

**International Journal of Language, Literature and Gender
Studies (LALIGENS), Bahir Dar- Ethiopia**

Vol. 6 (2), Serial No 14, August, 2017: 39-48

ISSN: 2225-8604(Print) ISSN 2227-5460 (Online)

DOI: <http://dx.doi.org/10.4314/laligens.v6i2.4>

**Interrogating the Justice System in a Multi-ethnic State: A
Study of Selected Yoruba Video Drama**

Adebanjo, Niyi, PhD

Department of English

Olabisi Onabanjo University, Ago-Iwoye,

Ogun State, Nigeria

E-mail: dradeniyiadebanjo@yahoo.com

Telephone: +2348055231704; +2348034017520

Abstract

Law is a major instrument of maintaining cohesion in any given society. Its formulation, codification or unification as well as interpretation are major factors in determining the credibility of the criminal justice system and the level of legal conformity. The letter and spirit of the law are defeated when its formation, modulations, interpretation and enforcement are not products of the history and cultural values of a people. The focus in this paper therefore is an examination of the administration of justice in Nigeria through a textual analysis of selected Nigerian Video Drama. How do these characters treat or respond to law? Do judicial or legal officers (lawyers, judges, police, and prison officials) conform to rules in the discharge of their duties? Is there any consciousness of legality in the text? These and other questions are answered in this paper. Combining the historical and realist theories, this paper affirmed that if the justice system of a nation does not grow from its cultural values and history, the level of compliance would be reduced. The paper also established that judicial officers' ethical values would be grossly influenced and affected by a legal system that is not a product of national consciousness. The paper concluded that when a particular legal system within a multi-ethnic nation ignores its

historic relevance, the law of that nation dies and the resulting consequence is legal anarchy.

Key Words: Letter of Law, spirit of law, justice, video drama, realist.

Introduction

Law is a major instrument of cohesion in any given society. Without a sound legal system, the society is plunged into a state of irredeemable anomy. The formulation, codification, unification as well as interpretation and enforcement of law in any society are major factors in determining its effectiveness and the level of compliance expected from the citizenry. When the justice system of a nation does not emanate from its national consciousness, when it is not a product of the people's ethnical or tribal collectiveness, law is bound to fail. In a manner of speaking, society's level of consciousness of its law is consequent upon the sources, the rational as well as the process of formulation and enactment. Law is therefore expected to grow as the culture grows; otherwise, its demands for conformity are consciously or unconsciously ignored. In this sense, its letters become spiritless and as such its interpretation and enforcement are replete with gross inconsistency and unpredictability that characterize the animal kingdom. The commission of any crime is conditioned by the pre-codification of certain acts or omission as crime. The process and rational for codifying specific acts or omission into crime is a necessary condition for wilful compliance. Crime should be socially determined if law is to serve its purpose.

According to Dambazau (2007, p. 48), a crime, in the strict legal sense of it, 'is a violation of the criminal law, which is subsequently followed by a legal punishment'. While in criminal law, a crime 'is an act or omission, which attracts sanctions, such as fine, imprisonment, or even death' (p. 45). The inference to be drawn from the above two perspectives of crime is that there must be a law in place and that there must be a violation of that law before a crime is said to have been committed. Consequently, the process and factors which influence the codification of an act or omission as a crime and the prescribed punishments are vital in the people's voluntary compliance. This is necessarily because the values of a particular society, to a large extent, influence and shape what constitute crimes and the punishment that follows. It is instructive, in this regard, to note the observation of a United Nations Research Institute in *State in Disarray: The Social Effects of Globalization (1995)*. According to the Institute,

Crime, in the sense of a breach of a legal prohibition, is a universal concept, but what actually constitute a crime and how seriously it should be regarded, varies enormously from one society to another. Perceptions of crime are not determined by any objective indicator of the degree of injury or damage but by the cultural values and power relations.

The above statement is true of most multi-ethnic nations with its attendant complications. A nation like Nigeria for instance, with its over 250 different ethnic groups as well as multiple languages, diverse customs and different religious persuasions, is bound to have innumerable complexities and complications in the process of formulating, interpreting and enforcing its laws. One among other reasons is because in most parts of the nation, interpretations and enforcement of laws are coloured by all manner of sentiments that inevitably lead to a disregard for the outcries and outburst of the masses.

The above position is reinforced and substantiated by Freeman's (2001, p. 9) statement that 'the social world is not structure-less but faces what society has preselected and pre-interpreted by means of common-sense constructs of reality of daily life'. These preselected and pre-interpreted constructs are products of past history and present structure of our society. A society that loses its sense of history and ignores its own cultural values or abandons its ethical norms forfeits its chance of developing an enduring legal system.

Aims

This paper's aim is to interrogate some selected video films in order to establish the reasons the legal or justice system in Nigeria is accorded less respect or completely disregarded. In this academic exercise, attempts are made to answers, even if they are not completely satisfying, questions such as; Do Nigerians, as depicted in the selected works, accord the law its respect? Are they ignorant of the law or do they wilfully disregard the letter of the law? If they wilfully disregard laws, could we find reasons for this? Do judicial or legal officers (lawyers, judges, police, and prison officials) conform to rules in the discharge of their duties? Do they follow, in the strict or simple sense of it, the procedural rules of court or rules of investigations? Are they true and faithful to the oath of office taken in the dispensation of justice? What role does evidence, either documentary or oral, play in the determination of cases?

In answering some of the above questions, I have drawn heavily from the selected videos films, Yomi Fash-Lanso's "*Awon*" (Net) (2013), Don Richard's "*Ajaga Ojiji*" (Sudden Calamity) (2013) and Abiodun Olanrewaju's "*Modebi Olami*" (My Place of Honour) (2013). All three films interrogate the subject of murder within the framework of the Nigerian legal system. These films provided a convenient ground to critically examine the social vision or perception of the directors, of course from a legal point of view and see what possible conjectures could be validly made. The choice of the law on homicide is premised on the disgusting accounts of numerous innocent convicts with various jail terms as well as countless number of impunity killings that have become part of rituals of daily life that overwhelm and challenge our humanity.

Theoretical Framework

There are numerous legal theories adopted by legal practitioners to interpret the relationship between the society and law. The workings of a nation's justice systems are measured by the philosophy or personality of the judicial officers, legislators, and drafters. To this extent, the interpretations and enforcement of a specific law are dependent, influenced or darkened by the prevalent legal theory at a specific time. Two of such legal theories adopted in this paper are the historical and realist movements.

The Historical school is a product of the reactions against the unhistorical assumptions of natural law theory, the disruptive effect of traditional standards which tried to establish a legal system based on reason without recourse to the past or the existing conditions. The theory considers history and culture as valid sources of law. Herder (1976), one of the fathers of the historical school, posited that the values developed by the different cultures and societies emanated from their own history, traditions and institutions. He insisted that, for law to be accorded its respect, without cohesion, every society must be left alone to develop its own laws, in accordance with its national spirit. He argued further that every nation possessed its own individual character and qualities and no nation is intrinsically superior to others. There are innumerable legal manifestations peculiar to each nation and any attempt to ignore them may result into hurting what Herder called the national spirit.

The law of a nation for Savigny (1966) was deeply rooted in the past and its true sources were popular faith, custom and the common consciousness of the people. Arising from this position therefore is the fact that tradition, customs and history of the people grow up into legal rules. For the historical theorists, customary law takes precedence over other forms of law.

The second theory adopted in this paper is the American Realistic Movement. The core of the realistic approach to legal problem is how the rule of law works, not what are in books. The realists have turned to economics, criminology, sociology as well as psychology among others in order to interpret the workings of law. Thus, to study the law as it works or functions means investigating the social factors that make the laws work and the social results of it. (Freeman, 2001, p. 905). The factors (social, economic, historical) that influence and determined judicial choices are their concern.

For Realists like Frank (1947), what judges, lawyers, police, prison officials actually do about cases become law itself. This position accounts for why Gary, in Freeman (2001:827) draws a distinction between law and sources of law. Law for him, is what judges decide, everything else, including statutes are sources of law until interpreted by the court. The above statement implies that judicial precedents even become sources of law until the new case is determined because the new case is dependent on the interpretation given to the judicial precedents. Consequently, judges' personality, their

social environment, the economic conditions in which they are brought up, their business interest and their world view affect the dispensation of justice.

The combined effect of this theory is that when the justice system in a multi-ethnic state does not grow from its cultural values and history, the level of compliance would be reduced. It also implies that judicial officers' ethical values would grossly influence and affect a legal system that is not a product of national consciousness.

Analysis

Don Richards "Ajaga Ojiji" (Unexpected Burden) (2013) opened with a court episode in which Oladipupo, the accused who raped his victim to death is put on trial for rape and murder. The other storyline is that of Barrister Tope who in an orchestrated conspiracy by his learned colleague and friend, Barrister Toyin, is sent to life imprisonment for the murder of one unnamed man who is his prime witness. In the third story of "Ajaga Ojiji" (Unexpected Burden), we encountered a lawyer Benson Oladunjoye, an-out-an-out cheater who in his greed for money, not only defrauded the clients he ought to defend in court but sometimes even refused to show up in court. In spite of all warnings from his wife, he finally meets his Waterloo in the hands of one of his victims.

Abiodun Olarewaju "Modebi Olami" (Place of Wealth) (2013) also interrogated the subject of homicide. Here, Bamidele Ajasa is arrested, prosecuted and convicted for the murder of a co-tenant whose body is found in the boot of his car.

In "Awon" (2013), we encountered a lady, Rolake, who murdered her lover because he preferred her friend to her. The relationship between Funsho, the deceased husband of Bimbo, and Rolake, the secret lover, dates back into their days in school. Rolake's bitterness and hurts are as a result of her ruptured womb which is the outcome of several abortions committed while she was dating Funsho. The conflict here is the conviction of Bimbo for the murder of her husband, Funsho. A twist occurred when Bimbo's police officer's friend, Toyin, re-opened the case for investigation and discovered to her shock that, Rolake is the true murderer.

One major issue that immediately came to the fore in most of the video films on homicide is the flagrant disregard for basic and fundamental legal principles by the directors of these films. The suspicion is either that these directors are ignorant of rules or that they deliberately deviate from them in order to cast a social loss of interest and trust in the Nigerian justice system. If the latter position is adopted, then the films become a parody of the Nigerian legal system which in many ways is no longer enjoying the trust of the masses.

The criminal justice system in any jurisdiction is based on a simple legal principle that a crime committed by an individual is done against the state. As such, the state, through its appropriate organs, prosecutes the accused in a court of competent jurisdiction. This

however is not the position, in all the three-video films interrogated in this paper. Neither the police officers are the prosecuting officers nor lawyers from the ministry of justice as stipulated in the criminal code. The deceased family, in all of these films has to hire, pay or even sometimes threaten the lawyer so hired.

The manner in which Yomi Fash-Lanso, the director of “Awon” (2013), handled his materials provided answers to some of the questions raised earlier in this paper. The police officers, in these video texts carry out their duty with little or no regard for professional ethics and the rule of law. From onset, they take the suspects as criminals. They merely look for circumstantial evidence to convict the suspect and never at any time treat them as innocent suspects to be proved guilty by a competent court. They brutalized all their suspects without any regard for law and neither did they allow suspects access to legal aids until they are ready for prosecution. This, no doubt, results into man putting law in his own hands.

The investigation carried out by the nameless police officer in “Awon”, which led to the conviction of Bimbo, the deceased wife, exposed the incompetence of many police officer as well as incomprehensiveness and carelessness which characterize investigation process and which incurably led to a complete and total miscarriage of justice. For one, the police officer relied on the evidence of the gateman without subjecting him to any further examination. For instance, the prosecution in “Awon” is based on three circumstantial evidences which the police officer and the judge do not subject to critical examinations. These pieces of evidence are the oral evidence of the gateman, who is not an eye witness, the finger print of Bimbo on the knife used to murder her husband and the blood stain on Bimbo’s dress.

On the surface, these three pieces of evidence may be enough to convict a suspected murderer but the storyline revealed the carelessness and the hastiness with which the officer pursued his assignment. There were other items on the scene of the offence, the rod with which the murderer, Rolake used to knock the unsuspected Bimbo into unconsciousness, for instance. The police officer who established Bimbo’s finger prints on the knife did not consider it important to search for other prints on the same knife or other objects.

In “Ajaga Ojiji” (Unexpected Burden), the police officer, who investigated the case of rape and murder, instituted against Oladipupo, proceeded to court without any evidence. In fact, this particular case proceeded to trial and is subsequently determined without reference to any evidence. It should be noted that the *Evidence Act, 2011* stated that the evidence upon which conviction is to be based must be beyond all reasonable doubts. Also, the arraignment and subsequent conviction to life imprisonment of Barrister Tope is pursued in such a manner that revealed the carelessness as well as the disrespects for the dignity of human life. The discovery of the lifeless body of the nameless eye witness of Barrister Tope in the boot of the latter’s car and while on his

way to court is not sufficient evidence to convict him. Questions such as why should Barrister Tope kill his own prime witness and put the diseased body in the boot of his own car while driving to court does not pass through the mind of the incompetent police investigation officer.

“*Modebi Olami*” (Place of Wealth) (2013) did not represent a different scenario. The discovery of Bamidele Ajasa’s co-tenant’s body in the boot of the former’s car is the only evidence the police officer in the film has for proceeding on trial. Right from the stage of arrest to interrogation, investigation and the preparation for the trial, the abuse of the entire process is so forcefully projected that one wonders whether there are specific laws guiding the justice system in Nigeria. From the facts evident in the selected video texts, what the police officers say law is, is what it is. Their complete disregard for the letters and the spirit of the law becomes the ideal for the ordinary man on the street.

Lawyers’ and judges’ disregard for law is not different from that of the police officers encountered in the texts. All the lawyers in the selected video texts continually trample on the face of the law and subvert provisions of statutes. Both the prosecuting and the defence counsels display a high level of incompetence that ought not to be seen in a lawyer of their statuses. The worst scenario is seen in the defence counsels, who displayed their complete ignorance of the requirements of the law in establishing a case of murder against any suspect. Such important legal requirement of *Mens Rea* (the intention to kill) is never brought up as a defence. It is to be noted that for a suspect to be prosecuted and convicted for murder, proof of an intention to cause grievous bodily harm would suffice to establish *Mens Rea*.

Equally, defences such as mistake, insanity, intoxication, provocation, and accidents are never brought up by the defence counsel. The defence counsel, for one could have brought up a defence of accident provided for by section 24 of the *Criminal Code, Law of the Federation 2004, Chapter C.28*, even if he has a little doubt in the evidence provided by the suspect. Accident is an event not intended nor foreseen. The law states that if an act or omission occurs and it is shown that the accused did not intend it to happen, or was not reckless or negligent, the accused is not liable. A defence of mistake provided for by section 25 of the *Criminal Code, Law of the Federation 2004, Chapter C.28*, as well as for provocation section 318 of the criminal code would have been best deployed by the defence counsel even if he still loses the case. Lawyer Toyin in an interview granted to lawyer Tope’s brothers explains that insanity and provocation are valid defences in murder cases. She, however, does not plead any of this in court.

The judge who has a role to point the counsel to the issues of factual and legal causation in the case of murder did nothing close to that. The “*de minimis rule*”, for instance, is not applied in any of the court cases. The rule applies when the original injury arising from the defendant’s conduct was more than a minimal cause of the victim’s death.

Even if the factual causation is established, the judge must consider whether the defendant's acts are sufficient to amount in law to cause the victim's death. The prosecution, for instance, must show that at the time of the victim's death, the original wounds or injuries inflicted by the defendant were still an "operative and substantial cause of that death".

The materialistic tendency characterizing the legal profession is strongly projected in all the lawyers encountered in our selected texts. In "*Ajaga Ojiji*", Lawyer Benson claimed to be an expert in murder cases and flaunts his ability to obtain judgment in favour of any criminal irrespective of the magnitude of his crime, of course without any concrete evidence to support his claim. His insatiable desire for wealth according to him is the reason he is willing to twist the arm of justice for the highest paid client. He charges between N5m and N15m. The same greed accounted for why lawyer Toyin in "*Ajaga Ojiji*", did not hesitate to murder the prosecuting counsel's principal witness with a high degree of impunity. Even in "*Awon*", money served as motivation for the nameless lawyer who argued for the conviction of Bimbo, the diseased wife.

These films projected distrust of the masses in the legal system and the pervasive myth of the lawyer as a liar and fraud, who pursued his career as a business man. Lawyer Ben in "*Ajaga Ojiji*" preferred payment in cash to avoid the prying eyes of the 'envious' members of his profession. His wife, while disassociating and distancing herself from his unprofessional conduct, stated that:

A lawyer is ordinarily the hope of the common man, a man whose duty is to defend fairness, justice and equity. A lawyer becomes a criminal if and when in his defence of murderers, he deviates from these.

The disenchantment of the masses in the justice system is projected almost to a point of fault. Most of the characters expressed their disgust in the system. This accounted for why they are willing to offer bribes to any officer of law without fear of possible prosecution for bribery and corruption. Some of the character even resorted to seek magical interventions in cases they should normally have won. In "*Awon*", Bimbo's parents make recourse to the *Ifa* in order to obtain justice. In "*Ajaga Ojiji*", Tope's younger brothers who are students of criminology, take up the investigation of their brother's case when both the police and the court have failed them. The investigative insight displayed by these young boys is an indictment on the entire justice system in Nigeria. They are willing to take up the task of finding out the truth even at the risk of their own lives. As one of the brothers puts it, 'It is suicide to trust the police in any matter; either as the accused or the victim'.

The attitude most of the characters portrayed revealed that there is a dislocation between law and culture. On the one hand, these characters, both as law enforcement agents or legal practitioners, as well as the ordinary citizens, did not display any significant consciousness of the existing laws and as such relied on their own

understanding and definition of what is right and wrong in the circumstances they found themselves. This is an indictment on the Nigerian legal system that is characterized by uncommon unpredictability associated with most multi-ethnic societies. On the other hand, where the characters demonstrated a little knowledge of the existing law, they, with a high degree of impunity, wilfully disregarded it. What was the order of the day, in the worlds of our selected texts, is an abysmal lawlessness that is a product of a dysfunctional society, an antithesis to the ideal.

It is instructive to note that in spite of the topicality of the subject matter of the selected video texts, the directors do not blend it with a profound form. Their techniques are not deliberately deployed to reinforce their ideas. Oral forms, such as proverbs and songs could have helped to enrich their works aesthetically. This criticism however does not disrobe the films of their merits even if they appear to have sacrificed aesthetic profundity for thematic clarity.

The conclusion that naturally arises from the foregoing is that when the justice system of a society is plagued with scepticism, suspicion and ethnic sentiments, no slight compliance is expected. The notion that 'ignorance of the law is no excuse' is subverted since such laws are designed and couched in a manner that nourishes the ignorance of the masses in the first instance.

References

- Abiodun, O. (2013). *Modebi olami [VCD]*. Lagos: Isolak Films.
- Adekannbi, G. O. & Akinboye, O. A. (2009). *African princes: Ambition, intrigues and roman factional politics*. Ibadan: Positive Press.
- Criminal Code, Law of the Federation 2004, Chapter C.28.*
- Dambazau, A. B. (2007). *Criminal and criminal justice*. Ibadan: Spectrum.
- Don, R. (2013). *Ajaga ojiji [VCD]*. Lagos: Asunmo Films.
- Ekwenze, S. A. M. (2006). *Nigerian criminal law cases: A synoptic guide*. Enugu: Snaap Press.
- Elegido, J. M. (1994). *Jurisprudence*. Ibadan: Spectrum.
- Fash-Lanso, Y. (2013). *Awon [VCD]*. Lagos: Lawlah Films.
- Frank, J., & Brian, H. B. (1949). *Law and the modern mind*. London: Routledge.
- Freeman, M. D. A. (2001). *Lloyd's introduction to jurisprudence (7th ed.)*. London: Sweet and Maxwell.

- Okonkwo, C. O. (1980). *Okonkwo and Naish on criminal law in Nigeria*. (2nd ed.). Ibadan: Spectrum.
- Okoye, A. O. (2011). *Law in practice in Nigeria: Professional responsibility and lawyering skills*. Enugu: Snaap Press.
- Oluyede, P. A. (2007). *Nigerian administrative law*. Ibadan: University Press.
- Sanni, A. (2006). *Introduction to Nigerian legal method*. Ile-Ife: O. A. U. Press.