

Impact analysis of land boundary dispute cases emanating from attenuated consanguinity in colonial Yorubaland

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ABSTRACT

The primordial forms of human society were “Ajobi” and “Ajogbe” and the English equivalent of these two Yoruba conception of the social structure are consanguinity and co-residentship (Akiwowo, 1980). While consanguinity describes the collateral relationship based on blood, co-residentship explains the fact of sharing contiguous shelter whether or not the persons concerned are blood relations. The present writer argues with the aid of selected litigated boundary dispute cases that the ideal of consanguinity was threatened to the point of attenuation during the colonial days. In many of the cases, land disputes borders on unacceptable boundary shifting or its unilateral adjustments. An impact analysis of such disputes is here attempted with a view to bringing out the effects of attenuation on consanguinity. The paper adopts a historical method where historical facts are juxtaposed to elicit the correct position. Findings revealed that litigated land boundary disputes actually caused attenuated consanguinity during the colonial days in Yorubaland.

Keywords: Consanguinity, co-residentship, Yorubaland.

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INTRODUCTION

Land was presumed, owned, by the ancestors in southwest Nigeria from the period of unknown antiquity (Adejuyigbe, 1975). Indeed, it belonged to the living, the dead and the yet unborn. Its control, therefore, fell into the domain of the rulers and elders in every community. It was a part of their very existence, that is, the essence of their community (Wande, 1981). To most of them, land ownership is paramount and central to their entire lives. As such when a person’s land boundary is violated, it is his entire life that is considered threatened. The details of the migration and settlement of most communities in the southwestern part of Nigeria has received the attention of many scholars focusing on different aspects of the communal lives of the people that inhabited the study area (Makinwa, 1981).

A detailed explanation of this seemed to have been captured in part by the twin concepts of *Alajobi* and *Alajogbe* (Akinsola, 1980). These are two Yoruba concepts hinged on the *Ebi* or kinship system (Akinjogbin, 2002) which, has been described as an aggregation of

the close inter-dependence between the Yoruba people who occupied the study area (Schwab, 1955:358). The Yoruba society was closely regulated on the basis of the *Ebi* or kinship system (Schwab, 1955:372) because it was the acceptable way of articulating the various segments of the social system or organization. The behavioural pattern of individual was governed by some elements which constituted the component of the *Ebi* social structure. Acceptable values and attitudes were built on the bonds of the kinship system as a foundation for social organization and as a mechanism for coordinating and regulating individual’s social behaviours (Schwab, 1955). There is a strong tie built around the *Ebi* within the Yoruba world, hence the use of maxims like: *Eni mi ko seni, eeyan mi ko seeyan, ko see fi we alaroo lasan; b’iku ile ko ba pani, tode ko le pani.*¹ *Ore kiti-kiti, iyekan kata-kata, bi ore kiti-kiti ba ko ni sile, iyekan kata-*

¹ This is a Yoruba maxim which translates “Even if one’s relations are not wealthy, they may not be compared with ordinary passer-by.

*kata naa nii ku.*²

METHODOLOGY

The paper adopts a historical method. By this method, historical facts are gathered through different primary and secondary sources which include: oral interviews, archival documents, colonial government papers, private document collections, court rulings in reported and unreported cases. Processed data in books and journals are also used. These are subjected to internal and external criticism for the purpose of objective historical analysis.

In historical researches, the use of primary and secondary sources of data is paramount. Primary data in the present work are limited to archival documents deposited in the National Archives, Ibadan and other private document centers. Oral information was elicited from monarchs and chiefs to facilitate our understanding of the place of tradition and customary practices in the determination of boundaries before the introduction of the British legal system and to ascertain the relevance of such traditions today.

To validate some of the claims made by the various grades of primary sources consulted, secondary data were also used. These include books and journals in public and private libraries, Court judgments and their commentaries in court Records Departments. Other secondary data used for this work were the Reports of Boundary Commissions of Enquiry and documents of the National Boundary Commission, Abuja. Moreover, documents pertaining to intercommunity boundary disputes in the six Yoruba speaking states found in the offices of the Deputy Governors of their respective states were also perused. Data collected from these various sources were analyzed carefully to produce the needed building blocks for discussions.

CONCEPTS OF AJOBI AND AJOGBE EXPLAINED

According to Akiwowo, the primordial forms of human society were *Ajobi* and *Ajogbe* whose English equivalents are *consanguinity* and *co-residentship* (Akinsola, 1980:18). He defined consanguinity as 'the fact of lineal and collateral relationship based upon blood and birth' and residentship as 'the fact of sharing same or contiguous shelter whether or not the sharers are related by blood' (Akinsola, 1980:358). By this definition of *Ajobi*, it followed that members of an *Ajobi* were of same family or groups of related families, in a house, compounds and units in a village or town. An *Ajobi* would also refer to members related by birth who live separately in distant villages, towns or regions of the world or a people in diaspora. By *Ajobi*, each person related by heredity, was seen as knitted together by blood. As such, they had equal access to the family land but not beyond the boundary of the family land. The family bond and the concept of *Ajobi* was prominent among the various subgroups of the Yoruba which include the Oyo, Osun, Ondo, Ijesa, Ekiti, Egba, Ikale, Ijebu, Igbomina amongst

others. Indeed, the *Alajobi* or the spirit assumed to be behind consanguinity was often called upon to intervene in relation to social crisis among members of the same lineage or *Ajobi* (Akinsola, 1980:358). Among these people, the responsibility of looking after ones offspring transcended the nuclear family, every member of the community partook in the training and cultural integration of the child (Kusa, 1955:56). Hence, saying like "*enikan nii bi 'mo igba eniyan nii wo*" (Kusa, 1955: 60). By extension, where a member of one family was denied or assumed cheated in relation to land allocation or other things, the whole community through the leader defended such. Earlier settlers therefore, maintained the history of their occupation as their right to the land in such areas as they occupied from the period of occupation. However, new settlements traced their title to land to the natal communities of their founders or the people that accommodated them.

When the bond of *Ajobi* under certain conditions among the Yoruba got attenuated to seemingly irreparable point due to disputes (land boundary disputes inclusive), they employ saying like *Oku omo iya ja*³ to express it. Some of the causes of attenuation as noted by Akiwowo includes the linkage of local economy to the metropolitan markets of Europe during the 18th century, sudden social upheaval which led to physical separation of blood relations and which forced members of the same *Ajobi* to depend on strangers for help and assistance contrary to the primordial nature of *Ajobi* system among other things (Akinsola, 1980:19). Moreover, the introduction of British Pound, a foreign currency which came in form of light-weight coinage metals and paper notes also had its own impact on the collapse of *Ajobi* system. This was because it promoted capitalism or wealth acquisition through individual initiatives and with little or no dependence on one's relations.⁴ Prior to this period, wealth acquisition was a function of collective usage of the family land where a man mobilizes his family to build his empire of wealth and sustains it through the institution of polygamy since the economy was agrarian in nature and land was a major factor of production.

With the situation described above, the social processes of envy, competition and conflict over visible means of success became universally established among each *Ajobi* group and this led to the birth of a new social bond, described by Akiwowo as *Ore-Friendship*. *Ore* was not based on blood relationship but on similarity of *Iwa*- (Character or individual's mode of expressing his being) (Akinsola, 1980:20). The household accommodations of *Ore* offered them the opportunity to participate in most household activity with limited involvement in rites of household. This, according to Akiwowo became the basis for *Alajogbe*-(co-residentship), another social bond which

Without an internal link, death from external sources may not catch up with one.

² This is a Yoruba maxim which translates "With plenty friends around a person, his relations should not be discarded this is because of the day these friends may desert one."

³ This is simply a Yoruba expression which translates: 'A child could only have one set of biological parents, but two hundred people look after him'

⁴ This simply means "the cord of maternal link is broken".

could be friends, strangers or migrant workers to mention a few (Akinsola, 1980:20). Many *Ore* became so close that they were almost incorporated into their host families and maxims like *b'ewe ba pe lara ose, ose nii da* (Allen, 2000: 115-120) became common place.

By this arrangement, any *Alajogbe*, who had lived for a very long time in a particular location, was also treated like an insider or an adopted member of the community of a named *Ajobi* group. He was integrated into the community by special allocation of land. However, he could not become an *Omo Onile* -'son of the soil' (Allen, 2000:225) and he could not possess the power to allocate or use land beyond the one allocated to him. An *Alajogbe* could also not be dispossessed of any land properly allocated to him by the community or family without due process. In the context in which the term is used in this work, a carefully defined *Ajobi* group whose consanguinity had not been attenuated that is, whose cord of maternal link has not broken is highly revered and members of such *Ajobi* too makes every effort to keep the bond of unity.

There were other ways through which people enter into an *Ajobi* group, for instance, some Yoruba *Obas* and *Bale* married the daughters of the rulers of other villages so as to access the land and throne of such villages by marriage and thereby become a part of that *Ajobi* by marriage (Akinyele, 2011). One Timi of Ede was reputed to have carried an appellation like: *O je Timi j'oba Ido*. The implication of this was that he was both Timi and ruler of Ido-Osun. He had a son that married the daughter of Oludo and who bore a son that was both heir to the Timi and Oludo throne (Olupayimo, 2010). All regular *Ajobi* were the custodian of the custom and traditions of the communities wherein they claimed hereditary control of land through *Ajobi*.

CASES OF LAND BOUNDARY DISPUTES AND CONSANGUINITY ATTENUATION

A careful examination of the *Shenaike vs. Gbayo* series of cases would suffice as explanation of the attenuation of consanguinity and land claims in boundary dispute.⁵ The fact of the case involves a large expanse of land between Ibadan and Ijebu described by the colonial administration as buffer zone.⁶ The land in this disputed area was claimed by Ojowo community in Ijebu-Igbo District of Ijebu Province. When dispute arose on the land, Shenaike, an Ojowo man led his community in the legal tussle against Ibadan farmers who were accused of attempting to take over Ojowo land.⁷ Shenaike carefully

pursued the action to further personal claim of the land for himself. Judgment was entered for him and confirmed by appropriate colonial government functionaries on two occasions rather than for his town.⁸

Shenaike used the collectivity of the town's people to pursue his personal goal and emerge as a the owner of a large expanse of land in Ojowo when a final judgment was entered for him at the High Court. What followed was the attenuation of his Ojowo consanguinity, therefore, he wrote to the colonial government to guarantee him protection through the Native Authority Police in his town, Ojowo, when he noticed that his life was in danger.⁹ Thereafter, he started to divide the land he acquired to farmers for personal gains.¹⁰ The whole expanse of land accruing to Ijebu Igbo District falling to Ojowo town as boundary between Ibadan and Ijebu Province, therefore, became the property of *Shenaike*.

First, in the case, the entire Ojowo community stood for one *Ajobi* attempting to evict the Ibadan farmers from their farms without compensation. While the collectivity of Ibadan farmers stood for another *Ajobi* attempting to defend collectively the farms which belonged to them. Later, it was *Shenaike* that emerged the sole beneficiary who reaped the proceeds of the judgments. Consanguinity had stood as a factor of defence and protection of inter-community boundary claims and it also got attenuated to seemingly irreparable level in the pursuit of joint land claim by Ojowo community.

In *Bello Ogunrin vs. Shangotunde* which began in 1933 and continued till 1956, attenuated consanguinity engineered inter-community boundary dispute as well.¹¹ The fact of the case involved another parcel of land in *Lalupon* District of Ibadan Judicial Council. *Shangotunde* was the *Bale* of *Ariku* and he was in charge of land allocation. He allocated land to *Bello Ogunrin* and after Bello had farmed successfully in the area he discovered that the land given to him was not only beyond the boundary, but also that Shagotunde had transferred the allocation to another person with an order to reap the economic crops the new allottee did not plant.¹²

⁵ NAI Ijebu Prof File No J1726 Ijebu-Ibadan Boundary Case in Shenaike v. Gbayo Suit No17/28.

⁶ NAI Oyo Prof. File Mr. Nesbitt's Report to the Secretary, Southern Provinces on the Demarcation of Ibadan-Ijebu Boundary.

⁷ NAI Ijebu Prof. File No J1726 Ijebu-Ibadan Boundary Dispute: Ojowo Community Petition From.

⁸ NAI Ijebu Prof File No J1726 Ijebu-Ibadan Boundary Case in Shenaike v. Gbayo Suit No17/28 See also NAI Ijebu Prof File No J1726 Ijebu-Ibadan Boundary Case in Shenaike v. Gbayo: 1946 Decision in the Governor's Court in respect of Gbayo and other Ibadan Farmers farming beyond the boundaries.

⁹ NAI Ijebu Prof File No J1726 Ijebu-Ibadan Boundary Case in Shenaike v. Gbayo Suit No17/28 See also NAI Ijebu Prof File No J1726 Ijebu-Ibadan Boundary Case in Shenaike v. Gbayo: 1946 Decision in the Governor's Court in respect of Gbayo and other Ibadan Farmers farming beyond the boundaries.

¹⁰ NAI Oyo Prof. File J1726 Ijebu -Ibadan Boundary Case Report of the District Officer to the Resident in 1937 in respect of the Gbayo v. Shenaike case.

¹¹ Shangotunde vs. Bello Ogunrin Original Action came to the Ibadan Judicial Council on 16th November, 1942.

¹² Shangotunde v. Bello Ogunrin The Appeal came to the District Officer's Court on 17th March, 1945. But was finally decided in the Resident's Court of Appeal in 1956.

In the case under reference, the Ibadan Judicial Council rescued *Bello Ogunrin* from Shangotunde in two judgments entered for *Bello Ogunrin*.¹³ The action however, continued in 1945 and 1946 when the son of Shangotunde continued the case after the father's death and judgment was entered for him. The boundaries were altered sequel to a fresh survey ordered by the court and Bello Ogunrin began to lose the case until he finally lost an appeal in 1957.¹⁴

From the foregoing, the stronghold of consanguinity and land claims was broken by the British colonial judiciary, while ancestral ownership of land continued unabated. The British colonial judicial system might not be totally blamed for this because the totality of traditions, custom and usages depended upon in the initial adjudication of cases on land and boundaries depended, to a large extent, on traditional judicial system, which at the same time backed up the hold of consanguinity on the various societies of western Nigeria.

Certain inter-community boundary disputes which could further illustrate attenuated consanguinity and boundary disputes included the Iware versus Iroko¹⁵, Iware versus Iwo¹⁶ and Iware versus Ibadan¹⁷ boundary disputes. The history of litigation in these series of boundary disputes could be traced to some period before 1924 when one Ogunrinade an Iware man but of Oyo natality allocated certain parcels of land between Iware and Iroko to one Ajadi and Mamu.¹⁸ This same parcel of land had been allocated earlier to Bepo by the Bale of Ibadan for farming.¹⁹ While Bepo went to the Ibadan Native Court to seek redress on the land,²⁰ Ogunrinade went to Oyo for the same purpose.²¹

The contention over the boundary dispute became serious particularly because there were eleven villages under *Oniware* at that time and any loss of Iware by the Bale of Ibadan would mean the loss of control over all

those villages.²² Moreover, Bale Ali, Oyawusi, Adeoshun and Salawu, all of *Iware* had accepted *Oluwo* as the consenting authority over their territory.²³ The quarrel over boundary taken to Ibadan and Oyo by the disputants without the knowledge of the *Oluwo* therefore attenuated the consanguinity rather than resolve the dispute between the communities.

From the report of Mr. Birch, the District Officer to the Resident, the target of *Oniware* was to gain the control of all farmers beyond Kubo which was the boundary between him and the *Oluwo* from the pre-colonial time.²⁴ On his own part, the *Oluwo* believed that both himself and the *Oniware* belonged to Alafin and any attempt to create a boundary between them was a wasted effort.²⁵

This inter-community boundary became escalated when some *Olopa*-Native Authority Police from Ibadan came to *Iware* and arrested three people, Akanbi, Mamu and Ogunde on the count that they were serving the *Oniware* instead of the Bale of Ibadan.²⁶ This particular case exposed the incompetence of the quasi-judicial apparatus of the colonial government in inter-community boundary dispute. For instance, the Bale of Ibadan whose Native Court was to look at the case brought before him by Bepo was also going to benefit from the proceed of the judgment. Moreover, the Alafin too who was also to preside over the Ogunrinade case had some stakes since the *Oluwo* had claimed that he and the *Oniware* belonged to the *Alafin*.

Consanguinity was also attenuated into seemingly irreparable point in Joseph Oyetunji *Alajawa v. Bakare Ayoola Lagbedu*,²⁷ another series of inter-community boundary cases between Ajawa and Lagbedu both of which were villages around Ogbomoso. The inter-community boundary dispute was over two villages *Pontela Olode* and *Pontela Akinola*.²⁸ The argument was initially over the ownership of these two villages until *Ajawa* began to lay claim to the whole of *Lagbedu* based on history of first occupation and initial allocation of land to the forebears of the *Lagbedu* inhabitants.²⁹

¹³ Shangotunde v. Bello Ogunrin The Appeal came to the District Officer's Court on 17th March, 1945. But was finally decided in the Resident's Court of Appeal in 1956.

¹⁴ NAI Oyo Prof. File 1/1 35/40 Iroko Iware Area: The District Office Ibadan to the District Officer, Oyo.

¹⁵ NAI Oyo Prof. File 1/1 162/19/40 Iware- Iwo: The District Office to the Senior Resident, Oyo Province.

¹⁶ NAI Oyo Prof. File 1/1 264/75 Iware and Ibadan Land Dispute: The District Officer Oyo to the District Officer, Ibadan.

¹⁷ NAI Oyo Prof. File 1/1 35/40 Iroko Iware Area: The District Office Ibadan.

¹⁸ NAI Oyo Prof. File 1/1 264/75 Iware and Ibadan Land Dispute: The District Officer Oyo.

¹⁹ NAI Oyo Prof. File 1/1 264/75 Senior Resident, Oyo's Report on the cases revealed this.

²⁰ NAI Oyo Prof. File 1/1 264/75 Senior Resident, Oyo's Report on the cases revealed this.

²¹ NAI Oyo Prof. File 1/1 35/40 Iroko Iware Area: The District Office Ibadan to the District Officer, Oyo- This document had a list of villages attached to it: The villages include: Fabunmi, Olanla, Akinola, Aguro Ibadan, Obadina, Ogunrinde, Durojaye among others.

²² NAI Oyo Prof. File 1/1 35/40 Iroko Iware Area: The District Office Ibadan to the District Officer, Oyo- The list of the Bale of Iware who did obeisance to the *Oluwo* was also attached to this document.

²³ NAI Oyo Prof. File 1/1 35/40 Complaint of the *Oluwo* sent to the District Officer, Oyo in respect of the dispute.

²⁴ NAI Oyo Prof. File 1/1 519/40/1924 Report of Mr. Birch, the District Officer to the Resident on the case.

²⁵ NAI Oyo Prof. File 1/1 519/40/1924 Report of Mr. Birch, the District Officer to the Resident on the case.

²⁶ NAI Oyo Prof. File 1/1 519/40/1924 Report of Mr. Birch, the District Officer to the Resident on the case.

²⁷ Joseph Oyetunji Alajawa vs. Bakare Ayoola Lagbedu in Suit No. HOY/36/68 (Unreported).

²⁸ Alajawa in evidence in Joseph Oyetunji Alajawa v. Bakare Ayoola Lagbedu in Suit No. HOY/36/68 (Unreported).

²⁹ Tradition of origin of Ajawa in an Unpublished work done by Badeji Oyesola. See also the evidence of Baale Joseph Oyetunji in Joseph Oyetunji Alajawa v. Bakare Ayoola Lagbedu Suit No. HOY/36/68 (Unreported).

The founder of *Ajawa*, *Omoboyede* was said to have got to the location about five hundred years earlier as leader of a migrant group from Ile-Ife to become the first *Alajawa*.³⁰ *Ajawa* tradition supported the claim that land was allocated to the founder of *Lagbedu* who came later.³¹ Traditions on the foundation of *Lagbedu* claimed that the founder, *Oladimeji* came from Oyo two hundred years earlier and that he was not allocated land by the *Alajawa*.³² However, since the disputing parties were villages around *Ogbomoso*, the history of *Ogbomoso* shed light on their foundation and gave insight as to the allocation of land in that area. *Ogbomoso* tradition states that *Alajawa* gave land to *Olosupa* and *Lagbedu* was a settlement from *Osupa* (Oyerinde, 1934).

CONCLUSION

A typical traditional background of consanguinity and land claims in different places across the length and breadth of Southwestern Nigeria among the Yoruba people was not different from the issues examined above. For instance, in Ede, the settlement of *Alapotimi* marked the beginning of a fairly defined ownership of land. Although, there was ample evidence that land in the area was occupied before his arrival from Oyo (Oyeweso, 1982). In Osogbo, the eventual settlement of Larooye and Timehin who were hunters from Ilesha axis marked the beginning of a definite claim to land (Falade, nd). The tradition was not different in respect of the settlement at Iwo and Ikirun (Olupayimo, 2006:35).

Moreover, consanguinity and land claims in Osogbo area was initially dominated by people of Ijesa origin, later certain Oyo elements settled among them and also secured some degree of recognition strong enough to fetch them some control over land (Olupayimo, 2006:35). The *Ifon Orolu* variety of a similar episode has constantly generated heated contentions between the *Olufon* and the *Olobu* in their neighborhood (Adesoji, 2005).

Indeed, there are sayings in southwestern Nigeria amongst the Yoruba which support land allocation by the first occupants' formula at this early time. For instance, the saying: *eni a ba laba ni baba* literally means "whoever gets to a location first is the father." The implication of this is that he dictates the allocation of land as a father does to his children" (Olupayimo and Abiodun, 2014). This claim is supported by much evidence, which

include the history of foundation or resettlement of towns and villages. It is also supported by histories of origin of chieftaincy titles among others. Virtually all of the available history of foundation of villages, towns, cities and empires attests to the various forms of migration under specific leaders thus making the strength of *Ajobi* stronger and its hold on people in southwestern Nigeria of immense relevance. It is therefore guarded jealously to ensure that *Alajobi* is not offended and *Ajobi* is not attenuated either through land ownership or through any other means.

The bottom-line of this argument is that much as consanguinity describes the collateral relationship based on blood or birth amongst the Yoruba people of southwestern Nigeria, the economic value of land as a factor of production threatened it and its impact on it was devastating. Today, *Alajogbe* co-residents and *Ore* friendship seem to be subverting it gradually.

RECOMMENDATIONS

The Yoruba social structure is primarily built on the twin concepts of *Ajobi* and *Ajogbe* and this is reflected all through the ages in all facets of their social system. For consanguinity to be maintained and protected from attenuation, the present study recommends that:

1. Land boundary disputes should be avoided as much as possible by staying on principles of *Ajobi* and *Ajogbe*;
2. Where there are land boundary disputes, the present writer is of the opinion that litigation in the colonial variety of court should be avoided because of the retributive nature of judgment in such court, but local settlements could be adopted instead;
3. Where consanguinity has been attenuated due to land boundary disputes, history of such disputes, history migration and settlement in the area could be used to address it and restore cordiality.

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³⁰ Tradition of origin of *Ajawa* in an Unpublished work done by Badeji Oyesola. See also the evidence of Baale Joseph Oyetunji in Joseph Oyetunji *Alajawa v. Bakare Ayoola Lagbedu Suit No. HOY/36/68* (Unreported).

³¹ Baale Bakare Ayoola Oyetunji in evidence in Joseph Oyetunji *Alajawa v. Bakare Ayoola Lagbedu Suit No. HOY/36/68* (Unreported).

³² Baale Bakare Ayoola Oyetunji in evidence in Joseph Oyetunji *Alajawa v. Bakare Ayoola Lagbedu Suit No. HOY/36/68* (Unreported).

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