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YORUBA TRADITIONAL INSTITUTION AND MAINTENANCE OF LAWS AND ORDERS IN THE PRE- COLONIAL PERIOD

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Abstract

Traditional institution was the most relevant institution in all the Yoruba towns and villages in the pre- colonial period. It represented the central point of the people's cultural, social, economic, political and spiritual engagement. Traditional Yoruba rulers were the trustees of the various communities and also responsible for the general well- being of their people. For most of these functions to be achieved, there was the need for laws and orders to guide the action and day to day life of the people. The paper therefore sets to look at the roles played by the Yoruba traditional institution in the maintenance of these laws and orders. The paper articulates the structure of Yoruba traditional institution, the sources of their laws and the instruments used in the maintenance of the laws and orders. Historical analysis approach is explored in writing this paper.

Keywords

Traditional Institution, Laws and Orders, Pre- colonial

1. Introduction

Yoruba is one of the largest and homogenous groups in Africa. They are well organized and united by a common culture and traditions of origin. They laid claim to Oduduwa as their ancestral father and Ile- Ife as their ancestral home. They live in kingdom and empire and speak the same language. The unity of Yoruba in the pre- colonial period did not imply that they have constituted a single political entity neither they had been referred to one another by a common name. Biobaku posited that the Yoruba during the pre-colonial period were into numerous independent kingdoms (Biobaku S.O., 1973).

Therefore the study of Yoruba during the pre- colonial period is the study of various independent kingdoms that comprise many tribes and governed by their own chiefs with their own laws. The principal tribes amidst these kingdoms are; Egba, Ijesha, Oyo, Ondo, Ekiti, Ife, Ijebu and Akoko (Samuel Johnson, 1997).

Most of these independence kingdoms of Yorubaland had evolved similar political structure through which they were bind together for effective administrative purpose and also for maintenance of peace and orderliness in their various kingdoms. This paper will fashion out the Yoruba political structure and the roles played by this traditional institution in maintenance of laws and orders. Likewise, the sources of law and instrument used in enforcing laws and orders will be explored in this piece.

2. The Yoruba Political Structure

Yoruba political structure in the pre- colonial period was a very unique one. Each independent kingdom consisted of a capital town with a number of subordinate towns, village and farmlands. Basil and Buah affirmed that *Ebi system* evolved in the Yoruba political system. This system regarded kingdom as a large version of a family, and a country as a collection of kingdom whose rulers look on one another as relations (Basil Davidson and Buah, F. K. 1975). This system grew into a concept of societal organization. In Yoruba societal organization, *Ebi* are relatives through blood line, starting from father, mother, brother sisters, uncles, aunts, and nephews and so on until as far back as five to ten generations (Adedayo Ologundudu, 2008)

The political organization of each town and village in Yoruba land started with this *Ebi system* while family was the basic unit of government. Each family composed of people related through blood lines and such grew to the extended family that is, grand parent to

grand children. They lived in the cluster of homes called compound or *Agbo'le*. Each *Agbo'le* was gathered round the house of the head of its *Agba'le* who was the senior or aged male in that decent-line. It is a common thing amidst the Yoruba today that one must belongs to one descent- line or *Agbo'le* and whosoever does not know his descent- line would be referred to as a bastard (*Omo- Ale*).

Apart from *Agbo'le*, there were quarters. Each quarter was the combination of many descent- lines. It headed by a chief. The quarter chiefs were by hereditary and they are directly responsible to the king at the center. There were also some other chiefs apart from quarter chiefs in the political organization of Yoruba land. Akinjogbin and Ayandele asserted that chiefs in the Yoruba political organization were usually grouped into two, those who represented the princely interest and those who represented the commoner's interest. The leaders of these two ranks constituted the supreme council of the town (Akinjogbin, I. A and Ayandele, E. A, (2008). Other chiefs were the religious chiefs who represented the religious cults within the kingdom. These set of chiefs did not sit down with the secular ones. They have to consult the deities to sanction any important political decisions taken in the kingdom.

At the capital town or *Ilu* in Yoruba land there was the seat of powerful rulers or *Oba* (king) whose ancestors were of the descent of Oduduwa. It was the king that acted as both the political and spiritual leader of their various towns. Both the king and the senior chiefs administered the town while quarter chiefs and *Baale* of various villages reported back to the king through their chiefs. In this political arrangement the chain of consultation or command went from the king to the chiefs and to the *Baale* and the citizens. Atimes head of a guild could be involved in this chain when circumstance dictated. The guild system in Yoruba land arose from the organization of trade and profession whose members were bind together by an oath and through its head the members could reach or be reached by the king.

This political organization in most of the Yoruba towns formed the tunnel through which their judicial process passed through. There were different kinds of offences that could be tried at different level of political units. Strictly speaking, pre- colonial judicial system in Yoruba land started from the home or family which was the lowest political unit. At the family level, the head of the family was the sole judge. He tried some minor offences such as fights between the members of the family or between the spouses at the family level. Other misunderstanding among the family members could be as well settled by him. In any

offence at the family level, the family head listened to the parties involved and apportion light punishment such as warning or suspension from the family meeting until the offender remained sober (Oral interview with barrister, 2015)

Any cases that the family head could not decide upon such have to be transferred to the compound or *Agbo'le* for onward consideration. The political organization in most of Yoruba towns has bestowed upon the compound head as well as quarter chiefs. They mostly occupied with the administrative and judicial supervision of the various families in their domains. Hence maintenance of laws and orders proceeded from the family level to the compound, quarters and palace which is the seat of the king as well as the combinations of oba with all the chiefs in the town (Ogunrinde, S.O. 1992).

At the compound level, *Agbo'le*, which could be also known as sub- quarters in some Yoruba towns, maintenance of law and order was presided over by the oldest person. In a situation where such compound has chief, such chief would preside over any judicial proceeding. Offences that could not be settled at the family level and other offences ranging from land dispute, debt and marriage problem were tried at this level. Any of the parties that were not pleased with the judgment at this level could appeal to the quarter chief. Quarter chief has power to try any offender within his domain. Whenever any case brought to the quarter chief he listened to both parties and a time invited compound head who had earlier adjudicated over the same case to be a witness or party to the proceeding before he finally passed his own judgment (Oral interview with Chief Falola, 2015).

The administration of justice and maintenance of laws and orders at the palace level could be in two forms; the first was trial of the minor case that were brought to the palace and such cases would be presided over by the group of princely chiefs which were mainly palace chiefs. They were called different names by different towns some called them *Omowa* while others called them *Emese*. These palace chiefs were highly knowledgeable in natives' laws and customs. The second tried some grievous case such as robbery adultery, murder, seduction, conspiracy rebellion against constituted authority, witchcraft, dispute over pregnant, sensitive land disputes and farm scuttle. This also served as the final appeal for any cases that have been tried by the quarter chief and the palace chiefs. *Oba* (king) himself would preside over such cases while some quarter chiefs and palace chiefs may also be in attendance. The king after had listened to the parties involved, may adjourn the date of judgment for the period which may last for seven days in order to have enough time to

investigate and know much about the truth concerning the case before him (Ogunrinde, S. O, 1992).

3. Sources of Laws in the traditional Yoruba society

In the traditional Yoruba society there were strong and formidable judicial processes. Although there were no written and codified laws as well as established courts as we have in the present judicial process. Most of the traditional Yoruba laws were derived from their culture, beliefs, norms and values.

Yoruba in the pre- colonial period believed in the existence of an Almighty God, who they referred to as Olodumare i.e Lord of Heaven. They acknowledged Him as the Alfa and Omega, the creator of heaven and Earth, but too exalted to concern Himself directly with men and their affairs, hence they admitted the existence of many gods and intermediaries and these they termed *orisas* (Orisas1997) Therefore Yoruba equally believed that an offence against any of such *orisas* or gods and goddess is an offence against Olodumare, since we approach the latter through the former (Makinde, A. M.1988, July). In addition, Yoruba also believe in the law of retribution, simply put that what you do that you get back.

In the Yoruba traditional there were moral principles which often obvious from the way we think and talk. It is the moral law that brings God into being. In Ifa as one of the agents of God in Yoruba land, it consists some oral scriptural passages which present visions of moral conduct for the sake of self improvement and a better life in the society. Some of these moral principles are; respect for elders; the burden of being a thief and doing evil to others; repentance and forgiveness etc. (The odu Ifa quoted from Revd, 1988). Awolalu and Dopamu as cited in the Makinde posited that moral values are the fruits or offspring of religion and not just human invention while Olodumare is regarded as the ultimate originator and upholder of moral law. With this moral law, there was development of Taboo or *Ewoo* which Yoruba known as forbidden.

Taboo originated from the fact that people discerned that there were certain things which were morally approved or disapproved by the deity. Many of these taboos in Yoruba land are sometimes associated with the will of some gods, the more general belief is to locate the original source of morality to the will of Olodumare who is the Omnipresent and Immortal one that sees and judge all human actions.

The taboo binds on every individual and personality in the Yoruba society. As the King had certain limitations placed on his power which were included in the taboo were designed to curb despotism on the part of the king and promote harmony among the different elements of the community. The violation of taboo by the king, chiefs and other individual kin the community carried heavy penalties and usually bring untold harm, hardship and destruction to the community (Akinjogbin, I. A, 2008).

4. Instrument Employed in administering Laws and Order in the Pre-colonial Yoruba Society

In the present western means of maintaining of laws and orders adopted by most of the African countries today, constitution, established courts of law, police force, prison and other enforcing agencies are employed as the major instruments for administering laws and orders. But in the pre- colonial Yoruba society, there were known written laws and established courts. Likewise specialized enforcing agencies were not existed. The judicial proceedings and maintenance of laws and orders depended on the political structure. The principle of compromise, conciliation and mediation were prevailed and extensively practiced to ensure peaceful co- existence among the communities in Yoruba land (Moyibi Amoda, (1978).

Yoruba communities employed oath as one of the instruments for maintenance of laws and orders. It is generally believed among the Yoruba that the power to take judgment is in the oath sworn on the ground (Makinde, A. M. (1988). Therefore, the fear of oath sworn always checkmate an individual regardless the position held in the community.

The gods and other deities also served as one of the instrument used for maintenance of laws and orders. These gods and deities were acknowledged and worshipped, people believed them to be dispenser of blessing, protector against enemies, evil epidemics, diseases and also offered the citizens the opportunity for enjoying good government. They also served as means of social sanctions used in the enforcement of morality (Ikuejube Gbade, (2004). The atrocities and crimes secretly committed by an individual or collectively were revealed by these gods. Among these gods/ deities are Ifa, Ogun, Egungun (masquerade) Esu (the evil one) (Sola Olomola, 26th- 31st July, 1976).

Yoruba believed that these gods or deities possessed extra- ordinary powers of divination for instance; consultations were made from Ifa while vengeance to execute

justice upon offenders were carried out by this deity. Likewise, Egungun was the executor of woman accused of witchcraft and of those who proved guilty of such crimes and incendiarism. Each of these gods or deities were having shrine where sacrifices were made to appease them. There were also a cult for each deity and each cult- group held an annual ceremony for the deity through ritual pattern varied from cult to cult.

5. Conclusion

This paper discusses the Yoruba society in the pre-colonial period, the process of maintenance of law and order becomes the major focus of the discussion. It has been established that the level of judicial process in the pre- colonial Yoruba society depended on the complexity of socio-political organization. In Yoruba land power and authority were vested on the king while he delegated some to the chiefs and other community leaders such as *Baale* and compound heads for the maintenance of laws and orders. This enhanced the peaceful co-existence among the various people in the community.

It is equally establish in this piece that the judicial process in the pre- colonial Yoruba society embraced fair play and quick dispensation of justice at every level, while the sacred position of the king and vengeance of Almighty god (Olodumare) administered by the gods or deities upon offenders created fear in the mind of several people and eventually checkmate them, thus it led to reduction in the rate of crime among the people of Yoruba land.

The paper submits that the modernization and introduction of western legal system should not allow the Yoruba to lose focus on the traditional means of maintaining of laws and orders. There is need to protect our traditional legal rights, and indigenous customary laws has to be given right attention in our modern legal system in order to preserve the well being of the whole Yoruba community and Nigeria at large.

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