Review Essay

***The Laws and Customs of the Yorùbá People* by E.A. Ajisafe Moore (Undated, M. A. Ola Fola Bookshops, Abeokuta, Nigeria. 87 pages. Price \$21.95 on Amazon.com)**

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The Laws and Customs of the Yorùbá People chronicles the prevalent customary practices and native laws of the Yorùbá people who have their ancestral home in South Western Nigeria and descendants in several cities around the world by virtue of forced and voluntary migrations. The book draws from extensive research – including painstaking collection of materials from several sub-groupings within the Yorùbá ethnic group. Ajisafe Moore acknowledges in the preface that the laws and customs of the Yorùbá people vary within the different Yorùbá sub-groupings. The book however sought to address customs and laws that are generally applicable across the entire Yorùbá ethnic group.

It is not clear when *The Laws and Customs of the Yoruba People* (henceforth *Laws and Customs*) was actually published. The author's reference in the preface to 1906 as the time when he commenced his research efforts for the book provides a first pointer to possible publication of the work in early twentieth century. Other sources such as the LitCaf Encyclopedia list laws and customs as being published in 1924, eight years after the publication of the first edition of Ajisafe Moore's self-published work, *History of Abeokuta* in 1916 (reissued in 1948 and 1964 and now part of the United Kingdom's Royal Collection Trust). James S. Coleman's *Nigeria: Background to Nationalism* (1958) cites *Laws and Customs* as one of the "tribal and national histories of major ethnic groups" published in English in 1946 (Coleman, 1958: 327). Kash and Klare Bookshop, Lagos, Nigeria was listed as the publisher. This latter

publication date of 1946 meant that *Laws and Customs* was a posthumous publication for Ajisafe Moore who passed away in 1940.

The twenty-four chapters of laws and customs are organized thematically, with each chapter presenting one aspect of the custom or native law of the Yorùbá people spanning marriage and family life including widowhood, civil and social relationships, government structure, civic responsibility to society, property rights, dispute resolution and sanctions for wrongdoings, security for credit, traditional medicine and divination, animal husbandry, funeral, widowhood and so on. The book closes with a rich supplement which provides additional customary practices relating to property rights, tenancy rights, secret societies, hospitality, and salutation, especially for office holders.

Ajisafe Moore starts by outlining the family structure of the Yorùbá people. We note that, unlike the western contemporary custom, family among the Yorùbá transcends the nuclear family and encompasses a person's kith and kin or clan (*ìdílẹ̀*) as well as a well-behaved servant who has lived long with his master. Ajisafe Moore notes the wide brotherhood and sisterhood norm which probably accounts for why there is no single Yorùbá word for an uncle, aunt, cousin, nephew or niece. However, he highlights a custom of respect with the use of word, "elder" or "senior" (*ẹ̀gbón*) and "younger" or "junior" (*abúrò*) alongside other words to correctly describe a person's relationship to another. Ajisafe Moore x-rays the governance structure of the Yorùbá family unit with the head of a compound (*baálẹ̀*) as the leader with the responsibility of effectively governing the household. Every member of the compound house (*agbolẹ̀*) shows respect to the *baálẹ̀* and the *baálẹ̀*'s first wife (*iyálẹ̀*) by way of greeting every morning - prostrating by the male (*dòbálẹ̀*); or kneeling down (*kúnlẹ̀*) or lying down on her right side (*yínrínká / yíkàá*) by the woman. In the spirit of looking out for its own, Ajisafe Moore also examines the guardianship system under the Yorùbá jurisprudence meant to cater for orphans and mentally challenged individuals - which is in every respect similar to modern concept of guardianship.

Nearly every society pays attention to property rights. According to Ajisafe Moore, title to land was traditionally held by the clan, community or family with land partitioned to members for their use and transferred as an inheritance in perpetuity. Individual ownership of land and commercial lease of land are recent practices amongst the Yorùbá people not having been in place from time immemorial. Some of the property rights identified in the book show that the Yorùbá native law recognized modern property rights such as easements and land use regulations relating to right of way, setback and public lands.

Unknown to many in the western world, African societies had well-organized governments in place from time immemorial. This resonates in *Laws*

and Customs as Ajisafe Moore goes further to highlight the structure of government with the king as paramount ruler who wielded influence and governed through the lords and overlords. Ajisafe Moore also highlights the role and powers of the kingmakers, king's advisers, chiefs, warriors, high priest (*onímòlè* or *abọrẹ*), diviner (*babaláwo* or *adáhunṣe*), medic or herbalist (*onísègùn* or *ọlósanyìn*) and the women leader (*iyálóde*). The king had what appears in contemporary times to be executive, administrative, legislative and judicial powers. Whilst the king could declare a war and deploy his troops for battle like any President of a country would do today, the king is expected to sleep (i.e. die) if his army is defeated in a war. This fatal act must occur before the defeated army returns home.

Ajisafe Moore demonstrates that the Yorùbá people understood government as a social contract. Akin to contemporary civic duties, Yorùbá men thought it fit to provide free labor for public road construction and repairs; and public houses' rebuilding or repairs among other civic duties. Similarly, toll taxes and tributes were collected and paid to the king's treasury to enable good governance. Part of that social contract is the government's responsibility to ensure peace, order and good governance. One of the ways that government does this is by designating certain conducts as reprehensible or criminal and prescribing punishment for offenders. The criminal laws of the Yorùbá people, as noted by Ajisafe Moore, largely covered acts that would constitute a crime in contemporary times. These include witchcraft, sorcery, larceny, burglary, stealing, incest, false accusation, robbery, smuggling, arson, abduction, murder, misappropriation of money or goods, blackmailing, conspiracy, bribery, etc. Although the criminal conducts among the Yorùbá people are not classified as in the same ways as modern criminal acts, the prescribed punishment meted on a criminal actor conveyed the severity of the criminal conduct. More importantly, Ajisafe Moore notes that certain otherwise criminal conducts may be permissible in cases of self-defense or provocation.

It is universally agreed that it is imperative for every society to have an effective criminal justice system with excellent mechanism to redress grievances and bring action against individuals for offenses against society. Ajisafe Moore shows in *Laws and Customs* that the Yorùbá people did not lack one. Tribunals were in place to settle disputes with a window to appeal to a higher authority where a party to a dispute was dissatisfied. The tribunal worked at settling civil disputes marked by both warring parties sharing and eating the same kolanut and drinking together. Although now outlawed in Nigeria, the Yorùbá people practiced trial by ordeal in appropriate cases.

Ajisafe Moore goes ahead to highlight the robust custom of the Yorùbá people relating to marriage. Unlike western customs, the families of the would-be couple are very involved in the process leading up to the marriage

as well as the ceremony. Both families undertake due diligence on the family background of their prospective in-law to forestall marriage into a family with negative history or illnesses. Ajisafe Moore gives a detailed account of what then follows from the application for the girl to become the wife of their son (*itọrọ*), to the sacrifice concerning the bride to be (*ẹbọ-iyàwó*), to the payment of the consent fees (*ijóhùn*), the engagement and dowry payment (*idána*), and the marriage ceremony (*ìgbéyàwó*) which finalizes the union.

In every society, there must be a given framework to guide the legal relationship that people enter from time to time. Ajisafe Moore posits that there were laws to guide contracts and other commercial relationship. Contracts were either entered on oath with or without witnesses or entered without oath in the presence of witnesses with robust mechanism for addressing a breach. There is also a framework that guides agency relationships, loan transactions – including the enforcement of default using the *ògò* system and *ẹ̀mu* system, thrift and savings (*èsúsú*) as well as an elaborate pawn system were well regulated. Illustratively, there were provisions in place to protect female pawns from sexual abuse in particular.

Death is the inevitable end of life against which no man has immunity. Thus, Ajisafe Moore identifies the customary practices relating to funerals – the attendant rites and ceremonies depending on the deceased's birth, rank, cause of death and membership of a society; role of the 'father of the funeral' ceremonies (*bàbá-ń-sìnkú*); responsibility of worshippers of the god of thunder (*onísàngó*) or worshippers of god of small-pox (*onísònpònná*) in appropriate circumstances; and the relevant rites performed by the widow of the deceased as well as a window for member of the deceased's family to marry the widow of the deceased after the traditional mourning period as part of the Yorùbá levirate system of inheritance.

Ajisafe Moore ends the book with a rich supplement addressing prevalent practices amongst the Yorùbá people as it relates to a person's right to defend his dwelling home from any intruder; reckoning or computation of time and distance; the traditional wrestling contests (*igba* or *gídágbò*); kinds of and role of secret societies; traditional ceremonies including annual Orò festival; the pervading custom of hospitality and salutation.

Overall, the book validates the strength of the customs and native laws of the Yorùbá ethnic group as most subject focus can readily be likened to prevailing contemporary customs and laws. However, Ajisafe Moore correctly points out that some of the laws and customs considered in the book have become obsolete and impracticable due to the influence of Christianity and British imperialism. In our view, most of the obsolete practices are now considered a violation of fundamental rights. Such practices include trial by ordeal; and punishments such as flogging, whipping, beating, tying, chaining,

execution, banishment, burning down the house of an offender. In the same vein, proponents of gender balance or equality would find offensive these days, a number of customary practices against women.

In *Laws and Customs*, Ajisafe Moore provides a sound intellectual exposition of what Coker and Coker (2008) would, decades later, refer to as Yorùbá “folk law.” As they note, “to understand law among the Yorùbá is to have a deep understanding of the folklore as consisted of the elements of culture, tradition, language, and religion is required.” An understanding that laws and customs had provided a century earlier. Finally, given the use of several Yorùbá words in the book, it would be helpful – where a revision of the book would be done – for a glossary of words and phrases to be included as an appendix to laws and customs. Falola (1999) in the engagement of Yorùbá Gurus (local intelligentsia responsible for the indigenous production of knowledge) highlighted E. A. Ajisafe Moore (formerly Emmanuel Olympus Moore) as the most prolific of the Yorùbá writers working on the elaboration of culture by the intelligentsia during the colonial era in Africa (13). The breadth of topics covered by Ajisafe Moore in *Laws and Customs* and his efficacious consideration of the laws and customs peculiar to the Yorùbá people attests to this extraordinary distinction.

References

- Coker, Oluwole and Adesina Coker. (2008). “Folklore as Folklaw in Yoruba Indigenous Epistemology.” *Afroeuropa* 2, 1, (2008). ISSN: 1887-3456.
- Coker, Oluwole. (2018). “Folklore, Indigenous Epistemology and Legal Consciousness: The Yoruba Example.” In Awhefeada, Sunny, Enajite Ojaruega, and Peter Omoko (eds.). *Scholarship and Commitment. Essays in Honour of G.G. Darah* Lagos, Nigeria: Malthouse Press Limited.
- Coleman, James S. (1958). *Nigeria: Background to Nationalism*. Berkeley, CA: University of California Press.
- Deese, Adrian. (2013). “Making Sense of the Past: Ajayi Kolawole Ajisafe and the (Re-Making Of Modern Abeokuta (Nigeria))”. Unpublished MA Thesis. Cornell University, Ithaca, New York.
- Falola, Toyin, (1999). *Yoruba Gurus: Indigenous Production of Knowledge in Africa*. Trenton, New Jersey: Africa World Press.
- LitCaf Encyclopedia. (2020). <https://litcaf.com/> accessed at 2pm Wednesday, July 8, 2020