

FOLKLORE AS FOLKLAW IN YORUBA INDIGINEOUS EPISTEMOLOGY

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The forms and techniques of African oral literature have not been borrowed from external cultural traditions, and are by and large uncontaminated by western influences. For this reason, they constitute the most authentic expression of the creative intelligence and world-view of African people (Akporobaro 2001, 18).

Yoruba, to be fully understood in the context of this paper in its ethnographic sense,¹ are a major tribal group in Nigeria. Presently, they are found in large concentration along the West African coast as well as other major cities of the world. Yoruba continuities in the Diaspora also stretch as far as Brazil, the Caribbean: Trinidad and Tobago, Jamaica, Europe and the United States of America (Adetugbo 1992). Perhaps what stands out the Yoruba everywhere they are found is their strong attachment to their culture, religion and tradition. Even with civilization, the light of culture has remained effervescent among the people.

Interestingly, one major reason why the bond of tradition in Yoruba society remains relevant is the seeming interwoven nature of the elements associated with same in the Yoruba worldview. To expound a little, the notions of culture (*asa*);

tradition (*ise*); religion (*esin*); character (*iwa*); language (*ede*); faith/belief (*igbagbo*) are all interrelated elements of Yoruba oral tradition. The point being made is that virtually all aspects of the Yoruba are embedded in the indigenous folklore. This discourse examines the significance of folklore in generating the laws governing intra and inter-personal relationships, communal cohesion, ethical regime and justice system among the Yoruba. The paper proposes “folklaw” as the product of the mastery of the folklore of the Yoruba people. In essence, to understand law among the Yoruba is to have a deep understanding of the folklore as consisted in the elements of culture, tradition, language and religion. As we noted elsewhere:

For the Yoruba, culture is the unwritten constitution of the society. It is a guide to morality, a determiner of ethics and a paradigm of inter-personal relationships Yoruba tradition is essentially oral-driven. Folklore bellies the knowledge production process of the people. Indigenous epistemology is a bye-product of its oral tradition. Knowledge is as such, a communal heritage passed through word of mouth across generations (Coker and Coker 2008, 4)².

According to a Yoruba saying: “*Bi omo o ba itan, a ba aroba, Aroba, baba itan*” (1) [f a child doesn’t witness history, the child will hear tales; tales, father of history.]. Oral tradition, therefore as depicted above, remains critical reservoirs of history. As a follow-up to the foregoing, various oral resources serve as the quintessence or driver of social architecture. This is to say, virtually all facets of life of the Yoruba people are vividly represented in different oral forms. This of course means that the through the ages, Yoruba people thrive on a virile oral culture that nurtures their epistemology. From medicine, to engineering to the arts, oral tradition remains a potent and dynamic force for enhancing social order. Akinyemi supports this view when he says “The growing recognition of oral art among the Yoruba people is due to its functions and appeal to the various sectors of the society” (2003:1). To bring the argument closer,

the ensuing paragraphs shall illustrate how Yoruba legal and juristic thoughts, which are mirrored in the folklore shape the knowledge production and dissemination processes. The indigenous resources of Yoruba epistemology are crafted in such a way as to shape the thoughts and worldview and also guide daily conducts of the Yoruba people. Our textual corpus spans regular sayings, proverbs and other oral forms which are basically common features of everyday speech.

1. Evolving a social order through lore as laws.

The Yoruba recognizes the need to have a society where law and order will prevail. Quite unlike what obtains in contemporary times, Yoruba enshrine the values and ethos of sanity in the child:

Kekere ni a ti n pa ekan iroko

Bo ba dagba tan, apa ki i ka (2)

[The roots of the Iroko tree are trimmed early

Lest it goes out of hand when old]

Ati okeere

Ni oloju jinjin, ti n mu ekun sun (3)

[A person who has eye defects

Starts crying from a distance]

The import of the above is that, as a people without physical written paraphernalia, the Yoruba starts to nurture their minds early. The implication is that as a child grows s/he learns etiquette and moral ethos, along the way. As the journey of the individual progresses, fear is one thing that shapes the life of the child. Though we cannot justify the reason for this, we note that it imbues the child with a sense of caution:

Omode to ni oju agbalagba jin

Enu e lo wa yen (4)

[A child that abuses an elder

Will realize in a matter of time]

Age is a matter of experience and wisdom among the Yoruba. Yoruba folklore recognizes age as an asset and places a high premium on it:

Eewo omode ko gbodo yaju sagba (5)

[It is a taboo for a child to disrespect an elder]

Agba to je aje iweyin

A ru igba re dele koko (6)

[An elder that eats without caution

Shall clear the plates]

As noticed in (5), while a child is supposed to honour an elder, (6) shows that an elder must also conduct him/herself with dignity. The Yoruba do not have any legislation or law about this; rather, the issues are subtly mirrored in casual discourses. W.H. Clarke observes:

The readiness with which laws are enforced has produced such an effect that a people more law abiding and orderly are seldom to be found. During a sojourn of nearly four years, I never saw a street fight between two men – a disgraceful act discouraged by all honourable natives; heard of but one case of adultery; of very few cases of theft and not exceeding four cases of murder the throughout the native kingdoms (1972, 255).

It is evident that the most contentious and pungent aspects of life that contemporary law concerns itself with are areas of rights abuse, inheritance, contract/agreement, theft, rape etc. The Yoruba, rather than have a body of laws surrounding this, sound caveats in many a saying:

Ajulo o pin si ibikan (7)

[Superiority does not end at a point]

A ki i gba akata lowo akiti

A ki i gba ile baba eni lowo eni (8)

[No one takes away *akata* from *akiti*

No one dares contests ones inheritance]

Eni to ba seun ti oju ko ri ri

Oju e a ri ohun ti enikan ko ri ri (9)

[Whoever does something strange

Will see something strange]

Asegbe ko si

Asepamo lo wa (10)

[Nothing can be forgotten

It can only be hidden]

Examples 7-10 refer to folkloristic postulations on rights abuse, theft or damnable acts which are considered antihuman. As regards contemporary conflicts on Wills and Estates, the Yoruba embrace existential philosophy and situate such bickering within ephemeral precincts .In contemporary Nigeria, wills and estates are indeed vexed issues. As a matter of fact, recent examples attest to the helplessness of contemporary laws in getting over the issues among parties concerned. To date, the estate of a first republic Nigerian politician, Chief Festus Okotie-Eboh, has remained a subject of protracted legal battles, more than forty years after the man passed on.

In a similar vein, the family of late Chief M. K. O Abiola, a prominent politician and industrialist in Nigeria, is still engulfed in crisis over the issue of Wills and its administration.³ A third example is the most intriguing- Chief FRA Williams, late legal luminary regarded as “Timi the Law,” in Nigeria, has had the same issues trailing his estates. Chief Williams was the first Senior Advocate of Nigeria and bestrode the legal landscape like a colossus. However, neither his proficiency at modern law nor that of

his children, among who is Ladi, also a Senior Advocate, has helped matters. Such is the frustration of law in contemporary times. Yoruba folklore offers an antithesis below:

Ajogun ifa, to ni ohun ko niku

Eni to ni lfa da? (11)

[Someone inherits lfa

Boasts of conquering death

Where is the original owner?]

Eni to ri nnkan he

To fe ku pelu e

Owo eni to ti sonu nnko (12)

[Someone finds a lost item

Clings tightly to it

What should the loser do?]

Agbojologun

Fi ara re fun osi ta (13)

[Anyone that depends on inheritance

Is doomed for penury]

The position of Yoruba folklore on inheritance is captured exclusively in (11) and (13) above. It shows that with recourse to indigenous thought, the attendant disquiet over wills would get a natural succor. This is because, as far as the Yoruba know, '*bintin laye*' (14) (life is insignificant) and '*ile aye, fun igba die*' (15) (life is for a short time). In modern legal system, the question who inherits what, and under which circumstance is complex and indeed, technical. In fact, the **Wills ACT** 1837, Section 9, provides that:

No Will shall be valid unless it shall be in writing and executed in manner, hereinafter mentioned (that is to say) it shall be signed at the foot or end thereof by the testator, or by some other person presence in the presence and by his direction, and such signature shall be made or acknowledged by the testator, in the presence of two or more witnesses present at the testator, but no form of attestation shall be necessary (quoted by Fabunmi 2006, 236).

The above has far reaching implications. Certainly, the Yoruba *ogun* (inheritance) does not subscribe to these complications. The question of beneficiaries of a Will is largely dependent on the verbal instructions of the deceased. Also, there are laid down principles in folklore on Will Administration among Yoruba. Typically, the eldest surviving member of the larger family has the responsibility to administer the estate. Notable among these is the "*Idi-Igi*"⁴ principle. However, if the deceased had cause to leave specific instructions especially, on someone who should not benefit from his estate, such caveats must be sounded aloud for all around to bear witness to such. In brief, Yoruba inheritance principles are entrenched in the folk tradition.⁵

In relation to ethics and human conduct, the belief of Yoruba in character being beauty- *iwalewa* (16), makes it incumbent on all to protect integrity and conduct selves in good ways. The belief in an individual as an ambassador of the family projects

integrity as the essence of the individual. This also dovetails in the ethic of hard work and associated virtues:

Ohun ti a ko ba jiya fun

Ki I tojo

Ohun ti a ba fara sise fun

Lo n pe lowo eni (17)

[What one does not suffer over

Does not last

Only what one toils for

Endures]

Atelewo eni

Ki i tanni je(18)

[One's palm

Does not deceive]

Ise kii pani ,ayo nii paniyan (19)

[Hard work never kills, indulgence does]

Admonitions to individuals on patience and endurance ensure, for example, that the individual does not take to crime.

Bi o ba to asiko ati su

Idi a la(20)

[When the time to defecate comes

The anus gives way]

Bori pe nile,a dire (21)

[When a head tarries, fortune comes]

Onisuuru lo n fun wara kininuin (22)

[Only the patient can extract milk from the lion]

Oruko rere,

San ju wura ati fadaka(23)

[A good name

Is better than gold and silver]

Folklore is also viable pathway for existential philosophy among the Yoruba. Knots are untied with the resources of oral tradition that forecloses recourse to legal option:

Ki ni a n je

Ti ki i tan

Afi ola oluwa (25)

[Nothing, except the grace of God, lasts forever]

Eni eegun n le

Ko maa roju

Bo se n re ara aye

Lo n re ero orun(26)

[Whoever a masquerade pursues

Should endure

Masquerades also get tired

Like human beings]

The disposition of the Yoruba to constituted authority is total deference and submission.⁶ It is a significant signpost of the socio-political structure of the society.

Oba n pe e

Oun difa

Bifa ba fore,bi Oba ba fobi nnko?(27)

[The king summons you,

You are consulting an oracle

What if the oracle is favourable,

And the king is angry?]

Eni to juni lo

O le ju ni nu? (28)

[Whosoever is more powerful

Can do and undo]

In tackling issues of trespass, libel, and several other civil matters, the Yoruba abhors sycophancy or cowardice, and the ‘folklaws’ capture the thinking:

Bi aa ti se laawi

A ki yan ana eni lodi(29)

[One says ones mind

Instead of refusing to answer one’s in-laws]

Enu ti igbin fi bu orisa

A fi lole niwaju orisa (30)

[The mouth with which snail slanders the oracle

To pay homage]

It is observed in the foregoing explorations of Yoruba worldview, that, there are tenets and ethical assumptions which are directly linked to law and justice system. Largely, the Yoruba, driven by oral tradition, have rules and regulations associated with daily conducts. This leads us to another vital manifestation of folklore as “folklaw”- eewo or taboos among the Yoruba. Fabunmi observes:

Customary law is the usage accepted by the people as binding and having the force of law, though sanction in case of breach may not be as sophisticated as those in developed legal systems. *Eewo* are generally guided by legal, ethical, religious and moral considerations. Sometimes, *eewos* are established and generally accepted as law which no one must contravene. The medium of instruction remains the oral path. Whoever contravenes same becomes a victim of communal damnation, reprimand or even banishment. An aspect of enforcement of violators of *eewo* could be worrisome (2006, 65).

Unlike the provisions of contemporary law that presumes innocence for an accused until proven guilty, oral tradition does not follow such dictates as evidenced in the following:

Ori yeye ni i mogun

Taise lo po (31)

[So many are beheaded at the Ogun shrine

Majority are innocent]

We need to make ourselves clear: The Yoruba ensures that justice prevails in most cases through socio-political structure, inherent in hegemony that pervades the traditional arrangement. However, owing to unforeseen lapses, or indiscriminate wielding of the 'big stick' there are instances of miscarriage of justice, and no appellate structure exists beyond the monarch:

Ohun ti oba ba so

Abe ge e! (32)

[The king's opinion

Is final!]

As pointed out earlier, once folklore and its socio-legal imprints are enshrined in the psyche of the Yoruba, then it is unlikely on runs foul of these *eewo*. At the home front, the component of the education the child receives, includes vital aspects like the do's' and don'ts' of the society. Tags such as *abiiko* (born and not trained), *akoogba* (trained but didn't heed) are used to refer to individuals in respective categories. Also, sayings and expressions below are representative:

Okehe-n ke-he

Ita ni yoo ti kehe wale (33)

[A reproachable act

Gets ridiculed outside]

Bi ara ile eni ba nje kokoro buburu

Ti a ko ba so fun-hun

Ere-huru re ko ni je ka sun (34)

[When ones relations consume a bad insect

And is not cautioned

The stomach upset will give all sleepless nights]

The above is a reflection of the nature of *eewo*, its place in Yoruba worldview, and as an integral part of indigenous epistemology. Idowu clarifies: “In the thought of the people, the *tabu*⁷ have collectively taken on a special significance by assuming a quasi-personal character in consequence of which it has been given the name ‘*a ki i se*²- it is not done” (1963:146). A few examples as proof in the above connection:

A ki i ti oju onika mesan kaa (34)

[We do not count nine fingers in the owner’s presence]

A ki i joko lori odo(35)

[It is forbidden to sit on a mortar]

A ki i soro laarin ounje (36)

[It is forbidden to talk while eating]

A ki i gbenu ile eni forun ro (37)

[It is unheard for someone to break his/her neck in the home]

A ki i binu ori, ki a fi fila de ibadi (38)

[We do not despise the head and put cap on the buttocks]

A ki i foyin senu ka runju (39)

[It is odd to taste honey and squeeze the face]

A ki i gbe okeere mo didun obe (40)

[One does not taste stew from a distance]

The examples above are *eewo* which apply to different scenarios and perform functions that are political, diplomatic or didactic. (35) and (36) for instance, are hygiene related, while (34) is essentially a diplomatic caveat. (37) sue for peace while (39) express what the Yoruba may consider a truism. (40) leans towards experiencing a situation first hand before returning a verdict or passing judgment. In all instances, there is a specific end the *eewo* serves. The point is that, these unwritten laws are employed by the Yoruba in situations that call for such. It is indubitable that in *eewo*, the dynamic resources of folklore as a foster father (or mother!) of law in Yoruba epistemology, is fully realized.

Marriage in Yoruba culture is predominantly composed of the family as the smallest unit of the community, or town, as the case may be. It is necessary to examine the Yoruba indigenous family law system *vis-à-vis* contemporary position of modern legal system. Yoruba folk tradition imposes responsibilities on all parties to a marriage for the smooth-running of the home. However, there seems to be more of moral and social obligation than legal rights, which obtains in modern societies. The Yoruba hardly contemplate divorce, but in rare cases where such happen, there are presumptions, not facts, adduced to some:

Obinrin sowanu, o lohun o lori oko (41)

[A woman has bad character, claims she does not have the luck of a good husband]

Atigbeyawo ko tejo, owo obe lo ju (42)

[Contracting a marriage is not as difficult as responsibilities involved]

What is suggested above is that, a marriage may collapse for lack of character or for inability to meet obligations. Though there are instances of infidelity, we can not compare these to the grounds of divorce in modern juristic thoughts. They include adultery (*Loye v Loye*),⁸ Cruelty (*Adeyemi v Adeyemi*)⁹; Sterility/Impotence (*Abioye v Abioye*)¹⁰ Desertion (*Edgri v Egr*),¹¹ Crime (Meek 1980); Lack of Respect etc. The Bye-Laws of Lagos and the Yoruba states specify areas are listed as possible basis for legally dissolving a marriage (Onakah 2003, 173)

In contrast to the foregoing, Yoruba folklore virtually forbids divorce. They guard the marriage institution jealously and involve families, not individuals in sealing a marriage. The implication is that, a marriage is a community affair; the individuals are mere actors/actresses. In other words, marriage institution in Yoruba is also a critical force for promoting moral values, deepening cultural and preserving communal heritage.

2. Conclusions

Yoruba folklore has been identified in this discourse as a vehicle where indigenous epistemology is domiciled. The consequence is that indigenous legal and justice system among the Yoruba falls within the confines of folklore. In acknowledging the primacy of orality, it is contended that law and order are better enhanced by harnessing the folklore of the people. It has been proposed that, “folklaw” as a concept, embodies law within Yoruba folklore. The overall impression, from textual exemplification is that, there is perhaps, no better way of passing law across to the folks, except through their lore, hence “folklaw”. This is in consonance with the submissions of Agbaje that:

The Yoruba traditional philosophy has reached a remarkable level because of the social structure of the society which is a guarantee of freedom, peace, stability, law and order, and the flourish of a class of elders, the repositories of knowledge and wisdom (2005, 51).

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¹ The word 'Yoruba' has semantic extensions in language, demography and psychology.

² The paper in question specifically links the apathy to modern legal system among the Yoruba to philosophy, belief and worldview. Proverbs were used as textual reference. The present endeavour is more encompassing.

³ Not even the provision in the Will for DNA examination has helped matters. It has further deepened the crisis, as no solution appears in sight.

⁴ Literally meaning 'base of tree' its principles makes a mother a tree in the home, estates in this case take into account only wives. The children of each mother now proceed to further divide theirs, if they so desire.

⁵ Personal communication with Pa Joseph Oluremi Coker, 79, in Ile-Ife, Osun State, and Nigeria.2000. He had cause to preside over a similar exercise over the estate of his late brother, Chief.A.O Coker of Oke-Ijehun, Abeokuta, and Ogun State, Nigeria.

⁶ This does not mean that there are no checks and balances among the Yoruba. Even a king may be asked to commit suicide otherwise called '*isigba*' (calabash opening).

⁷ What Bolaji Idowu calls *tabu* is the same thing as 'taboo.'

⁸ (1981) O.S.H.C.L.R,140

⁹ (1969) 2 All N.L.R.161

¹⁰ As reported from Customary Court,Itire Lagos,Lagos Weekend Newspaper,19/5/89

¹¹ 1974 ECLSR 632 and 634