

# THE NATURE OF REPRIMAND IN TRADITIONAL YORUBA SOCIETY

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## **Abstract**

This article examines the nature of crime and punishment in traditional Yoruba society. The main problem identified in this article is that there is yet a comprehensive historical interpretation of crime and its control in traditional Yoruba society. The data used in this article were obtained from oral discussion with informants as well as the information derived from books. Our findings revealed that offences such as incest, stealing, Adultery and treasonable felony were regarded as serious crimes in Yoruba society and were seriously sanctioned to maintain peace and order in Yorubaland. The study concludes that the Yoruba *Oba*, elders and Chiefs participated in the administration of Justice in Yoruba Society. Hence, Modalities for prevention of crime were highly and Strictly adhered to.

## **Introduction**

Reprimand in traditional Yoruba society refers to the customs and conventions of the peoples belief in punishing law offenders; that is person believed to have committed grievous civil offences were deservingly punished and discouraged from escalating crime to greater proportion.

In other words, in traditional Yoruba society criminal offences such as adultery, stealing, assault dislocation of peace, theft of livestock and farm produce and land disputes usually attract serious forms of sanctions. This can be in form of fines or confiscation of properties, imprisonment or banishment. (Johnson, 1921:10) believes that death sentence was the penalty for adultery and incest.

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***Origin of Prison House in Yoruba Society***

The origin of prison house in Yoruba society is not yet known to scholars. Perhaps the prison system emerged when the Yoruba people became conscious of their political environment (Olaoba 2003:80). During this period, the society was governed by a constituted authority that controlled the affairs of the state and also ensured that offenders were severely punished to deter others from committing such crimes. Fundamentally, acts considered inimical were punished through imprisonment (Lloyd 1954:365). An example of such an act was treasonable felony an attempt to overthrow constituted authority. Deviants were usually separated from the public to avoid peace dislocation. Apart from imprisonment, other acts of criminality were usually sanctioned or punished through the payment of fines, banishment and seizure of properties (Murana: 2003). According to (Atanda 1973:365) the prison house in Yoruba society could be located in the Ogboni house.

***Political Organisation in Yorubaland***

The political organization in Yorubaland, (Ajayi 1985:1) refers to the belief, tradition, custom and convention of the people that had kept the society together for centuries. Prior to the Nineteenth Century, political power was regarded as a sacred trust to be exercised for the good of the society. Generally, the capital towns of the Yoruba state were linked together during the ancient times in a confederation under the spiritual and political leadership of a monarch, the *Ooni* of Ife and the ruling families. (Davidson 1967:58) asserts that this system of confederation left each state to run its own affairs, while providing means for keeping peace between them. The rise of Oyo kingdom in the sixteenth Century, however, led to the decline of Ife as the cradle of Yoruba polity. In the Nineteenth Century., the Yoruba system

of government was concentrated in the hands of the king and chiefs-in-council, such a council was known as *Igbimo*. Fundamentally, monarchy was the system of government practiced in Yorubaland (Atanda 1985: 86). This system of government availed a monarch the opportunities of hereditary right that was divinely ordained (Atanda 1985:86). According to Atanda, in theory, the ruler had an absolute power but in practice, an institutionalized council of chiefs checked him. Examples of such councils included the *Oyomesi* in Ijebu, the *Iwarefamefa* in Ondo, Ekiti, Ife and Ijesha. Members of the council acted as a form of check to the monarch's power (Ayithey 1991:212). These chiefs were to large extent representatives of other institutions lineages, age grade, and titled societies. The council of chiefs in fact represented the people in government in the sense that every chief belong to a lineage, an age grade and a member of titled society. Essentially, the political organization of the Yoruba people was such that encouraged the monarch to rule in the interest of the people but monitored by the chiefs. The chiefs were many and represented various interests. It was the balance of interest that dictated what type of governmental policy or measure to be acceptable to the people. Fundamentally, legal authority among the Yoruba was exercised in the hands of the *Oba* and chiefs in the community. They were regarded as possessing certain supernatural attributes. They were invested, on appointment, with certain magico religious object relevant to performance of judicial functions (Haffenden 1967:223). Secondly, there was powerful traditional fetish used for detecting and punishing criminals. Law offenders were usually brought before the public judicial authority in cases relating to a breach of contract or tort only where the parties concerned were not able to settle the matter out of court that the

court handled criminal cases. (Olaoba: 2003). According to (Bascom: 1969) and (P.C. Lloyd: 1954) other offence such as stealing, neighborhood quarrels and the family handed simple cases of fraud.

According to Olaoba, no member of the Yoruba society whether old or young could claim ignorance of the existing sanctions instituted by appropriate legal authority. Among the Yoruba, therefore, ignorance of the law is never an excuse for breaching it. Indeed, obedience to serving the punishment is not just a warning to others but a restoration of the status of the law. No one, however, well placed is above the Law. As a matter of fact the promulgators of the law are never immuned from breaching it. The *Oba*, dare not breach the law or abuse the legal norms, which are the collective eths of the society. Constitutionally, the people could punish an unruly *Oba* in different ways as detailed by P.C. Lloyd thus:

Against a recalcitrant *Oba* the chiefs can impose the sanctions of non-cooperation and dismissal. They may boycott the palace, thus cutting the *Oba* from income in gifts and tribute usually channeled though (sic), the chiefs... may boycott the major religious ceremonies of the town: the failure to perform these will, it is believed, harm the town, but the purpose of the against the *Oba* if he continues to oppose his chiefs they will demand that he die, thus vacating the throne of a new incumbent whom the chiefs will selects as more tractable ... if he refuses to take his own life upon request, the chiefs and the people will with force, destroy his palace and kill him.

The above submission by P.C. Lloyd buttresses the fact that no one is above the law and that even the king and the chieftains

should live above board by exercising an admirable standard of probity. Besides the political authority of the *Oba*, the *Ogboni* also played a very significant role in the control of deviance in Yoruba society. The *Ogboni*, an institution of government in Yoruba society, performed the function of training its members in jurisprudence (Ayandele 1966:170). It also functioned as court of appeal. It had jurisdiction over criminal cases and was mandated to execute those convicted when necessary. More importantly, the institution was mandated to prevent monarchical absolutism as well as mass lawlessness of people in the community. In Oyo kingdom, for example, the institutional function of the *Ogboni* was to serve as a check against the power of the *Oyomesi* (elders in council).

According to Bascom, 1954:42), the *Ogboni* cult has no prominent position in the governmental structure of the state to the extent of having a constitutional locus-standi in policy and law making process. Its role was limited to the legal aspect, only to interpret the law. The *Ogboni* cult was relied upon for impartial judgement in civil and criminal cases referred to it. For example, in cases where conflicting evidences pointed to apparent lie-telling the *Ogboni*, administered an oath as a result of which, it was believed that the liar would be detected. Thus, because of the fear it commanded and its reputation for impartiality, the *Ogboni* cult has been appropriately described as constituting the second highest tribunal in Ife, the first being the tribunal chiefs. The *Ogboni* performed legal and indicial roles in Yoruba society up to the period of the introduction of native court system under colonial rule in the early decades of the twentieth century. Indeed, the activities of the *Ogboni* cult were common in some Yoruba town. They are found in Ife, Ijebu, and

Abeokuta. They are seldomly found among the Ekiti and in Oyo in the nineteenth century as observed by Atanda.

The *Ogboni* usually performed legislative, executive and judicial functions in Yoruba societies. They often maintained law and order and also ensured solidarity by keeping their proceedings secret and binding on their members by blood oath. This cohesion made them to be a formidable force in Egba government as observed by (Biobaku 1952:35). At best, the *Ogboni* cult remained a secret cult to which prominent chief sought initiation in order to promote social harmony, peace, justice and cooperation for the overall affairs of the people.

The judicial system of the Yoruba society was very unique in the colonial times. (Olaniyan 1985:28) observed that the nuclear family *ebi* was the first court over which the head presided by setting minor cases between members of the same family. Similarly Bascom opined that the lineage heads handled and settled disputes such as fighting assault, petty theft, adultery and divorce. Disputes, which could not be settled within the clan and those involving different clans, were often referred to the ward chief. If the judgement of the ward chief was not acceptable to the families or parties involved, the cases were referred to the palace chiefs who met daily outside the palace gate with the town chiefs to settle the matter. Their decision was referred to the *Ooni* for his approval and if no decision was reached the case was transferred to the *Ogboni* House. Bascom concludes that:

The *Baale* serve as the principal judge of the command, presiding when Disputes are brought before him but Cases are heard by all elders and by other members of the compound who may be present. If a little Chief lives in a compound, he was also responsible for settling quarrels. A husband is responsible for

settling quarrels within his own family; but if he is unsuccessful or if an argument involves members of two different families within the family it is referred to the *Baale*. Any cases, which he cannot settle, may be referred to the town chiefs but every effort is made to reach a peaceful settlement within the compound.

Obviously, the above submission shows that the elders and chiefs in traditional Yoruba society make judicial pronouncements based on the knowledge of the traditional way of life, circumspection, and adherence to truth. Although the Yoruba constitution was largely unwritten, people have a code of conduct. The code of conduct had been transmitted from one generation to another. According to (Adewale 1994:54) actions of disobedience or deviant behaviours in Yorubaland are considered sacred and secular. There was no compartmentalization of life, whatever religion forbids or condemns society will approve.

#### ***Law Enforcement Agencies in Yoruba Society***

Law enforcement agencies usually maintained law and order in traditional Yoruba society. According to Olaoba, these law enforcement agencies enhanced social control, peace, harmony and justice in the society. These law enforcement agencies included age grades, royal emissaries and envoys as well as town criers and the guilds. The age grade in traditional Yoruba society was used as instrument for enforcing law and order (Fajana 1968:236). They usually arrested offenders furthermore; they can as well be described as executors and performers of judicial decisions reached in various traditional courts, especially in the palace or a public square beside the market.

The group will sing various songs of abuses to any member found guilty of stealing. They would dance round the villages or quarters telling the world about the incidence. This form of

punishment was meted out to offenders to deter others from engaging in crime that would make them to be subjected to a public disgrace and ridicule. Essentially, the age grades act as police or executive agents of the council of elders. In cases of alleged crimes such as stealing, rudeness to elders and murder, the age grades promptly acted by seizing the property and also ensured his or her public appearance for a public investigation on the matter. Infact, they are viewed as watching of public ethics and etiquette in Yoruba society and the guardian of public morality.

#### ***Royal Emissaries and Envoys***

Royal emissaries and envoys are also very important law enforcement agencies in Yoruba society. They acted as representative of (*asoju*) the *Oba* on an important occasion when the *Oba* was unavoidably absent. In Ibadan, for example, the king usually sent his *Otun* or *Balogun* to represent him on civil or criminal matters of the state by giving judgement based on truth. Robert Smith (Smith 1969:85) concludes that the duties of the royal emissaries and envoys amounted to delegated legislation of the *Oba* to a neighboring town on issues relating to traditional festivals and ceremonies performed by other communities in which he was invited.

The royal emissaries and envoys maintained strict code of conduct of its members, in the sense that, members were given responsibility to attend to the administrative organization of the palace. They had the prerogatives of maintaining cordial relationship between one Yoruba community and the other. Thus they acted as adjudicators or judges to settle dispute among different neighbours.



***Town Crier as Law Enforcement Agent***

The town crier was known as '*Akede Oba*' in traditional Yoruba society. The town crier was a facilitator of peace and cordial relationship in the society. (Ojo 1953:32) submits that when a new law is about to be enforced the *Oba* would instruct the chief information officer of the community (*akede oba*) to inform the public of the new law. Without the town crier, such information about the new law of the land could not be known to the people for adequate observance or respect of the law.

Essentially, the town crier acted as an enforcement agent in the sense that he usually informed the public about the new laws and the consequences of breaching them.

***Guild System or Association***

The guild system symbolized law enforcement agency in traditional Yoruba society (Gibbs 1965:563) explains that the guilds uphold the norms of the society by sitting in judgement on any member who has erred. Thus, the guilds recruited and trained apprentices on various kinds of craft such as leatherworks, woodworks, basketry and pottery. They usually enforced the discipline of their members by controlling the production of goods and setting required or appropriate standard of goods produced and made laws against undercutting or inflating prices for its members and the general public (Akintoye 1977:15) observes that the guild act as representative of the *Oba* by ensuring and maintaining moral authority over its members and public at large. Such authority was used in performing judicial functions in quarrels arising from trading, debt and simple cases of fraud. Fundamentally, since guild leaders are representative of the political authority of the state, they ensured the arrest of offenders by reporting to appropriate authority for onward judgement by the ruling class. Indeed, the activities of

the guild system was to enforce the strict obedience to law and order by way of punishment and reporting such offences to appropriate authority. Olaoba concludes that the guild system help to facilitate peace and harmony among its members and the public at large.

#### ***Offences and Penalties in Yoruba Society***

The Yoruba people have a long-standing tradition on issues relating to society. The Yoruba tradition frowns at wrongdoings and impropriety of manners. It thus award blame and punishment of offences adjudged to be inimical to the progress of the society and the development of the legal norms. The offences are as many as they correspond to the kind of punishment meted out on offenders. The worst offence carries the severest penalty. Hence, no offender is penalized without committing an offence.

In the words of Olaoba, offences in Yoruba society are viewed as breach of rules and regulations of the state thereby making the society to experience a considerable setback. According to (Oppenheimer 1913:121) offences may be viewed:

As affronts to the deities or the ancestral spirits, who will bring disaster to the entire community or tribe if violations are not appropriately dealt with? Death and expulsion from the group are common mode of punishment for the most serious crimes as sorcery witchcraft, sacrilege and other magico-religious offences. Responsibility is often viewed as communicable for the action of its members; criminal guilt may contaminate the offender's associates, his relatives and even his possession.

The above submission of Oppenheimer buttresses the opinion of (Driberg 1934:238) in the sense that there was collective responsibility for crime and offences in traditional Yoruba

society. Indeed, the latter contend that only rituals can cleanse the community of the wrath or penalties that the deities would have designed. This suggests that most criminal offences in Yoruba land were considered as divinely motivated. According to (Ajisafe 1946:25), offences in Yoruba society included stealing, adultery, murder, witchcraft, assault and land dispute.

Furthermore, the method of handling offences varied from one Yoruba society to another. However, it is interesting to note that cultural setting also influences penal practices among the Yoruba. For example, cases of murder usually carry death penalty by execution. In Badagry, also a Yoruba town, if the murderer were the king's son or a more important personality in the community, he would be banished from the town. The above submission shows quite clearly that cultural barriers come to play to influence penal practice among different Yoruba groups. (P.A Talbot 1926:617), consider witchcraft as a serious offence in Yoruba traditional society. Infact, the offence was viewed from a more serious perspective than murder. Offenders of this crime were usually tried by the use of the ordeal. The chief priest or diviner in Yorubaland usually detected the offence. In Oyo, the 'Jenju' the head of Egungun under Alapini, a member of the Ogboni cult, often executed them. They were usually stoned to death whenever the culprit made confessions.

Debt or refusal to pay fine is also a common offence in traditional Yoruba society. The penalty for the offence of debt is usually a collective responsibility of the debtor's family. The debtor's families were usually responsible for the payment of the debt or fulfillment of the judgement of the court.

Another way of penalizing a debtor among the Yoruba people was the use of the "*idogo*" system. This is a situation whereby the creditor could send a bailiff who could occupy any

place in the debtor's house and live at his expense until payment was made. People of unbearable sight like a leper carried this out. This bailiff is often referred to as the '*ologo*' and backed officially by the debt. Consequently it will cause the debtor and his household more harm and insult. This unpleasant and detestable action quickly induced the debtor to pay his debt without delay. This tradition is mostly common among the Ijesha and was known as '*osomalo*'

According to Fadipe and Talbot, debtor in Yoruba society could marry out his daughter as slave or pawn a member of his family to his creditor as equivalent of his amount owed. The debtor's son or daughter loan to the creditor could only serve to repay the interest and not the principal of the amount owed. The principal is mostly written off at the creditor's approval. This practice or tradition is common among the Ijesha and Ekiti people. Adultery is also viewed as serious offence in Yorubaland. In the words of Adewale, the penalty for adultery is viewed with grave concern and is seriously punished. The adulterer may be warned and reported in the first instant by liberally minded people but persistence in the crime lead to a fine by the court presided over by the traditional ruler. The adulterer may sometimes be physically attacked or poisoned. The death of an adulterous person is seen as a just punishment. Among the Yoruba, the *Ifa oracle* warns against adultery as follows:

She destroys the members of the household of the concubine thereafter she destroys herself and goes on the far journey to heaven so declares the oracle to the adulterous woman she is servant of death.

In Yorubaland, adultery is not condoned, it is a breach of societal and religious norms and it breeds unhealthy and unwholesome relationship in the society. In the opinion of Talbot, the penalty for adultery varies from one Yoruba town to another. Some people treat it as private, while some are contended with court judgment. Adultery committed against the *Oba* or chief's wife in Yoruba society is punished with death but for others the penalty was paying a heavy fine. In addition, if such an offence could lead to divorce the husband could claim his dowry. Among the Ijebu, it was a private matter, though the adulterer could be stripped and beaten. He was also fined or made to provide a sheep for propitiatory sacrifice. Should the offender refused to pay the fine imposed on him by the community, he was usually banished from the town. It is important to note that adultery is "*taboo*" leading to both adulterer offering sacrifices to the ancestors for purification. From the foregoing, it would be understood that both scholars were right in their opinion that adultery was seriously conceived as a crime and was severely punished. Theft was regarded as a serious offence among the Yoruba. The penalties for their offence included the imposition of fine, public beating and singing of disgraceful songs to the culprit and restoring the stolen property to the owner. The thief is often ridiculed in the society. Ashes were sprinkled on him. His hands were tied and he was marched round the town with the shout of:

I am a thief while his age mates chorused other disgraceful song. His refusal to dance earned him strokes of cane and if possible goods worth both the stolen property and the fines were seized from his brothers and sisters.

Traditionally, the Yoruba people perform rituals to detect a thief and recover the stolen property. Sometimes the penalty for theft is usually referred to the gods for punishment and in some cases thieves were revealed publicly by the gods or made to confess publicly or by returning the property to a place where the people can see it. Apart from these, thieves were also subjected to punishment of divine wrath. Thieves were usually subjected to prolonged physical pain and torture, illness, paralysis, partial blindness to the point the diviners were consulted for the cause of his misfortune and when it was attributed to theft, the stolen goods have to be returned and a propitiatory sacrifice offered to cleanse the person from the evil. Indeed, the act of theft was considered criminal and as such it leads to the loss of frame in the society. Divine punishment and not force served as a serious and adequate deterrent to deviant behaviour in Yoruba society.

Treasonable felony is a serious crime in the Yoruba society. The offence is not only punishable by the political authority but also by the ancestors. Deviants who threatened to overthrow government were often sanctioned with imprisonment. They can also be sanctioned with death penalty or used as scapegoat for official sacrifice to make peace in the land. Fundamentally no offender could escape arrest. Otherwise a member of his family would be kept in custody known as *ibi ihamo* the prison. This fact suggests that prison house existed in Yoruba society.

### **Conclusion**

It has been shown in this article that the traditional Yoruba society had a long-standing tradition of maintaining justice, law and order through different agencies of government. Furthermore, it has also been established in this paper that different Yoruba group punishes criminal actions in different ways.

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