

Historical X-ray of the Administration of the Judicial System in Ejigbo: 1922–1933

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Abstract

This paper examines the administration of the Judicial System in Ejigbo from 1922 to 1933. It analyses the composition and the changing role of Elejigbo in the Ejigbo District Council and the consolidation of British rule in the Ejigbo District Council. It also explains the Native Court System in Ejigbo within the period under review. As in most Yoruba towns, the Elejigbo title was hereditary and indicated royalty with a relationship to Oduduwa, the eponymous father of the Yoruba. Elejigbo was the paramount ruler of Ejigbo. A qualified royal prince set up a dynasty as in other Yoruba towns and laid claim to hereditary leadership. For a proper understanding of the nature of the authority of the Elejigbo therefore, one needs to know to what extent, constitutionally his official responsibilities were and how much of them he carried out in practice. In the exercise of his power, the Elejigbo was the Chief Executive and had absolute control over the supreme organ of state, which comprised the Elejigbo and his chiefs. He derived his power from the tradition of kingship and the control of certain material resources obtained from tributary towns and villages under his jurisdiction. He was regarded as the source of all honors in the town and has absolute control of all lands, including hereditary houses in Ejigbo.

Keywords: Ejigbo, native court, land cases, villages, judicial system, British rule

INTRODUCTION

In Ejigbo, tribute-paying villages were given to Resident Chiefs called Bale who received tributes and other services and acted as patrons of such towns. The king controlled both the civil and military societies. The army was under his command. He also controlled trading activities in Ejigbo like every Yoruba monarch. Competition for the title did not always generate conflict in Ejigbo as all honors belonged to the *Elejigbo*. There were very few mud houses because all the houses were titled houses or *Ijoye*, and these houses are occupied according to the rank of his chieftaincy title. The pre-colonial *Elejigbo*, therefore, exercised much political authority over his people. Even though he consulted with his *Oloye* on state matters, he could still override their decisions, thus having much authority over his subjects. Ejigbo did not at any time practice a republican system of government. This was because, at inception, Akinjole, the first *Elejigbo* coerced the Ejigbo into accepting her patrilineal system of monarchical government [1–5].

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The traditional administration of Ejigbo was based on a government, which relied mainly on the efforts of the most senior chiefs known as the *Oloyes* or high chiefs. They were *Osolo Oye Ejemu Alawe and Onisemo*. Below the *Oloye* was ranked chiefs of which the most senior was *Osolo*, who was also the head of the chiefs. The *Osolo* had a close relationship with the *Elejigbo*. He consulted the *Elejigbo* on daily basis and the *Elejigbo* was always instrumental to the installation of *Osolo* basically because of personal affinity. Next to the *Oloye* were

the chiefs who were fifteen in number. Each of them controlled a quarter of the town. It is worth mentioning that the senior *Oloyes* were appointed by the *Oba* on the advice of his *Ijoye*, but minor chiefs were selected by the chiefs as heads of their group. Also, the *Oloye* and chiefs meet from time to time to consider issues of public interest [6–10]. The two lower grades i.e., *Ijoye* and *Adugbo* as a matter of duty always referred their decisions to the grade above them. There were hereditary titles in Ejigbo, and this made Ejigbo chieftaincy institutions to be similar in many respects to what obtained in most Yoruba communities. However, in Ejigbo, hereditary titles were not given to ordinary persons.

Elejigbo had overriding power over his subjects including the *Ijoye*. Though the *Elejigbo* in-council was considered to be the supreme organ of state administration, not all chiefs were members of this council and out of them, only the *Osolo* title was hereditary. The rest were installed on the basis of their success, wealth, and economic prowess. The council's decisions on most issues were final. Prominent among the important issues of deliberations were wars, diplomacy, security of the state, customs duties, and to some extent, military strategy. As it would be pointed out later in this study, the British used the *Elejigbo* in Council extensively in enhancing their administration. In judicial matters, justice was meted out summarily only during wartime, but recalcitrant criminals were banished [11–15]. There was a judicial procedure for hearing and deciding disputes as well as dealing with serious offenses. Even, before the period of colonialism in Yoruba land, the people had realized that the administration of justice could no longer be handled by an individual and his immediate family. The Yoruba were therefore not only interested in retribution and reparation of justice but were also interested in peacemaking [16–18].

Arbitration was solely the aim of peacemaking and justice during the time and except where the security of the state was involved, its machinery was in most cases in the hands of the titled chiefs. Because of the nature of the political administration of Ejigbo, every titled chief had his own Court in his *Adugbo* where he adjudicated on issues such as marital rifts, land squabbles, petty theft, and street fighting [19–25]. These Courts were by and large informal, and their functions were purely that of arbitration for peaceful coexistence. The most important mechanism for the adjudication of disputes in traditional Ejigbo society was the *Elejigbo's* Court. The members of this Court were the *Oloye* who were six in number with the *Elejigbo* himself presiding [26–30]. Although the *Osolo* presided over a Judicial Court, which heard all cases prior to their reaching the *Elejigbo's* Court, his decision on cases brought before him was not final as the *Elejigbo* himself pronounced judgment on serious cases such as murder, robbery, rape, and dangerous assault. The *Elejigbo's* Court also served as the appeal Court, and it tried criminal cases. The administration of justice in pre-colonial Ejigbo was based on peoples' customs and usages. Generally, in all traditional communities, laws were not written down in a single document, but it was considered to be a sacrilege for an individual to break such laws, especially where the penalty was severe on the culprit [31–36].

The traditional judicial process promoted justice to a certain degree and the role of religion in the traditional judicial system went some way in promoting not only conformity but also in strengthening the sanctity of the law [37–39]. Religion was also used to foster the potency of the law. Like any other traditional Yoruba communities, Ejigbo had a strong belief in a number of deities including the spirits of the departed ancestors. Prominent among these ancestral spirits in Ejigbo were the *Eegun*, *Ifa*, *Ogun*, *Oro*, and the *Obatala* (a deified king whose spirit was believed to have structured Ejigbo). The traditional judicial system had its shortcomings. However, the system of belief mentioned above had in no small ways created fear in the minds of the people towards the elders and rulers. Traditional religion prevented the possibility of the bold argument of cases, which the people would have presented before the chiefs and elders. Also, the use of ordeal was another impediment to the fair administration of justice [40–46]. The belief was that the individual concerned would be adjudged guilty if he died as a result of the ordeal.

Despite the disadvantages of the use of ordeal, it helped in making the people conform to the law. Also, it reduced the propensity towards dishonesty in Court, but if viewed from the modern-day system

of jurisprudence, the advantages of the use of ordeal notwithstanding, it hindered the fair administration of justice. In Ejigbo's traditional society, there were mechanisms put in place to ensure strict compliance with judicial decisions [47–51]. The pre-colonial judicial system in Ejigbo did not rely only on the public for such enforcement of judicial decisions but also on secret cults such as the *Ogboni* and *Oro*. These, according to Adewoye, played significant roles in handling serious criminal offenses and in executing their own judgment. It would be necessary here to look into the operation of the law in pre-colonial Ejigbo to determine whether the law was supreme or not. The modern legal system is said to be characterized by concepts such as openness, impartiality, stability, consistency, and predictability. Ideally, all citizens in Western societies are equal before the law. The legal results of certain actions may be foreseen, while its legal procedure is known to follow certain patterns. If these assertions are considered to be true, the result of certain actions against the law of the land in traditional Ejigbo society may also be unforeseen. Such actions included witchcraft, murder, and dangerous assault. However, this did not out-rightly imply that the traditional judicial system in Ejigbo was inconsistent and impartial. However, this distinction between Western and traditional legal systems may be more relative than absolute because the modern legal system could grant more power to the government during emergencies, which might result in the abrogation of the normal judicial procedure [52–54].

The value of this point is that favoritism and gratification were not unusual in the administration of justice in pre-colonial Ejigbo society. Indeed, powerful chiefs could influence the course of justice. Chiefs were seen especially in cases like land disputes, incest, and rape, going as far as offering gifts to the chiefs sitting with the Elejigbo at Court with the sole aim of influencing the judicial decision. This practice of offering bribes in form of gifts lingered on till the coming of the British and as such became a problem that the colonial administration had to contend with. They ensured that the law in traditional Ejigbo society was not to be supreme. The institutions discussed above were modified during Colonial Rule in the area. Moreover, some of them were supplanted by new institutions. A major factor in this development was the coming of the British.

THE CONSOLIDATION OF BRITISH RULE IN EJIGBO

The consolidation of British rule in Ejigbo to a greater extent opened up commercial activities which the British exploited and used as the way to the formation of the Native Court in the town. It would be noted that customary laws were used to govern the Ejigbo people before the coming of the British. It can be noted that administrative and economic motives were the centerpiece of what compelled the expansion of British English law in virtually all the communities in the Ejigbo District. This move by the British was the land conflict between Ejigbo and Iwo which had engulfed the two Districts in 1927. The British, to gain access to and extend their judicial control on the two Districts, thought it wise to use the situation of the Ejigbo and Iwo conflict as a convenient excuse.

In 1930, the British undertook the task of setting the rift between Ejigbo and Iwo. Mr. Dickinson who was then District Officer in Ejigbo visited the District Officer in Iwo to settle the matter which led to the treaty of 1930. Some factors enhanced the coming of the British to Ejigbo. First among these factors was the role played by the British in ending the interstate war, which pervaded the whole of Yoruba land during the 19th century. This in its entirety encouraged incessant incursion of the British into Ejigbo and much of the Yoruba states. Another factor was the propaganda of the missionaries which the British used extensively in the expansion of their influence in Yoruba land.

Earlier on, the missionaries were the pacesetters and pathfinders of British incursion into Yorubaland and their role in spreading British influence was inescapable. No community would willingly consent to be ruled, controlled, and directed by an outsider except through coercion or naked use of force. This explains the method adopted by the British in Ejigbo District. Since the British occupation of Ejigbo was made possible through diplomacy and coercion, the domination and control of Ejigbo were made possible partly because the British had total control over the use of force as a means of coercion. The use of force by the British in extending their judicial suzerainty in Ejigbo was made possible because

of the benevolent neutrality maintained by Ejigbo during the fratricidal wars which engulfed Yoruba land from 1821 to 1893. However, the British could not have extended their control and influence on Ejigbo if all the centers of war were not been properly put in control by the British. In these centers, the use of force was noticeable as in the case of *Ijebu* in 1892, Oyo in 1895, and the stationing of constabulary force in Ibadan readily come to mind, as evidence of the British open use of force.

Even by 1922, the British had not properly put Ejigbo under her judicial control and this was made evident through the reactions of the people to the British role of making leases of land in Ejigbo registered and recorded. To this end, the British increased their troops at Ejigbo to consolidate their administration. It would be recalled that British commercial interest which had been prevalent in Ejigbo during this in 1922 needed to be protected. The influx of British traders with the extension of the railway to Iwo brought new offenses which were not known in Ejigbo traditional jurisprudence, and the British had to put in place judicial structures which would take care of the diverse elements in Ejigbo. It, therefore, became expedient for the British to replace the traditional judicial institution with their system of justice.

However, for the British to find a lasting solution to the problem of inadequate traditional judicial machinery, the British opined that the communities in Yoruba land should give the King of England jurisdiction in such complex and intricate civil and criminal cases, and this brought about the issue of judicial agreement between principal towns of Yoruba land on the one hand and the British on the other hand. Judicial agreement as a matter of urgency would serve as a yardstick for consolidating British influence in Yoruba land. However, the judicial agreement was intended to create a suitable avenue for the trading activities and exploitation of the resources of the Yoruba hinterland by the colonial administration. In the actual sense, what further accelerated the signing of the judicial agreement was that the British did not possess a valid and authentic legal jurisdiction in Yorubaland at this period. Also, the traditional judicial system lacked the competence of dealing with the technicalities incidental to cases of fraud, especially in book-keeping and other commercial tricks which were common during this period.

In Ibadan, Abeokuta, Oyo, Ife, and *Ijebu* towns where the judicial agreement was eventually signed between 1904-1908, it was not an easy task getting the chiefs to sign the agreement, because the chiefs were extremely jealous of their freedom and authority which they had and were afraid of losing their power. Further fees charged in the traditional judicial system formed the bulk of the sources of income for the chiefs. Moreover, the chiefs had the premonition that signing the agreement would amount to ceding a substantial part of their income, which had been reduced by the presence of the British government. Under these circumstances, it was natural that the chiefs would consent to their authority being slashed away with great reluctance. By the terms of the judicial agreement entered into by notable Yoruba towns of Ife, Ijebu, Oyo, Ibadan, and Abeokuta, power and jurisdiction were given as follows:

- a. Judicial hearing and determination of matters in the difference where one or both parties is not a native.
- b. Persons not being natives for the repression and punishment of all crimes and offenses.
- c. All persons whomsoever for the repression and punishment of the crimes of murder and manslaughter.
- d. The administration and control of the property and persons not being natives.

Prior to the signing of the Yoruba judicial agreement, the Yoruba Jurisdiction Ordinance was promulgated on 7th September 1904. With this, English law and judicial process were extended into the whole of Yoruba land with the Supreme Court of Lagos holding assizes in Lagos. Since it is apparent that the interest of the British in the interior of Yoruba land was commercial, it was therefore clear that the need to enter into the various judicial agreements with all the major towns in Yorubaland was not without economic motive. Prominent among these was the British aim and calculated subtle attempt at annexing the whole of Yorubaland. This overtly explained why the British agreement with Abeokuta at

the initial stage was shrouded in secrecy because of fear the British that the whole arrangement might be atrophied should the local press raise the alarm of British intention of annexing Abeokuta and Yoruba land through the agreement. Another noticeable negative implication of the Anglo-Yoruba judicial agreement was the fact that the judicial agreement relegated the power and authority of the traditional rulers in Yoruba land generally. The judicial agreement, unlike other treaties and agreements before this time, earned the British colonial government the power and jurisdiction to deal with all indictable offenses and disputes arising among the indigenes themselves and the British subjects.

In the Yoruba traditional political system, judicial and political powers were like branches of the same tree. This diffusion was noticeable before the judicial agreement, but this judicial agreement undermines the judicial powers of traditional rulers in Yoruba land. Therefore, the new Court system began to operate barely one year after the completion of the signing of the judicial agreement, and the effects spread to all Yoruba towns. In Ejigbo, a new Court system, the Native Court, typical of English communities replaced the erstwhile lineage and quarter Courts.

The Native Court System in Ejigbo to 1933

In 1922 British conquered Ejigbo and the task of setting up administrative machinery was paramount in their mind. In Ejigbo the British made use of *Elejigbo* to govern the district. The main principle that the colonial government used in the administration of Ejigbo was based on the indirect rule system. The British 1922 introduced a method of rule through the Native chiefs who were regarded as integral parts of the colonial government's machinery. This system of colonial administration had been in operation in Iwo, Osogbo, Ilesa, and Ogbomoso before 1922. The colonial government established British Administration through the promulgation of these ordinances: a) the Native Authority Ordinance, b) the Native Courts Ordinance and c) the Revenue Ordinance in 1900. The Native Authority in particular constituted the Charter of the Colonial Administration by giving legal status to the recognized chiefs and vested in them powers enforceable in the Courts. However, a clearly defined orientation was made in Iwo, Osogbo, Ilesa, and Ogbomoso before 1922 towards entrenching British Administration.

The need to properly establish a form of indirect administration in Ejigbo in 1922 was the work of Mr. Dickinson the District Officer in Ejigbo. That is why Atanda posited that the pattern of Lord Fredrick Lugard's Indirect Rule typified by the Native Authority, Native Court, and the Native Treasury was just a particular "systematization of the concept of indirect rule". In 1922, a judicial institution was established in Ejigbo firmly by Mr. Dickinson. The *Elejigbo* Court, which had been operating before the coming of the British continued to administer justice and adjudicated on land cases and matrimonial matters.

Certain factors necessitated the establishment of British-controlled Courts in Ejigbo. These factors centered on economic and political considerations. Politically, the Native Courts were to be an instrument that the colonial administration used to consolidate their power in Ejigbo. An equally important role played by the judicial agreement was that it guaranteed a legitimate and conducive atmosphere for the furtherance of British economic interest in Ejigbo.

The British System of Administration of Justice in Ejigbo

To affect the formalization of the British system of Native Administration of justice in Ejigbo, the Native Court was established in 1922 at Oja Oba. Cases were adjudicated three days a week i.e., Mondays, Wednesdays, and Fridays. This Court at inception had six members on its bench. The *Elejigbo*, Oba Bello 1 was the first monarch who presided over the Native Court. He served until 3rd December 1933. Other members of the Court were Chief *Osolo*, Chief *Oye*, and Chief *Alawe*. Oyerinde Bello was appointed as the Clerk to the Native Court. The Native Court at Oja Oba originally handled all cases ranging from civil to land, matrimonial and criminal, as well as a few debt cases brought before it. This Court heard all important cases which were of special interest in all the areas controlled by

Ejigbo until when it was reconstituted into a Native Court of Appeal for the Ejigbo District following the 1933 judicial reorganization.

The establishment of the Ejigbo Native Court at *Oja Oba* in 1922 was the result of the Native Courts Ordinance of 1922 that provided for the constitution of more Native Courts in Nigeria. The Resident was to establish them by warrant subject to the approval of the Governor General. The Ordinance equally provided that the Native Law and Custom should be administered in the Native Courts. The Native Courts were in addition to Native Law and Custom also authorized to administer the provisions of certain ordinances and rules. The Native Courts were classified into four grades ranked A, B, C, and D, in Ejigbo by 1922. When this type of Court came into operation in Ejigbo British political officers did not first preside over any form of the Native Courts as had been the case before 1922. A paramount chief presided over any grade of Native Courts while the political officer supervised the work of the Native Courts. Legal practitioners were not to appear in the Native Courts, but litigants could make room for representation at the Courts by their relatives, servants, or master and friends who should as a point of duty give satisfactory proof that they had the authority to appear for such litigant(s). It was in consonance with the provisions of the 1914 Native Courts Ordinance that the Ejigbo District Native Courts was established at *Oja Oba* in 1922. This Court did not witness any major reorganization and sub-division until late 1940 because there was a speedy hearing of cases in the Court. Such cases stemmed from matrimonial to civil and criminal cases. Land cases were not rampant as most of the lands in Ejigbo at this time were given to citizens virtually free of charge or on the presentation of gifts to the Elejigbo.

The Nature of the Native Courts in Ejigbo

In Ejigbo Native Courts, cases emanated through the service of civil summons on a defendant or accused person subsequent upon a suit at Court filed by a plaintiff who failed to appear in Court, the case would be struck out unless notice was given that an adjournment was required, and the necessary fees paid. The fees paid were a '*sin qua non*' to the adjournment being upheld. At the end of the day's hearing, any case remaining on the case file or list was adjourned and the date of hearing of such adjournment was announced in the open Court. Cases coming unto the Native Courts in 1940 can be categorized into two broad groups' namely criminal cases and civil cases. However, we will need to bring out some of the cases in these two groups to stand on their own as a group purely because of the roles they played in social change. Important events were matrimonial cases that were rampant in the history of Native Courts in Ejigbo by 1940. The land case did not feature frequently partly because the land was relatively free in Ejigbo as we have earlier discussed and as such little importance was placed on it. However, mention would be made of some land cases and their impact as a medium of social change and control.

Land Cases

Ownership of land in traditional Yoruba culture was corporate and entitlements to individual rights depended largely on the recognition accorded him by his family or recognized landowners. The land of Ejigbo town was circumscribed by the ancient boundaries thus dividing it into three broad categories namely, public and royal land, allotted or family land, and not allotted or vacant land. Recognized persons in the land right might also include the family or descent group in a community whose members had contributed immensely to the maintenance of the group and strangers who received land from a family head.

The pattern of land ownership started witnessing some changes in Ejigbo as an emphasis on it became heightened. The land was thus allotted to people of relevance and according to their needs. These changes were occasioned by the need to cultivate cash crops for commercial purposes as a result of the market economy. The introduction of cocoa and rubber led to higher sources of income for farmers. It was held in Ejigbo by 1940 that all the land belonged to the *Elejigbo* both in the town and in the villages where Ejigbo spread her influence. It was also held that the *Bales* who were provincial heads of the

provinces could admit individual newcomers to their communities without reference to the *Elejigbo* but if an important man with a large following came to seek land, the Bale could notify the *Elejigbo* and such a man would build his hamlet on the land allotted to him in the village.

Apart from the resolution passed on 7th July 1917 between the *Elejigbo* and the heads of all outlying towns which made the *Elejigbo* to have authority over all land in Ejigbo, there was not much-recorded evidence of specific land rules in Ejigbo before 1940. A good testimony of this was in 1930 when Amusan was asked to appear before the judicial council for lawlessness. Amusan was a wealthy Ejigbo man who demanded land in 1922 and was granted it. He subsequently settled in Oke-Ipadi. In the case of Amusan vs. *Elejigbo*, Amusan claimed that he had all rights to the land in Oke-Ipadi which he and his followers were occupying and the *Elejigbo* had few rights there, and as such the *Elejigbo* could not allot land to others. On the other hand, the defendant claimed that Ipaye was a tenant on the land and the *Elejigbo* had all right to grant land rights to strangers or farmers in Oke-Ipadi.

However, judgment was delivered in favor of the defendant. He was told that he was granted the right over such land as he could cultivate but he had no right to alienate it. The value of this judgment was that the British were enhancing the power and prestige of the Native Authority and not undermining the power of control that the *Elejigbo* had over land in his domain. Also, the fact that Amusan was told that his right to the said land was only tenant-based showed that the British Administration personified by the Native Court had respected tradition and as such the control of the traditional ruler over his subjects was thus upheld. Moreover, this measure checkmated arbitrary transfer of land in Ejigbo as seen from the Ipaye example which was in consonance with the principle upon which the Native Courts was premised. As earlier mentioned in this chapter, land disputes did not always arise in Ejigbo during this period when compared to other Yoruba towns, but one should note that the trial of the land dispute went more or less in a cyclical way. Old disputes were liable to resuscitation depending on the location and value of the landed property in question.

Matrimonial Cases in Ejigbo

The Ejigbo people believed that marriage should be a union between the couples and their respective extended families, and this union was to continue until death since the people believed in a communal relationship known as the *Ebi* system. The Yoruba Native Law and Custom did not, therefore, permit divorce but husband and wife might be forced by circumstances to separate. While the wife might choose to live with another man after separation, the man whom such a woman was living with must pay back the dowry paid on her to her initial husband. The death of the husband could not even release the widow from the marriage ties as she could be inherited by any member of her late husband's family when the occasion demanded for such.

However, the wage employment that was provided by the colonial administration created a class of people who had the means which could seduce women as it had been greatly used in the Native Courts. Thus, on a minor matrimonial squabble, the woman could be taken by another man and asked for her hand in marriage as in Aweni vs. Ramonu (File No. ENC 59/17). In this case, Aweni, the mother capitalized on the economic situation and accused Oyekolajo's husband of not performing his matrimonial duties for his wife. She thus instituted a divorce suit against him. Despite the fact that the wife had two children for her husband, Aweni was not only granted the divorce suit she instituted, but she also gave Oyekolajo to another man called Makinde.

The major reason why many marriages were not stable during this period 1922–1933 was because of moral decadence associated with the general laxity of morality in society. The problem was not so much of morals as of social change as reflected in the subtle decline of the authority of the head of the family. Western education and Christianity had started to underestimate the traditions and customs of the society. The increase in matrimonial cases was therefore a result of the influence of Christianity and the introduction of Western education coupled with the British predilection for individualism. In the case

of Akanmu vs. Asimiyu (File No. NC/247/17) the plaintiff, Chief Akanmu claimed a dowry of £12.10s which he had purportedly paid on Aduke, the woman he inherited from his father, the late Balogun. When the plaintiff's father died, Akanmu claimed to have given £20 to all the widows and gave the 20s to Aduke's mother named Sabitiyu to take care of her illness. Apart from these, the plaintiff also stated that he gave the sum of £3.20 plus a goat and other items of sacrifice to the deceased wife to pave way for the inheritance proper.

On the contrary, the defendant, Asimiyu claimed that he did not meet Aduke in the house of Chief Akanmu and that he had no inkling of her having another husband apart from the late Balogun for whom she had no children. He claimed to have spent £7.14 on her when he paid the debt, she owed to people though he paid no dowry on her. Aduke denied such inheritance and claimed to have refused such proposal from Chief Akanmu but the presiding judge, Oba Bello in conjunction with Chief Osolo Oye, upheld the pleadings of the plaintiff, on the basis that the defendant, Asimiyu could not have been the husband of Aduke based on the fact that Asimiyu was not a member of the late Balogun family and could not have any right to inherit her.

Although the British Court system in Nigeria was patterned on the English model where everybody was equal before the law, this could not becloud the Native Court from respecting the customs and traditional beliefs of the people. The point was that the law of inheritance which had been in practice before the coming of the British and could not have been jettisoned by the presence of the British Court system, therefore the law was made to hold supreme in this case even if it had to be patterned on the English system. The fact that the *Elejigbo* granted Chief Akanmu's plea did not imply that he had limitless power. The Native Court System was structured to be different from the traditional system of dispensing justice. *Elejigbo* who was the Native Court President in this case could not act on English Code.

Latifa vs. Karimu (File No. NC/07311/25) was in the care of children. It was claimed that Mr. Karimu, a trader, did not take care of his children. Latifa reported the matter before Ejigbo Native Court that her husband said that it was her duty alone to look after their children. Latifa said that her husband was heartless and that any time their children felt sick, Karimu would not care. She also claimed that there was a time when one of the children had a running stool and another had a teething fever. During the trying period, her husband did not care. The matter was reported to the Native Court. Karimu was summoned and he failed to respond, a Police Officer named Afolabi was sent to arrest him. During the Court session, he pleaded guilty, and Karimu was warned and told to care for his family.

In 1932, the case of Sumbo and Rabiya came before Ejigbo District Native Court, Sumbo vs. Rabiya (File No. NC/00793/32), The case of Rabiya who was expecting her first child, expected her husband, Sumbo; a bricklayer in Isoko to show her much affection but instead, Sumbo started having affairs with other women and neglected her. He frequently kept late nights. This unbecoming attitude of her husband prompted her to report the matter to Ejigbo Native Court. The Court held that in as much as Rabiya still loved Sumbo she should find something to do. Sumbo pleaded guilty and the Court settled the matter amicably.

Another case reported at the Ejigbo District Native Court was that of Comfort and her husband Ajayi. This case came before Native Court at Ife-Odan and was presided over by the Oba. Comfort claimed that her mates (other wives) maltreated her when he was away in Osogbo. The husband, Chief Ajayi, was summoned to the Court at Ife-Odan and he did not honor the summon. Adigun, a Native Authority Police was sent to arrest Chief Ajayi. When Adigun got to Chief Ajayi's house, there was a quarrel between the two, which resulted in the imprisonment of Chief Ajayi for a year (File No. NC/07789/32).

There was also a case of Tinuke vs. Makanjuola (File No. NC/417/38). Makanjuola had three wives. Two of them traded with Makanjuola in Ejigbo while the senior one was a full-time housewife. Tinuke

quarreled with Makanjuola that she was maltreated by her husband, when she complained to her father, he pleaded on behalf of her husband, but her mother was not happy. The case was taken to Masifa Court, but the matter was not settled. The appeal was made to Ejigbo Native Court where the husband was summoned. He appeared before the Court, and he was advised to make peace with his family.

Another case was that of *Adeoti vs. Oladele* (File No. (037/NC189/40), Oladele from Ife-Odan was a rich farmer, who after two years of their marriage, Adeoti the wife was not pregnant. When Oladele married another woman from Ola, Adeoti was annoyed and reported the matter to her father-in-law. When the matter could not be resolved, Adeoti's mother reported to the Court Clerk. A Clerk sent his messenger to summon Oladele, and he did not respond. The Clerk, therefore, sent, Kola, a policeman to arrest Oladele, but Oladele had fled to Ogbomoso. After three months, he came back, and he was summoned back to the Court. The Court pronounced the judgment in favor of Adeoti, and Oladele was warned that if the matter came to Court again, he would be sent to prison.

Another matrimonial case reported was of, *Salawu vs. Moriamo* (File No. 27/NC/1179/40), The husband and wife, though living together as one soul were still basically two different individuals with different temperaments at different times. Salawu accused his wife of having affairs with a Chief in Isoko. Chief Kolawole was a good carpenter that roofed Salawu's house. When the problem started between Salawu and his wife, Salawu went to his friend, Olakanmi, who was an herbalist known for poisonous medicine. She prepared "Magun" a kind of native medicine for Salawu to put on his wife, but Salawu later fell into the trap and was saved by another herbalist from Ogbomoso. The case was reported to the Court Clerk, who sent Olagunju, a Native Authority Police to arrest Chief Kolawole. The Court adjudicated in favor of Chief Kolawole after he had been warned and Moriamo was given a last warning that if a such case came up again, she would be imprisoned for one year.

It could be argued that with the matrimonial cases above that the socio-economic and cultural changes evolving with the advent of the British in Ejigbo land affected the institution of marriage among the indigenes.

CRIMINAL CASES

Civil wrongs and petty thefts are agreed to be crimes. Thief is a menace to society because theft destroys the feeling of security that is necessary for the accumulation of wealth. The one great aim of criminal law is punishment. Some of the criminal cases that were recorded in Ejigbo Native Courts from 1922 to 1933 were as follows:

Alade vs. Ogunlade (File No. NC/11/37/1922)

Alade stole four goats in Isundurin because of his marriage ceremony. He was caught and brought before Ejigbo Native Court. At the Court, Alade confessed to have stolen the goats and pleaded guilty. He told the Court that he was instigated by Akanji. The Court believed that it was an act of dishonesty. The two were sentenced to three months imprisonment with hard labor.

Ola vs. Ode Wale (File No. NC/17/40/1922)

Ode Wale reported Ola to Ejigbo Native Court on a charge of setting fire to his farm. Ola pleaded guilty that he was instigated by Jinadu, Odewale's friend, the two were guilty of abetting the offense of setting fire to Odewale's dwelling house, and the two were liable to the punishment provided for such offense.

Buremoh vs. Babalawo (File No. NC/17/47/1927)

In the case reported by Buremoh to Ejigbo Native Court on 16th January 1927. His wife who was pregnant and about to deliver went to Babalawo (a native herbalist). During labor, the baby died because the accused had throttled him in the room. The Court was left in no manner of doubt that at the time the offense was committed, Raliat was laboring under some insane delusion and possibly the

delusion was that the Babalawo was possessed of supernatural powers and that no harm would be done to the child, it was held that the Babalawo should be acquitted and warned for future occurrence of such act.

Adewale vs. Adigun (File No.NC/13/06/1929)

In the case reported by Adelawe to the Ejigbo Native Court on the 7th of April 1929. Adewale a senior brother to Jamiu found that Adigun came to their house with a sharp cutlass and attacked Jamiu. In the process, Jamiu sustained an injury that resulted in his death. It was further reported that when Adewale tried to intervene, he was also attacked. The acts of the accused were to be judged in the background that they had a serious quarrel on the previous day that made Adigun to be aggrieved. The Court found Adigun guilty of the offense and was sentenced to ten years imprisonment without the option of a fine.

Asamu vs. Bakare (File No. NC/03/11/1929)

Asamu reported Bakare to Ejigbo Native Court that on the 26th day of May 1929 at Ife-Odan, Bakare and his gangs, at night came to his house and robbed him. His expensive gold necklace and clothes including his wives were taken away. As well one of his wives was killed in the process. When the Court Judge set up an investigation into the matter, the verdict showed that Bakare was guilty of the offense. Bakare was sentenced to 15 years of hard labor with no option of a fine.

Layide vs. Abayomi (File No. NC/06/13/1930)

Layide reported Abayomi to Ejigbo Native Court on the 7th day of August 1930 that Abayomi went out with his friend Aladokun to drink palmwine at Mama Ila's hut while they were arguing next chief to be in the family of Layide. Abayomi was angry when he was told by Aladokun that his father was rejected on the ground of his father's attitude towards women in the town. As a result of the provocation, Aladokun was beaten to a coma by Abayomi. Abayomi also struck him with a stool that he was sitting on, and that led to the death of Aladokun. Court after a thorough investigation, Abayomi was found to have committed the crime and he was sentenced to 12 years imprisonment with hard labor.

Oladele vs. Amusa (File No. NC/O9/1931)

Oladele was seized by a crocodile at River *Alagba*, and when he was screaming, Amusa, a hunter came to his aid to shoot the crocodile. Unfortunately, Amusa was mistakenly shot, which led to him being paralyzed. The case was considered to be not intentional, Amusa was fined and acquitted.

Awero vs. Moriamo (File No.NC/09/12/1931)

Awero and Moriamo were wives of Chief Are-Ago. On the 5th of December 1931, the two wives had a quarrel concerning their children. This later led to fighting and Moriamo struck Awero with a stick. Awero was hit in the head and lost consciousness. She was later brought back to life with the help of neighbors. The case was reported to Court. Miriam was sentenced to three months imprisonment.

Oladokun vs. Amuda (File No. NC/05/9/1932)

Oladele reported Amuda to Ejigbo Native Court that on the 3rd of September 1932, at Isundurin, Amuda and his gangs came to his house at midnight and carried away his clothes. His wife, Olanihun was also beaten thoroughly. Amuda and his gang escaped and were later arrested. The Court sentenced Amuda to six years imprisonment with hard labor.

Emmanuel vs. Rabi (File No. NC/33/75/1932)

In the instant case, Emmanuel, the appellant was a poor employee of Rabi, who was being paid twenty shillings per month by Rabi. Fifteen days before his wife delivered a theft of one pound from the shop was reported. He was accused of theft and persecuted in this connection. The Court found him guilty and was sentenced to suffer rigorous imprisonment for one-month.

Mukaila vs. Alade (File No. NC/20/11/1933)

Alade had entered Mukaila house for the purpose of committing adultery. An alarm was raised by some neighbors. Alade came out and was given a thorough beating afterward persecuted by the Court, warned, and sentenced to a month of imprisonment.

Akanmu vs. Ayinde (File No. NC/16/38/1933)

Ayinde was caught in Akanmu's house for the purpose of committing adultery. Ayinde was beaten and taken to Ejigbo Native Court. He was sentenced to one-month imprisonment. On his release, he, along with his two brothers waylaid Akanmu and his friend and thereafter attacked both of them with cutlasses. The friend fell down, they continued to beat him to death. Akanmu ran to the village for help. The Court pronounced seven years imprisonment for Ayinde and his brothers.

Factors Militating Against Native Courts in Ejigbo: 1922 to 1933

Some problems appeared to have militated against the effective operation of the Native Courts in Ejigbo. It would be recalled that the 1914 Native Courts Ordinance provided for the keeping of proper records of the Native Courts' activities. The need to keep the records of proceedings in the Native Courts in the English language and to maintain order in the Court necessitated the positions of Court Clerk and Court Messenger. When the Native Court started operating in Ejigbo, Mr. Oyerinde Bello was the first Ejigbo indigene to serve as the Native Court Clerk. It was the duty of Native Court Clerks to summon members to attend each day's sitting. Court Messengers, who were agents of the Court Clerks, soon became men of corrupt practices because of their position as Messengers, extorting litigants on the pretext of helping them. It was the situation created by the Native Courts System which provided limitless opportunities for intimidation and the acquisition of dishonest wealth which many Court Clerks exploited to the zenith.

One factor which favored the naked abuse of office by the Court Clerks was because the chiefs on the bench were illiterates. Even the chiefs were said to be corrupt, and the Court Clerks were not themselves as corrupt as the chiefs on the Native Courts bench. It was observed that the way the Courts were structured paved the way for the penalty and corruption of the chiefs. For instance, 10 shillings were paid to a Native Court President per sitting while other members of the bench were given 5 shillings each per sitting. The payment of this meager sitting fee was perhaps in itself a factor that prompted the taking of bribes by the chiefs since their membership of the Courts was based on rotation. The British were aware and were also of the opinion that bribery and corruption were more or less inseparable from the system of judicial administration, especially at the local level. As a result, with the 1933 Native Court Ordinance District Officers could review sentences if any aggrieved party indicated such. However, not many of the petitions written received the adequate review as people again abused such privileges and inundated the District Officer's office with petitions out of which he attended to a few.

It should be noted also that the supervision of the Native Courts by British political officers was by no means effective. This was so because of the enormous administrative duties of the colonial operators which included monthly reports and returns with which the political officer was saddled. However, they carefully scrutinized cases that were of socio-economic and political importance to the administration. Though there were intermediaries who normally acted as lawyers in the traditional system of justice in Ejigbo as in other parts of Yoruba land, the Native Courts Ordinance of 1914 stipulated that no legal practitioner should appear for any party before a Native Court. The British believed that the introduction of lawyers in the Native Courts would be dangerous to the colonial administration's Native Policy. Also, the colonial government opined that all the professional lawyers who were trained in England were well-versed in English constitutional and political history.

The British speculated that African Lawyers would return to Nigeria with a bias for the English representative government and party system of an elected legislature not realizing the inapplicability of

such a system to his country, therefore, his practice would be against African Custom and Native Institutions. Apart from this, the administration was wholly interested in shielding and protecting the Administrative Officers from lawyers' embarrassment having realized that Administrative Officers were not properly and adequately versed in legal ways of handling cases. The British did not give room for legal representation in the Native Court, but they preferred that representation be made for litigants at the Native Courts by their relative, servant, or master, and friends who should give satisfactory proof that they had authority in that capacity to appear for the such litigant. This provision of the Native Courts Ordinance of 1914 adroitly served to legitimize the operation of Letter Writers. Aside from the salient fact that the clause of representation by friends allowed the activities of Letter Writers, there was evidence that Letter Writers themselves wrote to the British Administration for permission to practice despite the fact that there was no permission required to become a Letter Writer. They were however admonished on the need to carefully observe the provisions of the Illiterate Protection Ordinance of 1896 which provided that any person who would write any letter or other document should perform such at the request of all illiterate people. Thus, the Writer's full name and address should be written on the document so prepared.

Not only that, but the Letter Writer should also read the letter or document to the hearing of his client and must append his signature to the document. Any Letter Writer who failed to adhere to the provision of the Ordinance was liable to summary conviction before a Police Magistrate or District Commissioner to a penalty of £25 (Twenty-Five Pounds Sterling) or a jail term of three months. Despite these strict penalties, Letter Writers still abuse their rights to practice and are charged heavy fees by their clients. Although, there were no recorded cases of Letter Writers being charged for extortion in the Ejigbo Native Court but cases of such were recorded in more cosmopolitan cities, especially in Ibadan. Although the Native Courts served as a means of revenue generation for the colonial government during this period; it was argued that the licensing of Letter Writers, it brought into existence a very undesirable class of person who capitalized on the efficacy of their license as Letter Writers to pose as qualified solicitors. No wonder the issuance of such licenses stopped after the enactment of the Illiterate Protection Ordinance.

CONCLUSION

In conclusion despite the activities of the Native Courts in establishing the sovereignty of the British in Ejigbo, it was apparent in the face of the problems facing the operations of the Courts that the Courts needed further reorganization. The Judicial reform of 1933 attempted to introduce changes in the workings of the Native Court, an aspect that the next chapter assessed.

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