and Printing Ltd., 2008) 11.

¹³ *ibid*.

¹⁴ *ibid*.

¹⁵ (n11) 55.

¹⁶ Kola Abimbola, *Yoruba Culture: A Philosophical Account* (Birmingham: Iroko Academic Publishers 2005) 48.

¹⁷ (n11) 60.

¹⁸ (n16) 48.

¹⁹ (n12) 11.

²⁰ (n11) 59.

²¹ (n11) 59.

of *Òrúnmìlà* to beg their father to return to earth. The children accepted and went to heaven to find their father who was seated under a palm nut tree with sixteen hut-like branches. They begged *Ifá* to return, but he refused instead giving them sixteen palm nuts and telling them to consult him if they want good things.²² This was the dawn of the practice of *Ifá*; the people no longer sought to bring *Òrúnmìlà* back but rather implored his children to consult him when they had personal and communal issues.

Some traditions perceive that *Òrúnmìlà* was not a god but rather he was human. It is conceived that he (*Òrúnmìlà*) was one of *Olodùmarè*'s prophets; in fact he was His most beloved.²³ *Òrúnmìlà* was God's special messenger to all the creatures of the world; it was only *Òrúnmìlà* who understood the language of the animals, plants and man. It is important to note that *Olodùmarè* endowed *Òrúnmìlà* with a special gift; words of power, which has led to various teachings and words of wisdom from him.²⁴ When *Òrúnmìlà* came down from heaven, *Olodùmarè* gave him the divine duty of ensuring that humans understood how to avoid error in their lives. These issues arise as a result of man's destiny or actions and inactions made by him/her. When man is faced with challenges in life that he seeks to overcome, he/she will go to the Wise one or *Òrúnmìlà*, who will consult the *Ifá* Oracle. The consultation of *Ifá* is called *Ifá Dídá*. It describes the action of humans attempting to understand *Olodùmarè*'s will concerning particular issues through the *Babaláwo*. It is the process in which man tries to ascertain *Olodùmarè*'s viewpoint on a particular matter. It involves the offering of sacrifices in order to overcome the challenges and disasters of life.²⁵ *Ifá* divination is performed with a flat divining tray, most often made of wood, the outer edge of which is generally slightly raised and carved in geometric designs and stylized figures. The face has anywhere from one to sixteen faces on the raised edge, and *Èṣù*'s face is always among them.²⁶ Divination requires either a divining chain or using palm nuts or cowrie shells. The process involving the divining chain i.e. the *opele*, is faster and common. However, the use of palm nuts for divination is considered more reliable, especially in matters of importance.²⁷ *Ifá* is a divination system based on sixteen major *Odù* and two hundred and fifty six derivative *Odù*, acquired by either the manipulation of palm nuts (*obí àbàtá*), or the manipulation of cowrie shells (*méríndínlógún*). Sixteen cowries or palm nuts are used in the divination, but a seventeenth is placed opposite the diviner and is referred to as the money of *Ifá* or a kind of chief that presides over the palm nuts being manipulated.²⁸ Of pertinence in the *Odù*, is the major *Odù* which are 16 in number, they are called the *Oju Odù* and are the main configurations in the divining process from which all the others are derived.²⁹ They are deities who are often at odds with one another.³⁰ The 16 major *Odù* are regarded as the messengers of *Ifá*, they replaced *Ifá* after his departure to heaven.³¹ The divination process is conducted by a *Babaláwo* referred to as the father of secrets, who acts as a medium through which *Ifá* communicates to his acolytes. He evokes the *Odù* which is the most relevant to the client's situation or need and then uses a poem or tale that connects to the issues presented to *Ifá*.³² After this, the *Babaláwo* gives instructions which ranges from warnings, to blessings, to specific sacrifices (ebo) as required.

The Social Structure of *Ifá* Oracle in Yorùbá Society

The Yorùbá society had a structured cycle and at its core laid the consultation of *Ifá*. The Nineteenth century was a time of great evolution within the Yorùbá political systems. There were about fifty different wars being fought amongst the various subsets of the Yorùbá people such as *Òyó*, *Ègbá*, *Àwòrì*, *Ìjèbú*, *Akoko*, *Igbomina*, *Ekitì*, *Okun Yorùbá*, *Owo*, *Egbado*, *Ijeṣa*, and *Ìfè* amongst others. These wars led to the evolution of the Yorùbá political system which was a centralized monarchy with 'typical and atypical reference to common descent or tradition of origin'.³³ The influence that *Ifá* had on the society is enormous, spreading to the deepest recesses and topics as remote as parenting and training of children. Yorùbá proverbs which are often used in the training of a child and counsel of a king are derived from the *Ifá* corpus which is basically an embodiment of Yorùbá philosophy and beliefs.³⁴ *Ifá* is consulted on all societal affairs, such as what king is to be selected, who was to occupy what positions, how the leaders should impact the society, on what day should certain things be sold and many other issues that arose from man's day to day life. We find constantly, '...in *Ifá* verses, that one situation has a thousand mirrors in all possible directions and dimensions. *Ifá* is all about the hermetic axiom, 'as above, so below' – the below is always seen as a crossroads, and the chain of choices made at each of its four gates reveal images of the invisible world above.'³⁵ As Makinde wrote when reciting an *Ifá* Proverb:

Wisdom is known as *Ifá*;
Knowledge is the other name for *Opele Ifá*.
Because we are bound to have problems.

²² *ibid.*

²³ *ibid.*

²⁴ *ibid.*

²⁵ (n12) 4.

²⁶ Allison Sellers and Joel E. Tishken, 'The Place of *Èṣù* in the Yorùbá Pantheon' in Toyin Falola (ed) *Èṣù: Yoruba God, Power, and The Imaginative Frontiers* (Durham: Carolina Academic Press, 2013)

²⁷ Nicholaj De Mattos Frisvold, *Ifá: A Forest of Mystery*, (London: Scarlett Imprint, 2016) 9

²⁸ n26

²⁹ Willfried F. Feuser, *Dilogun: Brazilian Tales of Yoruba Divination Discovered in Bahia*, (Ibadan: Shaneson C.I. Ltd., 1989) iv.

³⁰ *ibid.*

³¹ (n6) 93.

³² *ibid.*

³³ (n7) 273.

³⁴ Raji Adeyemi Areje, *Yoruba Proverbs*. (Ibadan: Daystar Press 1985) iv.

³⁵ (n27) 26

It is to be informed about something we are ignorant of;
That *Ifá* exists to help us.³⁶

The traditional *Yorùbá* society was broken down into different components. The family was the smallest part which was headed by the *Baale*. The *Baale* is usually the oldest male in the home and is accorded great respect based on his age, wisdom and of course, experience.³⁷ He settled disputes within the family and represented the interests of his household at the Quarter Chiefs council meetings. If the conflict arises between the two families that live within the same compound, then it is the *Baale* who resolves these issues. The *Baale* is the head of the compound above the family unit. Appeals can be made from the *Baale's* court to the *Olòrítun*, which is a council of *Baaless*. If the *Baaless* give an unsatisfactory judgement, an injured party may take the matter to the *Òba*. In cases or situations where the *Òba's* judgement is deemed unfair one still has recourse to the *Iwarefa*. The *Iwarefa* is the Supreme Court of the land. Their judgement is so sound that it overturns even the verdict of the *Òba*.

Then next component was the quarters; made up of a group of families, each led by a chief of some sorts who was selected by the *Òba* and represented the interests of the people. Often times, Kings and their high councils would consult *Ifá* to figure out how to help the society develop, and based on the answers received, they would make laws for the society and help create societal orderliness. The high council of the king takes on different names depending on the place it is established, for instance in the *Ègba* land, it is the *Ògbóni*, in *Òyò*, it is the *Òyò Mèsi*. The law like the *Ifá* corpus, in modern times, provides insight on how to solve man's problems. The sacrifices prescribed by the oracle can be likened to damages prescribed by the courts. Everything in that society had a place, including women. Women played political roles such as the *iyaloja* or spiritual roles like that of the *iyaniḡá*. An *iyaniḡá* is a woman who has achieved the status of an *Ifá* priestess through many years of meticulous training.³⁸

Èṣù: The Divine Messenger

Before the dawn of colonization and the inflow of Christianity into Nigeria, the concept of spiritual warfare had already existed within the scope of Christianity. This means that even before encountering the traditional religions of Pre-colonial Nigeria, Christianity was already built upon the idea of the struggle between the two great forces that control the world and life and the struggle between good and Evil.³⁹ In the Bible, Satan (the devil) is corrupt, evil and chaotic. He possesses no moral compass and is perpetually opposing God and His will. Thus throughout the Bible, from the fall of man in the Garden of Eden to the Death of Jesus Christ and now in present day society, the devil is constantly at work fighting the Kingdom of God.⁴⁰ Hence it can be said that Man's life is continuously in strife and caught in the perpetual battle of good versus evil. Armed with this notion, the early missionaries created another force called 'The Other' when they came into Africa.⁴¹ Reverend Samuel Johnson equates *Èṣù* to the Satan of Abrahamic faiths, who is completely evil and devilish in conduct and action. He refers to *Èṣù* as the 'Evil One, the author of all evil'.⁴² Unfortunately, critics disregard Johnson's submission based on the rationale that his ideas were influenced greatly by the bias against African Traditional Religion since he was an evangelist of the Christian faith.⁴³

According to Ifism, the religion has a pantheon of 600+1 supernatural powers. *Ifá* categorises them into two classes: *Irinwó o mọḡe ojùkòtun*⁴⁴ and *Igba mọḡe ojùkosi òwurò*.⁴⁵ According to *Yorùbá* cosmology, the universe is divided into two halves; the right side and the left. There are four hundred supernatural powers are on the right while two hundred supernatural powers on the left. The powers on the right are the *Òriṣà* i.e. the divinities. They are benevolent, but they sometimes punish humans who corrupt society. The *Yorùbá* pray and offer sacrifices to the *Òriṣà* in order to achieve their desires. Inhabitants of the left-hand side are *Ajogun* which are the anti-gods and are irrepressibly malevolent.⁴⁷ The word *Ajogun* means 'warrior'; hence they wage war against man and the *Òriṣà*. The *Ajogun* have eight warlords which are: *Ikù*(Death), *Àrùn*(Disease), *Ofo*(Loss), *Ègbà*(Paralysis), *Oràn*(Big Trouble), *Èpè*(Curse), *Èwòn*(Imprisonment), *Èṣe*(Affliction).⁴⁸ While these powers are divided in such a clear cut manner, there are supernatural powers that straddle both sides of the left-right divide. These forces are *Àḡe* (which translates loosely to witches) and *Èṣù*. *Èṣù* is a neutral factor in the sense that he is neither bad nor good but rather is a mediator between good and evil. One could say that he balances out the equation of the world. It is worthwhile to reiterate

³⁶Moses Makinde, 'Ifá as a Repository of Knowledge', (1983), Volume 23(2) *Journal of West African Studies* 116.

³⁷Ayo Bamidele, *Public Administration and the Conduct of Community Affairs Among the Yoruba in Nigeria* (Oakland, Calif: ICS Press, 2002) 56

³⁸Akin Ibidapo Obe, 'Spirit, Soul and Gender: The Role of Women in Traditional Worship amongst the *Yorùbá*', in Akin Ibidapo-Obe and Chiedozie Okoro (eds) *Awise Agbaye: The Voice of the Oracles – Essays in Honour of Professor Ogunwande Abimbola* (Lagos: Concept Publications Ltd., 2017)

³⁹ Benson Ohihon Igboin, 'Èṣù and The Problem of Evil' in Toyin Falola (ed) *Èṣù: Yoruba God, Power, and The Imaginative Frontiers* (Durham: Carolina Academic Press 2013)

⁴⁰ Ibid.

⁴¹Michael Asiegbu, 'Spiritual Warfare and the Demonization of the Other: Missionaries, Pentecostal/Charismatics and the Popular Praxis', (2006) 20(0) *The Nigerian Journal of Theology* 23

⁴² Samuel Johnson, *The History of the Yorubas*, (Nigeria: CSS Bookshops, 1921).

⁴³Olubayo Oladimeji Adekola, 'Èṣù Elegbara in *Yorùbá* Spiritual and Religious Discourse' in Toyin Falola (ed.) *Èṣù: Yoruba God, Power, and The Imaginative Frontiers* (Durham: Carolina Academic Press 2013)

⁴⁴Four hundred supernatural powers are on the right which are benevolent in nature.

⁴⁵ Two hundred supernatural powers on the left who are malicious.

⁴⁶ Kola Abimbola, *Yoruba Culture: A Philosophical Account* (Birmingham: Iroko Academic Publishers, 2005) 48.

⁴⁷Ibid.

⁴⁸Ibid.

that of all the divinities created by *Olodùmarè*, the most controversial would be *Èṣù*. In a world that is black and white, he is usually painted on the black side, as the source of evil and destruction especially in modern day religions like Christianity and Islam. He is regarded as the devil; the being whose sole purpose is to destroy the world.⁴⁹ However in *Yorùbá* Mythology, *Èṣù* is not so simple to understand. He is a rather complex puzzle to solve, in fact, one of his cognomens describes him as

Okunrìn nla,

Atuka ma se e sa

The big man, when he breaks into fragments, no one can piece him together⁵⁰

Èṣù is one of the oldest and most powerful of the *Òriṣàs* that exists. However, as an *Òriṣà*, he doesn't quite fit into any of the categories that the others have structured them into. He cannot be cast into the role of a subordinate, even when he performs his messenger duties. In fact, during worship he is usually the first to receive salutations. *Èṣù* is the divine messenger between the supreme deity and the other *Òriṣà*; he carries the reports of the activities of man and other *Òriṣà* to *Olodùmarè* and carries back messages from *Olodùmarè* to its recipients.⁵¹ He is basically *Olodùmarè*'s proxy on earth. He is also however a trickster, often causing trouble to spice up everyday life. He is also characterised as deceitful and betrays no emotions or intentions often having secret plans and goals he wishes to fulfil. In fact, many say that he is the one who reported *Òbatala* to *Olodùmarè*. He can intimidate his fellow *Òriṣà*; he can make their powers impotent, turn *Olodùmarè* against them and ruin them permanently.⁵² *Èṣù* is an esoteric being to understand and describe as he possesses a multifaceted personality and vast number of sacred duties.⁵³ *Èṣù* can best be described as paradox personified. This paradox is even evident in the mythology surrounding his origins. He is believed to be both amongst the primordial *Òriṣà* deities and at the same time, the youngest and cleverest.⁵⁴ This grants him the freedom to act how he pleases, in the sense that he is free to experiment with the rules as the young and innocent, but at the same time he possesses the wisdom and understanding to bypass the laws restrictions.⁵⁵ As the gateway of communication, it is the *Odù* that makes it possible for prayers to be answered and magic to be performed.⁵⁶

3. Yorùbá Legal System

Before the colonization era, the *Yorùbá* had their own indigenous or customary institutions and a great majority of the citizenry of this tribe adhered to these customary institutions and laws and accepted them as binding.⁵⁷ One of the greatest misconceptions about the pre-colonial judicial system of the *Yorùbá* people is that it was barbaric, primitive and largely uncoordinated.⁵⁸ The justice administration system of the *Yorùbá* people was hierarchically structured and organized even before the colonialists brought in their own system. There existed rules, norms, agencies and institutions of the law. The *Yorùbá* adjudicatory system is geared towards reconciliation and restoration of balance within the society. Thus, even if death is the only way to restore peace, death would wrought upon anyone without a second thought.⁵⁹ It would seem that the inconsistent thoughts on the African legal systems stem from a point of Euro-centrism. Euro-centrism may be articulated as the perception of the world and its cultures in terms of European or Anglo-American values and experiences.⁶⁰ There are pieces of negative narrative that European cultures and societies are superior, the expression of a bias and prejudice against non-European cultures and societies. Thus, at the dawn of colonization, when the white men came, they used their standards of what a legal system should look like, they looked for factors and characteristics that, from their own stand point, constituted a legal system, and when these factors were absent or albeit, different, they regarded what was in place as faulty and abysmal.

An informal court system was practiced within the *Yorùbá* customary system with the elders playing a significant role. Elders were expected to intervene, mediate, reconcile and adjudicate in conflict matters to ensure peaceful coexistence in the community.⁶¹ The *Yorùbás* even have an adage that is proof of the significance of elders to the maintenance of law and order in the society, *àgbà kí í wà lójà kí ori ọmọ titun wọ* ('the presence of an elder would automatically instil order').⁶² The informal court system which was governed on the principle of natural justice usually conducted its trials and hearings in public and any of the issues in question could be resolved at any time.⁶³ However, not every case can be solved or resolved by the informal

⁴⁹ (n16)

⁵⁰ Toyin Falola, 'Èṣù: The God Without Boundaries' in Toyin Falola (ed) *Èṣù: Yoruba God, Power, and The Imaginative Frontiers* (Durham: Carolina Academic Press, 2013)

⁵¹ Ibid.

⁵² Ibid.

⁵³ Omasade Awolalu, *Yoruba Beliefs and Sacrificial Rites* (USA: Athelua Henrietta Press, 1996) 29.

⁵⁴ Allison Sellers and Joel E. Tishken, 'The Place of Èṣù in the Yorùbá Pantheon' in Toyin Falola (ed.) *Èṣù: Yoruba God, Power, and The Imaginative Frontiers* (Durham: Carolina Academic Press, 2013)

⁵⁵ Robert D. Pelton, *The Trickster in West Africa* (California: University of California Press, 1980) 129

⁵⁶ (n27)

⁵⁷ Ibid.

⁵⁸ Oluyemisi Bamgbose, 'Dispute Settlement under the Yorùbá Culture: Lessons for the Criminal Justice System', in Toyin Falola and Ann Genova (eds) *The Yoruba in Transition. History, Values and Modernity*, (Durham, Carolina Academic Press, 2006) 125

⁵⁹ An Interview with Prof. I.O. Agbede, Emeritus Professor, School of law and Security Studies, Babcock University, (Iperu Remo, 13th February, 2020)

⁶⁰ Sabelo J. Ndlovu-Gatsheni, *How Eurocentrism & Coloniality Shaped Africa* available at <<https://berghahnbooks.com/blog/how-eurocentrism-coloniality-shaped-africa-2>> accessed January 27th 2020.

⁶¹ Oluyemisi Bamgbose, 'Law and Justice', in Toyin Falola and Akintunde Akinyemi (ed), *Culture and Customs of the Yoruba*, (Soith-Africa: Pan African University Press, 2016) 837

⁶² Ibid.

⁶³ (n58)

courts. A hierarchy of courts exists to take over issues that seem too large or too heavy for the informal courts. The courts were divided into three: first is the *ilé ejò ti badlé* which was a court held within the family compound and headed by the Baálé who is the family head. Second is the *Ilé ejò ti ijòyè*, which was a court headed by the village chief. Third was *Ilé ejò ti òba*, this was basically the highest court in the hierarchy of courts, the Supreme Court of the community which is headed by the *Òba* and made up of the royal court of the king.⁶⁴

Minor disputes and issues such as matters of theft, marital quarrels, inheritance, divorce, infidelity and other related matters are reviewed within the family; hence it is usually the family heads who sat on these issues.⁶⁵ In other cases where there is no mutual understanding between the parties to the suit, the village court determines the issue. The village head is in charge of this court and such a person is knowledgeable about the traditions and customs of the people and who is known to have high moral standing and integrity.⁶⁶ Age is an important factor in the selection of the village head, since as earlier stated; elders play an integral role in the justice system.⁶⁷ Issues brought before the 'lower courts'⁶⁸ that is the family courts and village head courts, are tried with the family bond in mind. This implies that the dispensation of justice amongst the parties would have always been subject the family bond; Family comes first. Social justice and equality are also major features of the judgements granted in such courts.⁶⁹ These issues are usually determined quickly and usually without any bad blood between the parties.⁷⁰ These courts utilized a common-sense approach in the dispensation of justice, as opposed to a legalistic one that is applied more in contemporary times.⁷¹ The highest court at that time was the royal court, which was headed by the *Òba*. The *Òba* was a sovereign who fit into Austin's description; in the habit of receiving obedience and was subject to no powers except the powers of the *Orisa*. The *Òba* was the supreme head and his court was the court of last resort.⁷² Cases like rape, incest, murder, treason, arson and other grievous offences were tried in the King's court. Issues that were of a mystical origin, witchcraft, misuse of magical charms and other spiritual offences were determined by the king's court using the royal traditional cults to investigate.⁷³ These traditional cults exist within the different *Yorùbá* tribes under different names, each name depending on what tribe it exists within. They also exercised both social and religious control over their communities, these cults include, the *Ayélálá*, the *Ògbóni*, the *Agemo*, and the *Orò* cult.⁷⁴

The traditional *Yorùbá* society is structured. Individuals had a function. Thus, even within these traditional courts, there were personnel who performed different roles in the administration of justice. These include orderlies and emissaries who perform similar functions to that of contemporary court clerks.⁷⁵ They passed on the information to parties and witnesses and ensure orderliness during the hearing of the case.⁷⁶ Sanctions were also widely recognised in the traditional *Yorùbá* society as a tool of deterrence. Throughout the years, those who had violated the status quo and societal norms and values were disciplined in order to set them aright.⁷⁷ Balogun emphasises the importance of punishment to the *Yorùbá* by stating that it is the mechanism for establishing collective morality within the *Yorùbá* society through the disapproval of improper manners and behaviours capable of the disruption of the social equilibrium and legal status quo.⁷⁸ Such sanctions utilised by these courts were dispensed by the officials and they include but are not limited to; banishment, slavery, public humiliation, caning and payment of fine. It is noteworthy that even though the legal system of the *Yorùbá* people differed from tribe to tribe, the factors being highlighted are generic features of the Legal systems of the *Yorùbá*.

Legal Mechanisms in the Pre-Colonial *Yorùbá* Society

Many African societies had properly set out rules of behaviour and the *Yorùbá* societies were no different. An examination of these legal systems would reveal that there is not much variance between the African Legal Systems and the contemporary legal systems. For instance, every tribe had a code, but not a code of detail, rather a code of general principle, a code that every judgement and decision must conform to. Such rules may specify the type of punishment deserved or may prescribe the procedure for penance or even marriage.⁷⁹ Also, under *Yorùbá* legal system there is a strong reliance on the past decisions of the elders or ancestors. In fact it is from this past decisions that verses from the *Ifá* corpus are born and are made part of the legal system. This can be likened to what we now know as Judicial Precedents.

⁶⁴ Toyin Falola and G.O. Oguntomisin, *The Military in Nineteenth Century Yoruba Politics* (Ife: University of Ife Press 1984) 19.

⁶⁵ Ibid. 128

⁶⁶ Omoniyi Adewoye, *The Judicial System in Southern Nigeria*, (London: Longman Publishing Group, 1977)

⁶⁷ Ibid

⁶⁸ Lower courts here is used to refer to these courts that are more grass root than the others. Dealing only with issues that exist between family members and between families.

⁶⁹ (n58)

⁷⁰ Ibid

⁷¹ Ibid.

⁷² Ibid.

⁷³ Olumide Lucas, *The Religion of the Yoruba*, (Lagos: CMS Bookshop press, 1948) 54.

⁷⁴ Oluwatosin Adeoti Akintan, *Religious Tolerance and Peaceful Coexistence: The Case of Female Religious Cults Relationship in Ijebuland, Ogun State, Nigeria* (2019) Available at <<https://www.iiste.org/journal/index.php/RHSS/article/viewfile/13261/13575>> accessed January 28th 2020.

⁷⁵ (n58) 839.

⁷⁶ Ibid.

⁷⁷ (n58) 4.

⁷⁸ Oladele Abiodun Balogun, 'A Philosophical Defence of Punishment in Traditional African Legal Culture: The Yoruba Example' (2009) 38(1) *The Journal of Pan African Studies* 43.

⁷⁹ Harold Lambert, *Kikuyu Social and Political Institutions* (London: Routledge, 1956) 118.

The Legal Content of Ifá

The legal content of the *Ifá* corpus is a field of study that is in-exhaustive in itself. The corpus is far too wide to even be considered in its entirety as some of it remains within the hearts of its practitioners or are lost with time. As a result of its vastness, some of the corpus has been broken down into easily understandable pieces found in other media such as the *oriki* (praise poems), proverbs, rituals and festivals. In addition to this, in juxtaposing modern contemporary law, it is noted that it is also a vast field of study. Consequently, because this study is an extensive undertaking, it will have to be limited by the legal subdivision given below.

Ifá in Environmental Law

In the *Ifá* corpus, the earth is believed to be an *Òrìṣà*, she is regarded as *Ile*.⁸⁰ Although there are no Odu in particular that speak of *Ile*, there are many verses i.e. *ẹṣẹ* which speak of her. For instance *Odù Qsá Méjì* goes thus:⁸¹

*'Qsá yòòò,
Babaláwo ayé,
Ló dífá fáyé;
Wọ̀n láyẹ́ ó fẹ̀bọ̀ olà á lẹ̀
Èbọ̀ ajogun ní ó ẹ̀.
Njẹ̀ àwá n bẹ.
À n bẹ.
Áwá mọ̀mọ̀ n bẹ láyẹ́ o
Ayé ò ní parun.'*

This verse translates into;⁸²

*'Qsá, the brightly shining one
Ifá priest of Earth
Performed Ifá divination for Earth;
Earth was told to stop performing sacrifices intended to make her wealthy,
But to perform instead sacrifices that would protect her against her enemies.
We are certainly alive,
And we are pleading
That as long as we remain on Earth,
Earth may never be destroyed'.*

A Yorùbá proverb says: *'Omọ onílẹ̀ n té ẹ̀ jẹ́é jẹ́é; Àjògì a tè è bàsù bàsù'* which loosely translates into 'the child of the owner of a plot of land, walks gently atop the soil, whereas a visitor just runs rough on it'.⁸³ The Odu verse warns the earth not to make sacrifices that will bring her riches but rather she should make sacrifices that will give her victory over her enemies. There are many who exploit the earth and her gifts i.e. her natural resources; miners, excavators, oil drillers, large corporations that are responsible for poor refuse disposal and pollution these are who are considered enemies of the earth and her prosperity. The verse charts of the reality of global warming and what the believers should do in order to protect the earth. This is in tandem with the provisions of the Constitution⁸⁴ which enumerates the environmental objectives of the government. This section charges the government with the duty to protect and improve the environment, protect the water, air, land, and forest.

Ifá and Constitutionalism

The term 'constitutionalism' is used to describe the idea that a government can and should have legal limits on its powers, and that its legitimacy and efficacy rests and depends on its ability to adhere to these legal restrictions.⁸⁵ According to the Yorùbá belief system, the process of state creation was commenced by Oduduwa. He is regarded as the architect of the modern representative system of government. This system in its primary form emphasised the importance of a monarch and his powers over the people.⁸⁶ All these societies and political systems designed machineries which helped curtail and control the excesses of the kings and chiefs either publicly or in secret.⁸⁷ In comparison to all other Kingdoms, the *Ọ̀yọ̀* Empire established one of the most impressive systems of government. This governmental structure contained a check and balance system which allowed the organs of government to utilise their powers to their fullest potential but also stopped these powers from acting ultra vires.⁸⁸ These organs of government were;

1. The *Aláàfin*, who was the paramount leader;
2. The *Ọ̀yọ̀ Mesi*, which were more like a council of the state or advisors to the King; and

⁸⁰ She is also known as *Ayé* meaning life

⁸¹ (n6) 66.

⁸² *ibid.* at 67

⁸³ *Ibid.*

⁸⁴ Constitution of the Federal Republic of Nigeria of 1999 (as amended) Cap.C23 Laws of the Federation s. 20.

⁸⁵ Will Waluchow, 'Constitutionalism', (2017), The Stanford Encyclopaedia of Philosophy, available at <<https://plato.stanford.edu/entries/constitutionalism/>> accessed 1st February 2020.

⁸⁶ Akin Alao, 'Politics and Government', Toyin Falola and Akintunde Akinyemi (ed.), *Culture and Customs of the Yoruba* (South Africa: Pan African University Press, 2016) 598.

⁸⁷ *ibid.* 599

⁸⁸ *ibid.*

3. The *Ògbónì*, who bore responsibilities similar to the Judiciary.

The *Éşó*, who were the army, acted as the executive in some way as they enforced the will of the arms of government as well as acting in their own capacity as the armed forces in charge of defending their community and their monarch.⁸⁹ In juxtaposing this with Austin's theory of the Sovereignty, Austin believed that the existence of an ultimate authority was a prominent feature of an independent state or political society. Whether that personality or sovereign is given a title such as king, or chief or anything else, is irrelevant as this mystique of sovereignty attaches to him an authentic source of respect for constituted authority.⁹⁰

Ifá and Human Rights

The core of law of human rights law is the protection of individual rights and the promotion of justice, equality and fairness amongst the citizenry of the world. There is a popular belief that African law is more concerned with the rights of the community, i.e. collective rights, as opposed to the rights of individuals.⁹¹ While it is mostly true that individual rights take a back seat to the rights of the collective, the importance of personhood and individuality in the *Ifá* tradition is emphasised.⁹² The concept of *Òrí*, i.e. the divinity of the head, is greatly emphasized in the *Ifá* corpus and consequently this emphasis adequately demonstrates the importance of personhood in the religion. The *Òrí* of a person is the embodiment of his/her past, present, future, destiny, existence and essence. It translates loosely to pre-destination, destiny, fate or pre-ordination.⁹³ However although the *Òrí* means destiny, it is in constant flux and is subject to manipulation by the supernatural forces in man's life, it is then up to man to take control of his life and focus himself on the fulfilment of his ambitions with the blessings of the *Òrísá*.⁹⁴ The dedication of the entirety of chapter IV of the Nigerian Constitution to the enforcement of the Fundamental Human Rights can be regarded as the recognition of the importance of the person and the importance of preserving the person and his rights.⁹⁵ The *Ifá* worship is usually characterized as a religion and religion for many years has been a tool for the subjugation of the female race. Religions such as Islam and Christianity have a history of oppression of women and their subjugation.⁹⁶ However, within the *Ifá* Traditional worship, the role of women is distinct, definitive and significant. Although the dominant role of worship is reserved for men, that is the role of Babalawo or Chief Priest of *Ifá*, the female role of *Iyanifá*, if properly understood, is one of spiritual significance and import with thorns.⁹⁷ It is important to note that one of the first verses taught to a Babalawo is: *Ifá ní yé fúnmi; E ma fúnmi lówó; Ti o ba fúnmi lówó o ma tàn*. This means: Give me *Ifá*; Don't give me money; If you give me money, it will finish. This means that the compendium of knowledge of *Ifá* is sufficient for those who truly appreciate the corpus.

The role of women in the worship may stem from their role in the wider *Yorùbá* culture and community. The greatest misconception about the *Yorùbá* society is that women are second class citizens and that men are the glorified heads of their households; ruling with iron fists and doing as they please.⁹⁸ Fortunately, this image is not a true depiction of the dynamic in the relationship between a *Yorùbá* husband and his wife or wives. Women were empowered to be economically independent, engaging in crafts, farming, trading; taking care of themselves and their children.⁹⁹ Thus, women held political posts and positions of spiritual relevance and why the *Ògbónì* could not have a functional meeting without the *Èrélù* being present. The importance of women is traced down to the beginning of creation. When human were sent down to the earth, *Òşún*, the only woman out of two hundred men, was granted *Aşé* (which is the power to establish things) by *Òlódùmaré*. The other men decided to leave *Òşún* out of the work that they were doing. Consequently, everything they set up fell apart and their efforts were frustrated.¹⁰⁰ When they made supplications to *Òlódùmaré* to help them, *Òlódùmaré* sent them back to *Òşún*, stating that they had to appease her before they could succeed.¹⁰¹ When they appeased her and everything was set aright, they sang her praises saying: *'A f'imo je t'Òşún; Iye wa, a ba won pe l'imo Awa f'imo je t'Òşún o'*. This means that: 'We give reverence to *Òşún*; The Unseen mother ever present at every gathering; We give reverence to *Òşún*'. As if to emphasise the significance of women in *Ifá*, The *òlórì ikín* (the leading palm kernel used in divination) is a representation of *Òşún*. Women of the Traditional *Yorùbá* society are capable of attaining high positions not just *Iyalója* and *Iyanifá* but also *Òba*, which indicates that the word '*Òba*' is gender neutral meaning sovereign.¹⁰² The *Ògbónì* cult which served as the Judiciary of the traditional *Yorùbá* society was also subject to female powers as the cult could not hold meetings without the presence of the sole female member, the *Èrélù*.¹⁰³

⁸⁹ibid.

⁹⁰ (n38) 63.

⁹¹ Akinsola Akinwowo, *Ajobi and Ajogbe: Variations on the Theme of Sociation*, (Ibadan: Univerisity of Ife Press 1980) 11.

⁹² (n38) 63.

⁹³ Rowland Abiodun, 'Ifa Art Objects: An Interpretation Based on Oral Traditions', in W. Abimbola (ed) *Yoruba Oral Tradition*, (Ibadan: Ibadan University Press, 1975) 422.

⁹⁴ibid.

⁹⁵ Constitution of the Federal Republic of Nigeria 1999, s.34

⁹⁶ For instance, when St. Paul disallows women from speaking in church. Many ignorant minds hypothesize that the basis for this is that women gossip. Although it is absurd to think that gossiping is a gender trait, many others have begun to subscribe to this thoughtless notion and enforce it further in their temples, mosques, churches and other places of worship.

⁹⁷ (n38) 26.

⁹⁸ibid

⁹⁹ Ulli Beier and Rowland Abiodun, *Conversations on Yoruba Culture*, (Lagos: Iwalewa Books, 1991)

¹⁰⁰ (n38) 64

¹⁰¹ I suppose this could be an African etymology of the phrase 'behind every successful man is a woman'.

¹⁰² (n38) 26.

¹⁰³ (n38) 63.

As mentioned above, *Ifá* pervades every aspect of the *Yorùbá* societal living from contract to marriage etc. In contract it is your word that binds you. In marriage, *Ifá* is ever present even in the name of wife that is known as 'Iyawo'. It is from the words 'Iya' 'iwo' which means that you must suffer for your wife. It is from an *Ifá* verse which tells the Story of *Òrúnmìlà* who wanted to marry the daughter of Oluwo who had to suffer the hardship of sleeping on a mattress

Critique of the *Yorùbá* Legal System

Every legal system in the world has its own flaws and because law is a fluid and flexible concept, it most adapt to meet and suit the needs of the society in which it functions. As innovative as the *Yorùbá* legal system was, it possessed many flaws in which it had to evolve to surpass. Unfortunately colonialism stole the opportunity for self-development and growth. However, what this study will attempt to do is to analyse and critique the traditional legal system while comparing it to the contemporary English legal system. The most prominent and harshest critique that the traditional legal system has received over the years is of course that some of their practices were repugnant to natural justice and general criminal justice standards.¹⁰⁴ The Nigerian customary legal systems have always been criticised for being against international human rights. Punishments such as slavery and public humiliation went against the basic human right to dignity of person. The repugnancy test was developed to accord the court the ability to fine tune the customary law to meeting the changing social needs of the society.¹⁰⁵ Cases such as *Lewis v. Bankole*¹⁰⁶, *Agbai v. Okogbue*¹⁰⁷ and *Meribe v. Egbu*¹⁰⁸ are all illustrative of the customary laws ability to evolve to meet the new changes in the society. Unfortunately the unwritten nature of customary law creates many issues in its enforcement. For instance, the provisions of S.36 (12) of the 1999 Constitution (as amended) which states that no individual can be convicted or even tried for offences not stipulated in any statute, thus rendering the criminal part of the Nigerian customary law unenforceable. Given the notion that it is largely unwritten and informal in nature, it operates with little regulation and in some cases outside the confines of a legal framework.¹⁰⁹ The traditional legal systems lack procedural guidelines that ensure the rights of disputants. Given the lack of safeguards available for the protection of rights, many vulnerable groups suffer from exploitation.e.g. rape victims, domestic violence victims and children. These victims suffer from severe social, economic and mental strain as a result of the exploitation and judgement from the society at large.¹¹⁰

Women are routinely discriminated against in relation to sexual rights, succession rights down right to the basic right to dignity of persons.¹¹¹ They are utilised as objects and property for the payment of compensation to wounded parties without being compensated themselves for the pain they bear. Some sanctions even perpetuate the abuse of women by forcing them to get married to their abusers or rapists. In addition to this is also the method of ascertainment of evidence. The *Yorùbá* justice system utilised bizarre and unorthodox means of obtaining evidence which violated human rights; methods such as trial by ordeal¹¹² which has been outlawed by Section 207 of the Criminal Code Act.¹¹³ Practices such as black magic and witchcraft which defy laws of logic and modern scientific rationalism were used to collate evidence, hence the conclusions these methods came to were as unsound as the methods used.¹¹⁴ The compensatory nature of the *Yorùbá* legal system may deny disputants the rights to the remedies and may disparage the principles of equality before the law especially in cases where decisions are taken not based on the nature of the crime but rather on the gender and or social standing of the parties.¹¹⁵ It would seem that the critiques given to the Legal system are too harsh as no legal system was without its flaws. As law is a living thing and is in constant flux, it is meant to evolve and shape itself into a mechanism of social engineering. Thus, if we had been given the chance we would have evolved passed these flaws in the legal system. In the words of the great Benjamin Cardozo, law never is, but always will be.

The subject matter of this study can be seen to permeate every aspect of societal living. This vast and nebulous concept which always seems to have the answers to every situation prompts the asking of the crucial question, 'what really is *Ifá*?' Many tend to view it in isolation as a religion, but it is so much more than that. It is a corpus of wisdom passed down from generation to generation. It is an oral culture which has endured all this while, with wisdom being passed to the next generation by words of mouth. Its presence in the *Yorùbá* Legal System is therefore not surprising to those who have a deeper understanding of what *Ifá* truly is. It is a corpus, a compendium, a compilation of wisdom, of adages, proverbs, stories and situations all of which are

¹⁰⁴ Joshua Taiye Omidoyin, 'The Customary Justice System and its Continuing Relevance in the Administration of Justice', in Akin Ibidapo-Obe and Chiedozi Okoro (eds) *Awise Agbaye: The Voice of the Oracles – Essays in Honour of Professor Ogunwande Abimbola at 85*, (Concept Publications Ltd 2017) 233.

¹⁰⁵ Joshua Taiye Omidoyin, 'The Customary Justice System and its Continuing Relevance in the Administration of Justice', in Akin Ibidapo-Obe and Chiedozi Okoro (eds) *Awise Agbaye: The Voice of the Oracles – Essays in Honour of Professor Ogunwande Abimbola at 85*, (Concept Publications Ltd 2017) 233

¹⁰⁶ (1908) 1 NLR 81,

¹⁰⁷ (1991) 7 NWLR (Pt. 204) 391.

¹⁰⁸ (1976) 3 SC 23.

¹⁰⁹ (n104)

¹¹⁰ (n104)

¹¹¹ (n104) 234

¹¹² D. Isser, S. Lubkenmann & S. N'Tow, Looking for Justice: Liberian Experiences with Perceptions of Local Justice Options. United States Institute of Peace. Peaceworks No. 63, 57-56, https://www.usip.org/files/resources/liberian_justicepw63.pdf., Accessed on January 29th 2020.

¹¹³ Criminal Code Act, s.207.

¹¹⁴ J. Widner, *Courts and Democracy in Post-conflict Transitions: A Social Scientist's Perspective on the African Case*, (2001), 95(1), American Journal of International Law. 64

¹¹⁵ (n104) 234

relevant and can still be applied to the present day problems and challenges of man and womankind. It was relevant to its society then and is still relevant now as they are not as many deviations from the structure of legal systems within contemporary times. It should be noted however, that *Ifá* is an oral culture and thus is subject to the manipulation and corruption of man as well as loss of certain parts either due to the forgetful nature of man and or the lack of willing descendants to pass this knowledge down to. After the advent of the Europeans, euro-centrism crept into our societies, watering down our belief systems and de-constructing the structures that were established by our cultures. The Colonial masters managed to manipulate the African mind against its own cultures, creating the belief that our cultures were barbaric and primitive as opposed to their modern and elite culture. With the influx of other religions such as Christianity and Islam, the African Traditional religion became the opposing side to these Abrahamic faiths thereby becoming demonised by the very people who subscribed to it earlier.¹¹⁶ The Traditional leaders of today are also not without fault, by willingly embracing the cultures and religions of another and disregarding their own, they demonstrate to the people just how far the Europeans have penetrated deep in to the society. Today's Traditional rulers are hybridized Nigerians who have learned to wield the European culture alongside the Nigerian culture with the European cultures as a sword and the Nigerian Culture as a shield to be called upon only when needed.

4. Conclusion

A general misconception about *Ifá* is that it is related only to spirituality, worship and religion. As a result of this widely held misconception, many try to dissociate *Ifá* from society and section it off as a religion. It is incorrect to do so however, as *Ifá* is a compendium of knowledge that permeates all aspects of the society. *Ifá* is not a religion it is an anthology of our history, laws and ways of life like our constitution. It is a record of all that has happened to us. And within this vast concept, is religion, science, law, technology, education even agriculture. This article has established that *Ifá* is fundamental to the Yorùbá worldview and philosophy. Its active role in the lives of its subscribers, their society and their interpersonal relationship serve as evidence of its import to the Yorùbá people. Its pervasiveness and fluidity allow it to penetrate the deepest recesses of the society from the naming and training of children, to how laws are implemented in the society. Unfortunately, the dawn of colonialism morphed the customs and traditions into the mock hybrid of cultures that are practised in contemporary times. Consequently, it is unclear as to whether the content of these cultures would have remained untouched without the interference of the imperialists. What is clear, however, is that *Ifá* as a body of knowledge continues to be a meeting for the Yorùbá and its Diasporas. It is part of Spirit of the people. It must be re-iterated here that '*Ṣaaju ki a to mò íbítí à nlo, a gbọḍo mò íbí ti a ti nbo*', which means that '*before we know where we are going, we must know where we come from*'. It should be noted that some of the problems identified by this study may be difficult to solve, however, for a nation to grow society must be deconstructed and reconstructed. It is to this effect that the following recommendations are made. There is need for a total and complete overhaul of the Nigerian legal system; The Nigerian Legal system is a tripartite system that consists of many legal rules and norms which are not relatable to the people who obey them. The inclusion of the English laws which even England has done away with in the Nigerian Legal system only further justifies our colonialists and places them on higher pedestal than our state. If Nigeria were to truly embrace her independence as a State, she would have to disregard the English laws and work on recognising the value within the state rather than ripping off the customary laws and rules of a country which is largely different from ours. Not only that, but the Nigerian government must also stop the implementation of rules and statutes that deliberately attack its customs and traditions. Laws that outlaw certain practices which are not repugnant to natural justice, good conscience and equity are grossly unfair and impracticable. Again, a codification of the customs and traditions of the people in Nigeria is necessary. This may seem unorthodox and unrealistic given that Nigeria is a vast state with as many as 400 ethnic groups. However, the codification of these customs and traditions of these people would not only ensure the inclusion of all Nigerians in its implementation but would also make such customs available for scrutiny and amendment. Its codification may also allow for its criminal aspect to be applied by the Nigerian courts who have set aside customs through the use of Section 36(12) of the 1999 Constitution of the Federal Republic of Nigeria (as amended in 2011). Asides from the fact that its codification would ensure inclusion, it would also encourage the Nigerian people to be more involved in the legislative process as it is their customs and traditions. This recommendation may encounter problems due to the fact that the attempting to codify rules that have been oral for so long may actually lead to disharmony within the law itself.

¹¹⁶ Rev Samuel Johnson and Samuel Ajayi Crowder are just two examples of the effects of Christianity on the African Traditional Religion. Crowder's use of Esu to describe Satan in the bible has had long lasting effects on the Yorùbá religious psyche which may never truly heal. However, the true nature of Esu has already been discussed in previous chapters.