

**ONTOLOGICAL AND ETHICAL ISSUES IN THE
PRACTICE OF *ABÁNIBÍMO* IN YORÙBÁ SOCIETY**

By

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**BEING A THESIS SUBMITTED TO THE DEPARTMENT OF
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CERTIFICATION

This is to certify that the thesis titled **Ontological and Ethical Issues in the Practice of *Abánibímo* in Yoruba Society** was carried out by Grace Olufolake Olufunmike ALOFUN, under my thorough supervision.

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DEDICATION

This thesis is dedicated to:

The Almighty God who made “the barren to become mother of children”;

My Husband, Gabriel Bamidele Alofun, for his love, prayers, support and sacrifices;

My Children, Didaraloluwa and Moyinoluwa;

My Sweet Mother, Deaconess Kehinde Oyebola Bankole, and to the memory of my
father, Elder Abraham Olanrewaju Bankole.

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ABSTRACT

Abánibímọ, the Yoruba practice of surrogacy, is an alternative procreative method informed by family exigencies in Yoruba culture. Previous studies, which are largely Western, have focused mainly on the legality of surrogacy to the neglect of the African (Yoruba) perspective, which emphasises the significance of the child and the surrogate mother. The study was, therefore, designed to examine *abánibímọ*, with a view to establishing the moral and ontological status of the surrogate mother and the child, which transcends the legality of surrogacy.

Borden Bowne's notion of intrinsic worth, which advocates the supreme value of the person as key to the discernment of human wellbeing, was adopted. The interpretive design was used. Texts examined in Ethics included Borden Bowne's *Personalism*, Christine Sistare's *Reproductive Freedom and Women's Freedom* (RWF), Elly Teman's *My Bun, Her Oven* (MBHO), Leon Kass' *Making Babies Re-visited* (MBR), Andrea Dworkin's *Right-wing Women* (RW). In African Philosophy, Joseph Awolalu and Ade Dopamu's *West African Traditional Religion* (WATR), Adegboyega Akintola's *Yoruba Ethics and Metaphysics* (YEM), Segun Gbadegesin's *Eniyan: the Yoruba Concept of Person* (EYCP), and Bolatito Lanre-Abass' *Surrogate Motherhood and the Predicament of the African Woman* (SMPAW) were interrogated. These texts dealt with critical issues relating to surrogacy, Yoruba ontology, and familyhood. The philosophical tools of conceptual clarification and critical analysis were used.

The RWF and MBHO reveal that surrogacy gains support because of the autonomy it grants infertile women in reproduction, enabling them to fulfil a fundamental human longing. The MBR and RW hold that there is a need to rethink the rationality of Western surrogacy because it is preponderantly mediated by legality. Since the surrogate mother has no legal right to be a parent to the child she gestates, she psychologically and emotionally detaches herself in ways that disenable bonding with the child (RW, MBHO). The YEM, WATR and *Personalism* show that every human person possesses an intrinsic worth which is not determined by the manner, place or arrangement of birth. The surrogate mother and the child are believed to possess moral, social and spiritual significance. Consequently, while the child is taken over by the contracting mother after the *abánibímọ* arrangement is over, the surrogate mother is not thereby discarded as a consequence of the end of the contract (SMPAW, EYCP). Critical intervention demonstrated that in Yoruba ontology, the essence of a person is received from *Olódùmare* and that the significance and value of the surrogate mother and the child lie in their being, and not in the legality or otherwise of the *abánibímọ* arrangement through which a child came into the world.

The Yoruba cultural practice of *abánibímọ* transcends the legality of the western surrogacy practice to emphasise the moral and ontological status of the surrogate mother and the child.

Keywords: Surrogacy, *Abánibímọ*, Yoruba ontology, Ethics of child care

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TABLE OF CONTENTS

Title page	i
Dedication	ii
Abstract	iii
Certification	iv
Acknowledgements	v
Table of contents	viii
CHAPTER ONE: INTRODUCTION	1
CHAPTER TWO: THE IDEA OF SURROGACY	28
2.0. Introduction	28
2.1. Background to the study	28
2.2. Responses to infertility	29
2.3. The Baby M Incident	30
2.3.1 Lessons from Baby M case	32
2.4. Historical Background of Surrogacy	33
2.5. Concept of Surrogacy	33
2.5.1 Conceptual Analysis of Surrogate and Surrogacy	34
2.5.2 Surrogate Motherhood	35
2.6 The Surrogacy Debate	35
2.7 Instances of Surrogacy in Western Culture	40
2.7.1 Instances of Surrogacy in Non Western Society	41
2.7.1.1 Surrogacy in India	41
2.7.1.2 Surrogacy in Israel	44
2.7.1.3 Deductions from Surrogacy in India and Israel	45

2.8	Types of Surrogacy	46
2.9	Methods of Surrogacy	48
2.10	Surrogacy Arrangement	49
2.10.1	Forms of Surrogacy Arrangements	50
2.10.1.1	Commercial Surrogacy	51
2.10.1.2	Altruistic Surrogacy	52
2.10.2	Problems of Surrogacy	53
2.10.3	Other Problems of Surrogacy Arrangement: the Problems faced Physicians and Embryologists	54
2.11	Motivations for wanting to be a Surrogate	54
2.12	Surrogacy and Adoption	57
2.13	Conclusion	57
CHAPTER THREE: SURROGACY AND THE PRACTICE OF <i>ABÁNIBÍMỌ</i>		
IN YORUBA SOCIETY		59
3.0	Introduction	59
3.1	Surrogacy and <i>Abánibímọ</i>	59
3.1.1	Motherhood	60
3.1.2	Surrogacy	63
3.2	Surrogacy in Africa	64
3.2.1	Surrogacy in Nigeria	64
3.3	Marriage in Africa	65
3.3.1	Marriage among the Yoruba	67
3.4	Value of children among the Yoruba	69
3.5	Infertility in Yoruba Society	71
3.6	Resolving the problem of infertility among the Yoruba	74

3.7	Conceptualisation of <i>Abánibímọ</i> Practice among the Yoruba	76
3.7.1	Reasons for <i>Abánibímọ</i> Practice	80
3.8	<i>Abánibímọ</i> and Polygamy	83
3.9	Comparative Analysis: Surrogacy and <i>Abánibímọ</i> in Yoruba Society	83
3.9.1	Strength of the <i>Abánibímọ</i> Practice	91
3.10	Conclusion	94
CHAPTER FOUR: BORDEN PARKER BOWNE’S PERSONALISM AND ENIYANIN YORUBA CULTURE		95
4.0	Introduction	95
4.1	Borden Parker Bowne – A brief History	95
4.2	Impact of Bowne’s Personalism in Boston	96
4.3	Principles of Personalism	97
4.4	Personalism, Individualism and Collectivism	98
4.5	Historical Development of Personalism	99
4.5.1	Personalism in Asia(India)	100
4.5.2	Greco-Roman and Christian Roots of Personalism	100
4.6	Bowne’s notion of Personalism	102
4.7	<i>Eniyan</i> : the Yoruba idea of person	107
4.7.1	Yoruba Ontological Structure	107
4.7.2	Yoruba idea of person	110
4.7.3	Concept and Structural Composition of man: Yoruba Perspective	111
4.8	Creation of the Human Person: Yoruba Perception	118
4.9	Determinism and Human Freedom: the Yoruba Perspective	120
4.10	Bowne’s Notion of Personalism and <i>Eniyan</i> in Yoruba Culture	126
4.11	Conclusion	127

CHAPTER FIVE: METAPHYSICAL AND ETHICAL ISSUES IN YORUBA		
PRACTICE OF <i>ABANIBIMO</i>		128
5.0	Introduction	128
5.1	What is Metaphysics?	129
5.1.1	Subject Matter of Metaphysics	129
5.2	Ethics	130
5.2.1	Metaethics	130
5.2.2	Normative Ethics	130
5.2.3	Applied Ethics	131
5.3	Metaphysics in Africa	131
5.4	Ethics or Morality in Africa/Yoruba Culture	132
5.5	Source or Foundation of Yoruba ethics and metaphysics	133
5.5.1	The Original Odu and their Pattern	134
5.6	Yoruba Value System	136
5.6.1	Yoruba Value System and <i>Abánibímọ</i> practice	138
5.7	Ontological Issues in <i>Abánibímọ</i> practice	139
5.7.1	Personhood of the Child	139
5.7.2	Issues of Rights: Inheritance	140
5.7.3	Motherhood: Metaphysical and Ethical Issues	140
5.7.4	Concepts of <i>Onbi</i> and <i>Onwo</i>	141
5.8	Core Ethical Issues and <i>Abánibímọ</i> Practice	143
5.9	Conclusion	147
CHAPTER SIX: FAMILYHOOD AND SOCIAL ORDER AMONG THE		
YORUBA		149

6.0	Introduction	149
6.1	The Family	149
6.2	Criteria for Family Construction	150
6.2.1	The Biological Criterion	150
6.2.2	The Legal Criterion	151
6.2.3	Custom as a Determinant of Family	151
6.2.4	Subjective Intention	152
6.3	The Family in Africa Context	152
6.3.1	Structure of the Family in Africa	153
6.4	The Yoruba Family	153
6.5	<i>Àjobí</i> and <i>Àjogbé</i> as Primordial Forms of Relationship in Yoruba Traditional Society	156
6.6	Breakdown of the Ties of <i>Alajobi</i>	157
6.6.1	Effect of Modernity on Traditional Idea and Structure of the Family	157
6.7	Social Order	160
6.8	Social Order among the Yoruba	161
6.9	Conflict Resolution	162
6.10	Conclusion	168
	General Conclusion	169
	References	172

CHAPTER ONE

GENERAL INTRODUCTION

Background to the study

Most human beings desire to have progenies who are naturally related to them. For this to happen, conception must first occur.¹ However, in certain cases, conception may not occur. As such, it is said that a couple, either the man or his wife, is infertile. There are a number of conditions responsible for infertility. First is the age factor; the more advanced in age a woman is, the more challenging it is for her to conceive. Second is genetic factors, which can stand as a clog to becoming pregnant, an unbalanced chromosomal make-up in one of the partners or both can fuel infertility. The third factor is sexually transmitted infections (STIs), which may later translate to sexually transmitted diseases (STDs). Examples of sexual diseases that are known to cause infertility are gonorrhoea and Chlamydia (a sexually transmitted disease that is caused by the bacterium *chlamydia trachomatis*). Untreated sexually transmitted infection is able to bring widespread or lasting impairment to the procreative tissues.²

Apart from the above, the immune system can sometimes hinder conception in the uterus. Both sexes may cultivate sensitive response to sperms, triggering the creation of anti-bodies in their system, which bout and destroy sperms.³ Apart from the factors mentioned above, other causes of infertility are environmental pollution, poverty, incompetently procured abortions as well as involvement of women in economic activities that lead to delay in child-bearing. In addition, most African women now decide when to get married, get pregnant and give birth. This is one of the contributing factors of high level of infertility in the continent today.

¹Caplan, A. L and McGee, G. *Bioethics for beginners: reproductive medicine*. Retrieved March 23, 2010, from <http://www.bioethics.net>.

²Purdy, L.M. 1998. Assisted reproduction. *A companion to bioethics*. H. Kushe and P. Singer. Oxford: Blackwell Publishers. 163.

³Purdy, L. M. Assisted reproduction. 1998. 164.

Alongside these other factors responsible for infertility, the Yorùbá of South-western Nigeria believe that there are metaphysical underpinnings to the problem; the reason is that the Yorùbá hold that there is interaction between the ‘seen’ and ‘unseen’ realms of existence.⁴ For the Yorùbá, infertility could occur as a result of the following factors or reasons: when there is a hideous crime in the clan or life of the couple; when a man and woman of same *okùn alájobí* (blood line) marry; or when a warrior kills many people at war but refuses to go for spiritual cleansing. Other factors include the activities of witches and wizards; parental disagreements on who their children should marry; fathers’ reluctance to allow their daughters to marry; mothers seeing their sons’ wives as potential rivals; or because of curses and anger of the gods.⁵

Infertility is considered a major problem among Africans, whether men or women. For women in particular, the belief is that the essence of living and the height of womanhood is the attainment of motherhood.⁶ Motherhood is something every African woman looks forward to, with mothers understood as the indispensable building blocks of social relations, identity and family stability. They are also the symbols of ancestral ties, unconditional love and loyalty.⁷ In Africa as a whole, motherhood contributes to a woman’s ‘being’ or social worth. Among the Yorùbá, a woman that is childless is denoted as *agàn* (barren). In Africa generally, fertility is seen as a mark of being whole or complete such that a woman who is infertile or barren becomes an object of pity. Unfortunately, some uncaring husbands usually exacerbate the woman’s plight either by neglecting her or by seeking another wife whom it is hoped will produce the needed offspring. In homes that are polygamous in nature, some co-wives have been known to deprecate or sing taunting songs to further hurt their barren partner. Perhaps these

⁴Abimbola, K. 2007. Spirituality and applied ethics: an African perspective. *Philosophy & social change: discourse on values in Africa*. T. Ebijuwa. Ed. Ibadan: Hope publications. 85-120.

⁵Interview with Chief M. Omotayo.

⁶Lanre-Abass, B. 2008. Surrogate motherhood and the predicament of the African Woman. *PHAVISMINDA Journal*. 7. 44-59.

⁷Oyewumi, O. 2003. Abiyamo: Theorising African motherhood. *JENDA: A Journal of Culture and African Women Studies*. 4.

experiences explain why, for the Yorùbá, being barren is seen as something undesirable; hence, those in that condition look for means of changing this unwelcomed situation.⁸

Consequent upon the problem of infertility, different methods have been explored by humans in tackling the problem. Some barren couples have been known to resort to the underhand method of child stealing; some resort to legal adoption; others, will seek spiritual intervention through prayers or consultation with religious shamans, etc. When spiritual intervention fails or is delayed, and the man is not interested in strict polygamy, some Yorùbá couples could resort to making arrangement for *abánibímọ*. *Abánibímọ* is a means of resolving the problem of infertility among the Yorùbá, it is the practice of marrying of another woman (usually younger than the infertile woman) into the family for procreation purposes. *Abánibímọ* is a term coined by the researcher and her supervisor to designate a practice of reproduction among the Yoruba people which is akin to surrogacy in Western culture. Apart from these methods, technological developments in the life or empirical sciences offer new platforms to dealing with the problem of infertility. Some examples of the new platforms include *in-vitro*fertilisation (IVF), and artificial insemination by donor (AID) or ectogenesis.

However, with the new technologies in reproduction, people now have a shift in their understanding of motherhood. Motherhood is now a phenomenon that can be shared between women or contracted to another woman. The reason for this is that now it is conceivable for couples to engage reproductive services, and a woman can now give birth to children whose genes are unrelated to hers. This practice is termed “surrogacy.” The classical situation that gives rise to this practice is the desire of married, heterosexual couples who wants to have one or more children but are unable to.⁹ In Western culture, this method also affords same sex partners and people who desire single parenthood the opportunity to have children outside of the traditional marriage relationship. Mary L. Shanley aptly captures the idea when she assert that innovation in technology of reproduction has made it practicable for physicians to use ova and sperms

⁸Jegede, A. S and Fayemiwo, A. S. 2010. Cultural and ethical challenges of assisted reproductive technologies. *African journal of reproductive health*. 14:2. 115-127.

⁹Gibson, M. 1994. Contract motherhood: social practice in social context. *Living with contradictions: controversies in feminist social ethics*. A. Jaggar. Ed. Oxford: Westview Press. 402-419.

from some other people, to make potentiality for childless couples to conceive and have children, a feat that they would not have been able to achieve in the past. Technology of reproduction has equally made it possible for single men, women, lesbians, and gays to have children.¹⁰

Three forms of surrogacy are identifiable in Western culture. In the first form, pregnancy occurs when the husband of an infertile woman impregnates another woman, and she bears a child for the couple, this is very rare in the contemporary Western society. The second form involves artificially inseminating surrogates with the sperm from the potential father or donor (where both couple have irregular genetic make-up/chromosomal abnormalities). Third, is the method of in vitro fertilisation, which involves a combination of sperms and eggs provided by would-be parents or donors. The sperm and ovum are fertilised in a petri dish to produce embryonic life, which is afterward implanted into the surrogate's womb.¹¹ This technique is referred to as "gestational surrogacy," while the technique that engages the usage of the surrogate's ovum is termed "genetic surrogacy." The complexity of Western surrogacy is that it could make it possible for an individual to have up to five parents; a consequent of which is a web of issues - religious, cultural, social, legal as well as ethical.¹²

Literature review

The problem of infertility is a universal one that concerns both Western and non-Western cultures. A number of scholarly works have been carried out on surrogacy; while some scholars object to the practice, others embrace it. As such there are arguments and counter-arguments for and against surrogacy. In the middle position are some who advocate for the revision on the ethics of the practice. Some writers who support surrogate mothering usually emphasise the intensification of independence it grants to

¹⁰Shanley, M. L. 2002. *Making babies, making families: what matter most in an age of reproductive technologies, adoption, and same sex and unwed parents*. Boston: Beacon Press.

¹¹Teman, E. 2010. *Birthing a mother: the surrogate body and the pregnant self*. USA: University of California Press. 1-3.

¹²Lanre-Abass, B. *Surrogate Motherhood*. 2008.

women.¹³ It is believed that reproductive agreements permit women to have added choice on their reproductive capacity.¹⁴ It is further argued that the essential ethical problem in surrogacy dispute is the character and degree of women's self-determination, and that respect for women's personal freedom should be the guide in resolving the debate. Sistare maintains that the ultimate ethical question in the surrogacy dispute is the characteristic and degree of women's autonomy; women's freedom to be in charge of their bodies, their lives, their procreative authorities, to measure the societal usage of their reproductive capabilities. She opines further that deference for women's personal freedom should be the guiding ethical apprehension in resolving the debate, and recognition of the centrality of this issue is a basic source of the controversy and of much intensity.¹⁵

Carmel Shalev argues in support of belief that surrogacy promotes women's freedom when he asserts that banning surrogate contracts fail to offer due reverence to the choices of women. For him, if a woman involves herself in a contract to produce a child for childless couples, it is patriarchal and depreciating to preclude her desire.¹⁶ Barbara Rothman, for example, believes that all choices made are structured within a social context; she also believes that "there will never be free choice, unstructured reproductive choice"; but that the structure within which choices are made, "can be made fair, ethical, moral".¹⁷

Joan Mahoney in an article titled: *An essay on surrogacy and feminist thought*, agrees that surrogate mothering arrangements have existed unceremoniously for a number of years, it is traceable to biblical times. And it has become commercial since 1976, but was only given much publicity because of the baby M case. She moves against prohibition of surrogate contract, saying that the prohibition discriminates men than

¹³Sistare, C. T. 1994. Reproductive freedom and women's freedom: surrogacy and autonomy. *Living with contradictions: controversies in feminist social ethics*. A. Jaggar Ed. Oxford: Westview Press. 395-396.

¹⁴Sistare, C. T. 1994. Reproductive freedom and women's freedom.

¹⁵Sistare, C. T. 1994. Reproductive freedom and women's freedom.

¹⁶Shalev, C. 1989. *Birth Power*, New Haven: Yale University Press.

¹⁷Rothman, B. 1994. The meaning of choice in reproductive technology. *Living with contradictions: controversies in feminist social ethics*. A. Jaggar Ed. Oxford: Westview Press.

women; for women who have infertile spouses can pay sperm banks, and be assisted with insemination, whereas males with infertile wives would be banned from paying fertile women to procreate for them.¹⁸

Brenda Baker in an article titled, *A case for permitting Altruistic surrogacy*, contends that non-commercial surrogacy arrangements should be encouraged because the practice is altruistic, it is an instance of giving assistance to other persons, it is a way of showing the act benevolence, which creates a newer and deeper connection between surrogate and prospective parents. This could eventually permit for reciprocal consideration and personal interaction between them.¹⁹ Contending against the notion that surrogacy objectifies a child, which tends towards their commodification, she avers that there is no way that such a reproductive practice would consider children as articles, or possessions that anyone can do whatever he or she bids. The parents-to-be and substitute mother are bound by commitments of parentage.²⁰ The fact that the practise licenses a child to be handed to the nurturing parents after birth under definite stringent circumstances infers that children in general are not perceived as items that can be traded or transferred between adults.²¹

Furthermore, Baker believes that women who serve as surrogates must be intensely stirred by compassion for the infertile couple, and being able to partake in the very important exercise of having children of their own, surrogates have a yearning to be of assistance to other couples with this special exercise.²² She argues further that surrogates are likely to treasure the experience of motherhood, which may be a cause of self-importance, buoyancy, and instrument of control for them. Surrogates may also obtain gratification and enhanced self-worth from having accomplished a feat that some other women could not, a deed of great value, gestation and birth of a child. Therefore, a

¹⁸Mahoney, J. 1990. *An essay on surrogacy and feminist thought*. L. O. Gostin Ed. *Surrogate Motherhood: politics and privacy*, Los Angeles: Indiana University press. 183.

¹⁹Baker, B. M. 1996. *A case for permitting altruistic surrogacy*. *Hypatia* 11:2. 34-48.

²⁰Baker, B. M. 1996. *A case for permitting altruistic surrogacy*. 36.

²¹Baker, B. M. 1996. *A case for permitting altruistic surrogacy*.

²²Baker. B. M. 1996. *A case for permitting altruistic surrogacy*. 35.

considerable number of them wish to replicate the motherhood experience.²³ Given the above submission, she suggests that we accept surrogacy.

Baker further opines that in self-sacrificing surrogate mothering, the social parentages have anticipations and desires for the child, and would want him or her to have a good life, the substitute mother on her part too, is alacritous gestating the child, for she is appreciative of the joy of parenting, and have confidence that the child would have a good life, in a loving family setting with the couple whose desire is to have him or her as their child. Also, it is argued that if there is anything ethically disagreeable about creating a child through surrogacy to fulfil certain benefits existing adults do have, then reproduction in heterogeneous families without the problem of infertility, must be ethically questionable too, since a lot of adults who have children by natural means, have these children in order to fulfil some yearnings,²⁴ such as: wanting to perpetuate a family line, to express love for each other by making babies or raising a family, desire to understand special relationships with their genetic children, and to provide play mates for their other children.²⁵

Elly Teman's work on surrogacy is said to be the first ethnography study to enquire into the relationship of parties involved in surrogate mothering. She showed how surrogates and intended mothers cautiously and successfully navigate the cooperate enterprise, among Jewish women. Teman explains the process of how surrogates withdraw motherly claim to the baby as well as how intending mothers undertake an intricate conversion to motherhood. As the surrogates expressively disconnect themselves from the foetus in their womb, they cultivate an intense and enduring connection with intending mothers.²⁶

Teman in her work titled: *My bun, her oven*, contends that the metaphors and symbols Israeli surrogates use to describe their bodies and actions during pregnancy reveal widely accepted cultural perceptions of motherhood, family and the human body. She maintains that the reason for the unease that policy makers, psychologists, philosophers and the

²³Baker, B. M. 1996. A case for permitting altruistic surrogacy. 39.

²⁴Baker, B. M. 1996. A case for permitting altruistic surrogacy. 39.

²⁵Baker, B. M. 1996. A case for permitting altruistic surrogacy. 41.

²⁶Teman, Elly. 2010a. *Birthing a mother: the surrogate body and the pregnant self*, USA: University of California press. 1-3.

general public share about surrogacy is the fact that it challenges some of “our deeply held conventions and conceptual categories”.²⁷

Ruth Macklin highlighting many of the objections to surrogate motherhood, such as the argument that it exploits women of lower economy class, thereby establishing a new system of slavery; dehumanises babies and women’s bodies and it is more or less commodification of women and babies, avers that there is no cogent reason to ban surrogacy, in fact she sees surrogacy as a technique of assisting childless women to achieve a fundamental human longing, and therefore she argues that surrogacy should not only be legalised, but advanced.²⁸

Richard Arneson in his article titled *Commodification and Commercial Surrogacy* is of the opinion that surrogacy should be legally permitted. According to him, none of the arguments offered so far is able to convince someone who was devoted to the ideals of equal rights for women and men to prohibit surrogacy. For him, surrogacy aids the disassembling of gender-based orders, therefore, it should be favoured, and not legally prohibited or morally censured.²⁹

Scholars have investigated the role of the surrogate mother in providing germinal materials needed for surrogacy. Elizabeth Anderson, for example, argues that as a result of the shortage of children available for adoption, and the strain of been eligible to adopt children, surrogacy serves as the only option for barren couples to rear a family of their own.³⁰ So, surrogate contracts not only help to fulfil the desire of a couple to raise a healthy child, but also provide a window whereby the child carries the gene of one of the partners. Surrogacy arrangements equally aid the resolution of marital conflicts that could occur as a result of infertility, which can degenerate to anguish and self-doubt between

²⁷Teman, E. 2010. My bun, her oven. *Anthropology Now* 2:2. 33-4.

²⁸Macklin, R.1990. Is there anything wrong with surrogate motherhood? An ethical analysis, in L. O. Gostin Ed. *Surrogate Motherhood: politics and privacy*, Los Angeles: Indiana University press. 136.

²⁹Arneson, R. J. 1992. Commodification and commercial surrogacy. *Philosophy & Public Affairs* Vol. 21, No. 132-164.

³⁰ Anderson, E. 2007. “Is women’s labour a commodity?” quoted in Lanre-Abass, B. 2008. Surrogate motherhood and the predicament of the African Woman. *PHAVISMINDA Journal*. 7. 44-59.

and among couple(s).³¹ The surrogate mother serves as a procreator, who provides the ovum to be fertilised. Also, she acts as host to the foetus, providing nurture and protection while the child develops in the womb.

Faith Merino asserts that surrogacy could be traced to the story of Abraham and Sarah who had a child through a surrogate arrangement.³² Merino, comparing surrogacy and adoption, prefers traditional type of surrogacy over adoption because according to her it affords the couple the opportunity that adoptive parents do not have, such as the opportunity to choose the genetic heritage of a child. She canvasses for the sustenance of traditional surrogacy because it records a success rate of 95% and couples using it do not have to pay for in vitro cycles as is the case in gestational surrogacy.³³

Some other scholars have objections to surrogacy. One of such is Leon Kass who objects to surrogacy on the grounds that it might become a practise that deny individuals clarity about their origin. In his words, since the alternate mother relinquishes her mothering rights she hands over the child to the intending caregivers, a child may be oblivious of who his or her parents are, and may not be able to trace the lineage he or she came from. For Kass, lucidity about one's origin is an essential basis of a complete family life, which further enhances a comprehensive base of a civil community. Precision of individuals about their origin is critical for self-identity, and self-identification is concurrently important for self-respect. In Kass' view, the encouragement of surrogacy would be unacceptable, in other words, to accept surrogacy is to corrode some fundamental beliefs, norms, foundations and practices.³⁴

M. M. Tieu objects to surrogate arrangements because, according to him, it is tantamount to making and handing over children, not for their own advantage, but for the advantage of mature concierges. He argues that the action amounts to treatment of children as

³¹Lanre-Abass, B. 2008. Surrogate motherhood. 45.

³²Merino, F. 2010. *Adoption and surrogate pregnancy*. New York: Info-base publishing. 16.

³³Merino, F. 2010. *Adoption and surrogate pregnancy*.

³⁴Kass, L. 1979. Making babies re-visited, Public Interest 1979. Quoted by Steinbock, B. 2008 "A Philosopher looks at assisted reproduction, in Beauchamp et al Ed. *Contemporary issues in bioethics*, 7th Ed; USA: Thompson Wadsworth.

objects or things, to be exchanged at will.³⁵ He went further to say surrogate arrangement is nothing, but marketing of reproductive practices, whether commercial or non-commercial, he believes that women involved are not respected as independent entities, and therefore not sheltered from mistreatment.³⁶ The handover of an infant from its gestational mother to the intending caregivers is an indispensable part of surrogate arrangements, this act constitutes an objectionable objectification of a child.³⁷

Some writers are of the opinion that surrogacy should be banned on the grounds that it is comparable to prostitution, thereby reducing women's reproductive effort to nothing but a system of estranged or dehumanising labour. Andrea Dworkin, for instance, in her work *Right-wing women* maintains that commercial surrogacy allows women to peddle their reproductive competence for a token same way prostitutes vend their carnal capacities, devoid of the stigma of harlotry that is attached to prostitution, because of the absence of 'penile intrusion'. She claims that motherhood has become an innovative brand of agelong prostitution, because presently, with the help of researchers and physicians, who desire intrusion into the woman's uterus in order to experiment, and achieve influence, a woman can peddle her reproductive capacity the same way a prostitute would peddle her sexual capacity. Physicians have become agents of fertilizations; they can dictate and control conception and reproduction.³⁸

Susan Ince corroborates the reproductive prostitution model after her experience in a surrogate company. She writes:

The language and process encountered in my experience within a surrogate company is consistent with the reproductive prostitution model ... the surrogate is paid for giving the man what his wife can't, she loves being pregnant; and valued solely and temporarily for her reproductive capacity.³⁹

³⁵Tieu, M. M. 2009. *Altruistic Surrogacy*.

³⁶Tieu, M. M. 2009. *Altruistic Surrogacy*.

³⁷M. M. Tieu, 2009. *Altruistic Surrogacy*.

³⁸Dworkin, A. 1982. *Right-wing women*. New York: Pedigree Books. 181-2.

³⁹Ince, S. 1994. Inside the surrogate industry. *Living with contradictions*: A. Jaggar. Ed. Oxford: Westview Press. 387-394.

According to Niekerk and Zyl, in their work titled *Ethics of surrogacy: Women's reproductive labour*, surrogacy arrangements can always be affirmed to be alienating or estranging, because in its description surrogacy involves many people, and each of them can claim justifiably that he or she is the custodian of the child. From this a struggle can develop in principle, about who should shoulder custody privileges and responsibilities for the child.⁴⁰ Therefore, a couple would ordinarily choose an alternate mother who is unfamiliar to them, and would remain so. This penchant cannot be defended, because at the onset of any particular surrogacy arrangement one cannot apprehend what the outcome would be like, because one cannot guarantee the rightfulness or otherwise of the surrogate's motherly bond with the child, and the sensitivity of her pregnancy without denying the rights of contracting couple.⁴¹ Consequently, the authors maintain that since one cannot be definite at the onset of the arrangement that such a battle will not arise, the best that could happen is that the alternate mother should be a close friend or relative of contracting couple. Also, such should be emotionally and pathologically fit to embark on such a task, but there is no assurance that difficulties would not arise.⁴²

Some other writers believe that there should be restriction on who can be a party to the contract. Sidney Callahan suggests that any reproductive technology employed to resolve the problem of infertility must protect the wellbeing of the anticipated child, individual parents, the family structure, and constructive moral values of the society. He believes that important societal values must be respected and encouraged and that it is ethically permissible to employ surrogacy if it would be possible for a communally adequate heterosexual connubial couple to have a child that they are normally expected to have, but cannot have because of infertility.⁴³

Hansen and Steinberg in their work highlighted some other problems of surrogacy aside the ethical, psychological, and social problems identified in the surrogacy debate, they identify some other challenges issuing from surrogacy arrangements as follow: They

⁴⁰ Niekerk, A. and Zyl, U. L. 1995. Ethics of surrogacy: women's reproductive labour. *Journal of Medical ethics* 21:6. 345-349.

⁴¹ Niekerk, A. and Zyl.

⁴² Niekerk, A and Zyl.

⁴³ Callahan, S. 2004. The ethical challenges of the new reproductive technologies. *Health care ethics*.

believe that the publicity surrogacy arrangements has enjoyed over the past decades facilitated the process of making surrogacy acceptable as a more sustainable alternate of procreation. Nonetheless, the writers cautioned that the practice could become a hazard, since the business is mostly unfettered, regulations in many of the places where it is practiced has been unsuccessful at keeping pace with the spate of growth in the industry, thereby creating a potentially perilous situation for the unguarded.⁴⁴

Also, no accurate data or record keeping exist in the parlance, dependable statistics on surrogacy arrangement are difficult to obtain. There is no governmental or private agencies' trails on births through surrogate arrangements, only estimates available, which ranges from several hundreds to a few thousands per year.⁴⁵

In addition, there are no guiding law on surrogacy arrangement, law experts, such as Martha Field, have called for an identical international law to direct surrogacy, she maintains that such laws would prevent would be parents from moving from states with strict laws to places expending more favourable surrogacy laws. The action diminishes the negotiating authority of individual surrogates, and appeals to prospective parents the world over, a juicy assurance of a tranquil, non-risk procedure, which ultimately permits organisations to boycott obstructive state laws.⁴⁶

Again, one other big issue in surrogacy, is the high cost of procurement. Procured through the assistance of solicitors, physicians, paramedics, and other professionals, a procedure may cost up to of \$100,000, comprising medical expenses and health insurance. The persisting question is whether the contracting couple should be responsible for the bills. Another challenging issue is removal of maternity coverage from insurance policies: Many health insurance schemes explicitly eliminate maternity coverage meant for surrogacy. For any maternity benefit enjoyed by the surrogate, some insurance agencies demand the right for compensation from the intending parents.⁴⁷

Amrita Pande took the surrogacy debate to another level when commenting on surrogacy in India she compares the production/grooming of women as surrogate mothers in

⁴⁴Hansen, M. and Steinberg J. 2011. ...and baby makes litigation. 54.

⁴⁵Hansen, M. and Steinberg J. 2011. ...and baby makes litigation. 55.

⁴⁶Hansen, M. and Steinberg J. 2011. ...and baby makes litigation.

⁴⁷Hansen, M. and Steinberg J. 2011. ...and baby makes litigation.

infertility clinics across India as the same as the production of factory workers, she contends that in India, the flawless marketable surrogate mother as a seamless employee of international production is not picked on the hanger, but a production of the fertility clinics and surrogacy shelters. In these fertility clinics and hostels, the personality of surrogates as mothers is not only measured and concluded by a contract, there is a conflict between being good mothers and being good workers. Hence, it necessitates a penalising scheme that works both expansively through metaphors of language and materialisation of addresses in surrogacy hostels to produce the flawless surrogate subject that is not only low-cost, but compliant and nurturing⁴⁸

Considering perceptions on feminine literature on factory workers and global production, Pande reasons that from one end to other in the diverse phases of the disciplinary process the intending surrogate mother in India completes, a new identity is created, a mother-worker individual is produced, an individual analogous to trained factory worker, but at the same time an upright *mama*. At every level of this corrective procedure the mother-worker dyad is deployed through means that greatly benefits the manner of invention; from the conscription of haunted *mamas* to the shaping of underprivileged, countryside, illiterate Indian women into the flawless mother-workers, for national and international clients, the production of the mother-worker individual in India is a novel industry, which is a gendered, exploitative, and stigmatised labour.⁴⁹

D.L. Spar in her work titled: *For love and money: the political economy of commercial surrogacy*, corroborates the economy/market model when she maintains that profit-making surrogacy grows every year in leaps and bounds in the intercontinental marketplace, for a great number of women come to an agreement to conceive, and carry a child for an infertile couple for a particular remuneration. A number of children given birth to are gestated by a particular parents, but demanded and nurtured by another set of caregivers. These offspring came to being as a result of the interplay between

⁴⁸Pande, A. 2010. Commercial Surrogacy in India: manufacturing a perfect mother-worker. *Signs* 35:4. 971.

⁴⁹ Pande. 2010. Commercial Surrogacy in India.

themarketplace and the womb, they are artefacts of yearning and the capacity to pay, thus, surrogacy should be advanced as a money-making relationship.⁵⁰

Spar's contention is on the basis that in existence already is a dynamic universal trade made up of baby creation, using the womb, sperm as well as ovum. The possibility of this is the availability of speedily evolving machineries, which are indisputably able to enlarge the demand for surrogacy facilities and stock of substitute mothers. Her worries however, is that as the business blooms, rules and laws that are the bedrock of the surrogacy market, and guide to rights of surrogacy contracts, are markedly slow to develop.⁵¹

The surrogacy debate just like many philosophical debates, is a perennial debate, such as the debates concerning the problem of the nature, and organisation of the universe, nature of the human person; relation between the mind and the world, the debate between freewill and determinism, and the existence of God, and it creates controversies and counter-controversies. For as much as reproductive technology keeps evolving, many old and new questions will keep emerging. But, the caution is that as the society makes headway in reproductive technology, there must be conscious, systematic and critical appraisal of realities within society such that technology would serve to provide workable solutions which make the society a better place where the wellbeing of man is guaranteed.⁵²

However, it must be mentioned here that surrogacy is not a strange thing in Africa, but it is different in form and content from what has been developed in western medical practice. Among the Igbo of Nigeria, the culture permits a barren widow to marry a young woman into the family to beget children on her behalf for the late husband. This is accepted because the philosophy of the Igbo, as T.U. Uwala describes it is traditional, customary, pragmatic, and is envisioned to sort out concrete existential problems of food,

⁵⁰ Spar, D. L. 2005. For love and money: the political economy of commercial surrogacy. *Review of International political economy* 12:2. 287.

⁵¹ Spar, D. L. 2005. For love and money. 287.

⁵⁵ Amodu, A. A. 2003. Technology and social existence: a philosophical shaping of the future. A. Fadahunsi Ed. *Philosophy: science and technology*. Ibadan: Hope publications. P. 32.

refuge, and general wellbeing of the community.⁵³ This is similar to what occurs through the initiation of woman – woman marriage by the Gikuyu people of Kenya, the woman-woman marriage is often initiated by a widow who is past middle age in order to have the companionship she lacks, and support for domestic chores which extends to cultivation of crops to having children to increase the vivacity of the household.⁵⁴

The traditional Yorùbá society recognised that infertility was a problem, as can be attested to by some verses of the Ifá corpus. The Ifá corpus is the unique source of Yorùbá ethics and metaphysics, and as a religious and philosophical treatise of the history of the Yorùbá people. Many of the Ifá verses deal with the issue of infertility, and the way they were resolved. Examples of such are the *Esèkanólá Ìrètẹ̀ Òtúrá*.⁵⁵ This particular verse depicts the way people struggled or endeavoured to grapple with the problem of infertility.

The verse told the story of a king who married four wives, yet all of them remained barren until the King took fancy of the senior wife's (Ilẹ̀gìrìgìrì) indentured slave (Àróòjo). The slave lady eventually conceived and was delivered of a baby boy by the most senior wife, who out of sheer jealousy dumped the boy in the forest. A hunter who secretly witnessed the act later took the child to the king, and the king gave him charge over the boy. The mother of the child went in secret every day to breastfeed her child in the hunter's house. The third year after the birth of the boy, the king called for a solemn assembly of all the people in his household. The boy was placed in the midst of the gathering, and the king's wife, Ilẹ̀gìrìgìrì was asked to identify the child, but she could not. The king then asked the boy to go to his mother; the boy went to Àróòjo, the slave lady. The senior wife was killed and her position and all that she had was given to Àróòjo, and the boy became the heir apparent.⁵⁶

⁵³Uwala, T. 1985. *Igbo philosophy*, Lagos: Lantern Books. 7.

⁵⁴Rutere, M. A. M. 2010. Female circumcision, and woman-woman marriage in engaging patriarchy. A paper presented at the IRDI conference, held between 6-7 October 2010, at the Conference Centre, University of Ibadan. 4.

⁵⁵Salami, Ade. 2002. *Ifa a complete divination*. Lagos: NIDD Publishers. 807-810.

⁵⁶Salami, Ade. 2002. *Ifa a complete divination*. Lagos: NIDD Publishers. 807-810.

Other verses of the Ifá corpus, among many other, that show us the fact that infertility is an ageless problem that men and woman have had to tackle with are *Ogbe Odi*, *Ogbe Okanran* and *Ogbe Irosun*, and *Òfún Òkànràn*. In *Òfún Òkànràna* the person in question is asked to make sacrifice to be able to obtain solution to her childlessness. The verse goes thus:

<i>Agogo ni n ró pe pére</i>	Assemble yourselves is the sound of the gong
<i>Arángèjè ni n ró mò kòmọjọ mò kòmọjọ</i>	<i>Arángèjè</i> sounds I will gather children
<i>A diá fún Kóórì</i>	Cast divination for <i>Koori</i>
<i>Èyí tí n fomiojúusògbéré ọmọ</i>	The one crying because of children
<i>Ọun le rọmọ bí báyii?</i>	Would I have children is the question she asked Ifá
<i>Wón ní ó rúbọ</i>	They told her to perform sacrifice
<i>Wón ní àgbébò adìẹlẹbo</i>	A matured hen is the sacrifice
<i>Lò bá pa adìẹfúnra ẹ</i>	She killed the hen herself
<i>Ñbẹ náà ló ti sè ẹ</i>	On the spot where she cooked it
<i>Ñbẹ náà ló ti jẹ ẹ</i>	It was on the same spot where she ate it
<i>Kò rọmọkankan bí</i>	She got no child
<i>Ó tún dẹ̀ẹ̀keji</i>	She came calling the second time
<i>Ó tún pa adìẹ</i>	She killed another matured hen
<i>Ó tún dá a jẹ</i>	She ate the hen by herself
<i>Kò rọmọpìn</i>	She found no baby
<i>Nígbà ó dẹ̀ẹ̀kẹta</i>	Therefore, on the third occasion
<i>Ó bá lọ̀dọ̀ Ọ̀rúnmilà</i>	She went to consult <i>Ọ̀rúnmilà</i>
<i>Họ̀wù!</i>	‘Why has these misfortunes beclouded me? She asked
<i>Wón nì kóun ó fì àgbébò adìẹ rúbọ lẹ̀ẹ̀kíní</i>	‘They told me to sacrifice a matured hen each on two previous occasion’
<i>Ọ̀un fì rúbọ lẹ̀ẹ̀keji</i>	‘I offered it’
<i>Wón sí níawọ̀n ọmọ n tẹ̀lé ọ̀unkírì</i>	‘And they told me that children are following me around’, <i>Koori</i> said’
<i>Ọ̀rúnmilà níwọ̀kọ̀órì lò seun</i>	‘You are the one that did not follow the instruction given to you’ <i>Ọ̀rúnmilà</i> replied
<i>Ò n pa adìẹ</i>	‘You killed all the animals mandated for you
<i>O sí n dá a jẹ</i>	‘You ate it alone’
<i>Ọ̀rúnmilà ní kí Kóórì ó lọ̀fì ídodokanògiri</i>	<i>Ọ̀rúnmilà</i> then told <i>Koori</i> to use her navel to touch an upright wall
<i>Lẹ̀nuibi tí idodo ẹ̀ bá ga mọ láraogiri</i>	The height to which the navel reaches on the wall
<i>kó sàmì síbẹ̀</i>	‘You should mark that spot’
<i>kó wáà pa adìẹ mìn</i>	‘You should then kill another hen
<i>kó mú eḡe adìẹ ọ̀hún</i>	‘Collect its blood this time around’

kó fì yí ojù àmì òhún
ki èjè adìe ó wáá sànwálè
kó sí ta epodiè sí ojù ibè náà
Òrúnmilà ni kó mó jẹ́nbiadiè
Òrúnmilà ní tí ó ba ti jẹ́nbè
Àwọn ọmọ ó tẹ̀le
Kóórì bá ẹ̀se bẹ̀è
Ó bá kó gbogbo àwọnèyànjo
Kò jẹ́ ònù è
Ọmọ bá dé
Kòòrì bímọ yè
Ní bá ñ jó ní ñ yò
Ní ñ yin àwọn Babalawo
Àwọn Babalawo ñ yin Ifá
Ó ní bẹ̀è lawọn Babalawo tòún wí
Agogo ní ñ ró pé pére
Àràngẹ̀jẹ̀ ní ñ ró mò kọ̀mojọ̀ mọ̀kọ̀mojọ̀
A díá fún Kóórì
Èyí tí n fomiojúú sògbéré ọmọ ...⁵⁷

‘And use it to smear the spot of the navel
 mark
 ‘Such that the blood would drip down
 through the trace from the mark’
 ‘You should also smear some red palm oil
 on the same spot’
 ‘You must never eat out of the chicken’,
Òrúnmilà said
 ‘Once you do not eat out of the chicken
 The children would come to you’
Kóórì did as instructed
 She assembled people
 She did not taste out of the chicken
 The babies then started to come
Kóórì had successful childbirth
 She then started to dance and rejoice
 She was praising her *Babaláwos*
 Her *Babaláwos* were praising Ifá
 She said it was as her *Babaláwo* had said
 Assemble yourself in totality is the sound of
 the gong
Àràngẹ̀jẹ̀ sounds I will gather children
 Cast divination for Koori
 The one crying because of children

Another verse *Ogbe Irosun* goes thus:

Òkan pọ̀
Babaláwo Agogo ló díá fún agogo
Eji gbòngàn gbòngàn
Babaláwo Àjilá ló díá fún Àjilá
Mo rú wẹ̀rẹ̀
Ó dà wẹ̀rẹ̀
A díá fún Ọ̀ṣin Gàgààgà
Èyí tí ó kọ̀mọ̀ dà sí àtà̀rì

Òkan pọ̀
 The *babaláwo* of the Gong casts divination
 for the Gong
Eji gbòngàn gbòngàn
 The *babaláwo* of *Àjilá* casts divination for
Àjilá
 I sacrificed in quantities
 It proved efficacious in quantities
 Cast divination for *Ọ̀ṣin Gàgààgà*
 The one that would carry his children on his
 head

⁵⁷Salami, Ade 2002. *Ifa a complete divination*

<i>Wón ní kó rùbọ kó lè baà bímọ</i>	They told him to perform sacrifice for him to bear children
<i>Ọ̀ṣin Gàgààgà gbébońbẹ̀</i>	<i>Ọ̀ṣin Gàgààgà</i> heard about the sacrifice
<i>Ó rúbọ</i>	He performed it
<i>Mo rú wẹ̀rẹ</i>	I sacrificed in quantities
<i>Ó dà wẹ̀rẹ</i>	It proved efficacious in quantities
<i>Ọ̀ṣin Gàgààgà ló bímọ b́awọ̀nyí?</i>	It is <i>Ọ̀ṣin Gàgààgà</i> that has children this plenty?
<i>Mo rú wẹ̀rẹ</i>	I sacrificed in (quantities
<i>Ó dà wẹ̀rẹ</i> ⁵⁸	It proved efficacious in quantities

There has been series of discussions on the problem of infertility and different means of resolving the problem, both in Western and African literature, but to the knowledge of the researcher, no study has been done on *abánibímọ* practice in Yorùbá culture. It is the gap in literature that this study addressed.

Statement of the problem

The research problem of this study is derived from the fact that not much work has been done on the issue of alternate reproduction in Africa, especially among the Yorùbá. Earlier studies, which are largely Western in orientation, have focused more on the legality of surrogacy but failed to take account of the ontological and moral standing of the product of the surrogate arrangement. This study, therefore, develops an account of an alternate reproductive practice from the Yorùbá perspective, which addressed the issue of the ontological and moral standing of the child and the place of the mother in *abánibímọ* arrangement.

By ontological status we are concerned with the personhood of the child. Is a child that is the product of *abánibímọ* accepted as a full member of the society, or is he seen as *omọ-àlè* (bastard), a social pariah or an outcast? Does he or she have rights to ritual oblations, that is, can the child offer sacrifices to the gods or the preternatural forces that rule in the cosmic order? Can he be initiated into the cult of full citizens? These are issues that

⁵⁸Salami. A. 2002. *Ifa a complete divination*. 15.

revolve around the notion of ontology or the ontological status of the product of the abánibímọ practice. Also, we are concerned with finding out whether the child enjoys the same rights and privileges as other children in the community. Does he have the right of inheritance? Can he become a village elder or *baale*? Will he be entitled to the kingship stool if he is from a royal family?

The literature on Western surrogacy focuses more on the legal implications of surrogacy, which are largely concerned with issues such as: abuse of womenfolk, presentation of human life as article of commerce, intrusion of market into the sacred realms of the family and procreation, the autonomy surrogacy affords women in the reproductive parlance, the problem of social pronatalism (encouraging the bearing of more children), non-enforcement of surrogacy contracts, non-harm to the child, eligibility of same-sex partners to surrogacy and fragmentation of motherhood.⁵⁹ This literature largely neglects the ontological considerations we have outlined above.

Again, some of the scholarly works from Africa on the problem of surrogacy have followed the Western perspective to the problem. Such works try to find relevance for Western surrogacy, with the attending genetic engineering, within the African context. Those few African scholars who have looked at the issue arrive at the conclusion that western idea of surrogacy is unacceptable within the Yorùbá norm of reproduction. However, this does not make western surrogacy unethical or unacceptable within the social realm where it is practiced. Jegede and Fayemiwo considering Yorùbá culture, and the acceptance of technology of reproduction (ARTs) in the managing of childlessness, conclude that “even though some individuals may not have problems adopting the technologies as an option... cultural beliefs and practices hinder decision making about whether or not to adopt ARTs”.⁶⁰ Lanre-Abass too, considering the implication of Western surrogacy on Yorùbá family-hood, submits that surrogacy “deviates from

⁵⁹See Purdy, L. M. Assisted reproduction. 1998; Dworkin, A. 1983. *Right-wing women*; Teman, Elly 2010. *Birthing a mother*; Gibson, M. 1994. Contract motherhood; Macklin, R.1990. Is there anything wrong with surrogate motherhood? Sistare, C. T. 1994. Reproductive freedom and women; Steinbock, B. 2008. A Philosopher looks at assisted reproduction. *Contemporary issues in bioethics*.

⁶⁰Jegede, A. S and Fayemiwo, A. S. 2010. Cultural and ethical challenges of assisted reproductive technologies. 125.

African cultural norms of parenthood and for many Africans, seems unethical.”⁶¹ This study is in agreement with her conclusion that Western surrogacy differs from the Yorùbá form of it. However, our finding is that there is a form of surrogacy that conforms to the Yorùbá culture of parenthood. It is that form of surrogacy that this study interrogates.

Also, there are differences between the Western idea of surrogacy, and the concept of *abánibímọ* in Yorùbá understanding. The “surrogate” in Yorùbá culture is a part of the family. She is also a co-wife and co-mother, whose rights, relationship and duties toward the child is never extinguished. She has the pleasure of seeing her child on a daily basis in the same compound with her co-wives, in contrast to the emotional torment of the carrier in Western society who relinquishes her maternal rights, relationship and duties towards her child, often with a token compensation. Surrogacy in Western culture is a legal relationship in which the surrogate mother has no legal rights whatsoever to be a parent of the child she gestates in her womb.

Statement of thesis

The thesis of this study is that in the Yoruba system of surrogacy, known as *abánibímọ*, the product of the arrangement, is not only accepted as a full member of the community into which he or she is born, but also enjoys all the rights and privileges due other children in the community. This includes the right to offer ritual oblations to the ancestors or the preternatural forces that superintend over the cosmic order. Such children can also be initiated into the cultic practices of full citizens, having the right to become *baales* or village elders where the opportunity exists. Such children can also aspire to the kingly throne, if they are from a royal lineage. Unlike in the Western practice where the substitute mother is paid a fee after delivery, and thereafter she relinquishes all maternal rights and relationship with the child and the family, *abánibímọ* arrangement allows the mother play significant roles in the child’s life and the family. *Abánibímọ* arrangement does not engender emotional trauma for mother and child, nor does it distort the personhood of the child and family institution the way Western surrogacy does.

The theoretical framework this study adopted is Borden Parker Bowne’s personalism that esteems the notion of intrinsic worth, which grants moral and social worth to every human

⁶¹Lanre-Abass, B. Surrogate Motherhood. 2008. 45.

being or individual. Personalism, as a theory, seeks to develop better appreciation of the meaning and value of human personality. There are different versions of personalism, but the common or unifying theme to all notions of personalism is promotion of the supreme value of the person as the key to discernment of human wellbeing.⁶² Generally, personalists defend the idea of the predominance, and prominence of the person against any attempt to reduce man to an infrastructure, as scientific naturalism and metaphysical absolutism attempt.⁶³ Personalism opposes individualism and collectivism, but affirms the distinctiveness of every person, the value of relationships among men, and the harmony that connects people.⁶⁴

Bowne's notion of personalism is informed with perception that personal categories must be engaged earnestly by anyone endeavouring to develop a satisfactory philosophy. According to the teaching of personalism fundamental to philosophy is the person and his importance.⁶⁵ For Bowne, great confusion exists in the philosophic enterprise because of the failure on the part of philosophers to acknowledge the significance and importance of human personhood. In his words, a large yield of errors daily manifests in the sphere of sense and mechanical thought, the errors are being produced by philosophies that propound sensualism, materialism and atheism. Bowne calls these lower philosophies, and he holds that as weeds they would grow if there is no philosophy of greater appeal to weed them out, if not they will take control of the thoughts of the mind, and the greater philosophy that participate in convictions of the soul will quickly wither and perish.⁶⁶

To rid philosophy of the confusions, Bowne asserts further, saying:

⁶²Bufford, T. 2015. Personalism. *The Encyclopaedia of global bioethics*. Springer Science+Business Media. 1.

⁶³ Bufford, T. 2015. Personalism. 1-2.

⁶⁴ Bergson, J. O. 2006. *The worldview of personalism: origins and early development*. Oxford: University Press.

⁶⁵ Buford, T. 2006. Persons in the tradition Boston personalism. *Journal of speculative Philosophy* 20:3.

⁶⁶ Bowne, B. P. 1908. *Personalism*. Boston and New York Houghton, Mifflin and Company. The Riverside Press, Cambridge.

We need ... a sound philosophy ... a kind of intellectual health officer whose business it is to keep down disease-breeding miasms and pestiferous growths ... a moral police whose duty it is to arrest those dangerous and disturbing intellectual vagrants which have no visible means of support, and which corrupt the people.⁶⁷

Thus, for Bowne, the first step out of the confusion we find in philosophy lies in seeking to reduce it, if we cannot obliterate it completely, then we need to have a proper consideration of the quagmire by considering some preliminary points that would function as a collective standpoint for common sense, and philosophers of all schools, something that all may agree with as a fact of voyage. This starting point for Bowne is: First, the coexistence of persons. He is of the opinion that all speculation must begin in the world, because humans live in a subjective and communal world. Persons are realities whose existence cannot be grilled. Secondly, there is a rational law, binding on, and mandatory upon all humans as the ultimate state of any rational community. Thirdly, humans live in a world of mutual understanding, it is this world that people encounter reciprocal involvement, and where the great industry of life occurs.⁶⁸The implication of Bowne's idea or theory of personalism is the affirmation that every human person possesses an intrinsic worth, which is not determined by the manner or place of his or her birth. Similarly implied in his theory is the fact that human personality is a standpoint from which every other philosophical abstraction should be made. In relation to the *abánibímọ*, therefore, any child born under this arrangement possesses not only the full right of a citizen, but should also be accorded respect and dignity in the social environment or the community of other human beings.

In line with the foregoing argument, the present study posits that the significance and value of a child who is a product of the *abánibímọ* arrangement lies in his or her being, and not in the legality or otherwise of the process through which such a child came into the world. Therefore, the child should be accepted as a full member of the community into which he or she is born, and also should partake in all the rights and privileges due other children in the community. This includes the right to offer ritual oblations to the ancestors or the preternatural forces that superintend over the cosmic order. Such a child

⁶⁷ Bowne, B. P. 1908. Personalism. 8.

⁶⁸ Bowne, B. P. 1908. Personalism. 20-21.

can also be initiated into the cultic practices of full citizens, having the right to become a *baale* or village elder where the opportunity exists. He or she can also aspire to the kingly throne, if they are from a royal lineage. Additionally, this study argues that the idea that some children are *omọ-àlè*(bastards) and are thereby considered as social pariahs or outcasts has no impact on their personhood.

Arguing in the same vein, Kant also arrived at the same conclusion that the human person has an intrinsic worth and therefore should be respected. This Kantian impression of respect for persons is expressed in the Categorical Imperative as: “Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only”.⁶⁹ Kant’s objective is the quest for the establishment of *the supreme principle of morality*. The ultimate ethical principle he formulated in three ways, two of which are of substantial variations, which are supposed to harness the moral principle to instinct by linking it closely to human experience and human feelings.⁷⁰ Though differing in wording and emphasis, Kant conceives the Categorical Imperatives as three different “views” of the same overarching principle.⁷¹ His efforts birthed the ethics of duty and virtue ethics that give insights into how to live a good and fulfilling human life. For Kant, no matter what an individual’s belief or circumstance of life, morality could come up in one vital standard from which all duties and obligations are derived.⁷²

Aim and objectives of the study

The aim of this study is to critically examine the ontological and ethical issue surrounding *abánibímọ*, the Yorùbá perspective on surrogacy. Like people of other cultures, the Yorùbá had ways of dealing with the problem of infertility among couples. In this study, we have shown the differences between the Western idea of surrogacy and the *abánibímọ* arrangement among the Yorùbá. The study also identifies the ontological issues connected with the *abánibímọ* practice among the Yorùbá.

⁶⁹ Bird, G. *A companion to Kant*.

⁷⁰ Bird, G. 2006. *A companion to Kant*; Sullivan, R.J. 1994. *An Introduction to Kant’s Ethics*. Cambridge & New York: Cambridge University Press. 199.

⁷¹ Foundations of Bioethics: Ethical Theories, Moral Principles, and Medical Decisions.

⁷² Sullin, P. 2012. Immanuel Kant’s ethics of duty. A paper presented at the Catholic University of America in November, 2012.

Objectives of the study are as follow:

- i. To examine the notion of surrogacy, particularly Western perspective and its effect on the idea of motherhood.
- ii. To compare Yorùbá idea of *abánibímọ* and Western understanding of surrogacy.
- iii. To examine Bowne's personalism and *Eniyan* in Yorùbá culture.
- iv. To state the ontological and ethical issues involved in the *abánibímọ* practice and to propose appropriate ethical and social norms that will redound to the well-being of the product of the *abánibímọ* practice.
- v. To examine the impact of familyhood on social order in Yorùbá society.

Methodology

This study adopts as tools the methods of conceptual analysis and critical analysis. Conceptual analysis is imperative for thorough clarification of the key concepts and terms that shall be a constant in our discussion of the ontological and ethical issues in *abánibímọ* in Yorùbá culture, concepts such as *abánibímọ*, surrogacy, motherhood, rights, metaphysics, ontology, and ethics. The critical method of analysis is expedient in examining the nature of surrogacy (*abánibímọ*) in the Yorùbá community and the advantages of the practice over Western surrogacy. Also, the critical method of analysis is helpful in the comparison of *abánibímọ* and Western surrogacy as well as in our assessment of the metaphysical issues in practice of *abánibímọ*.

Justification of study

This study is crucial because there is a need to provide a written and critical perspective of the Yorùbá idea of surrogacy. Earlier studies have focused on the legal analysis of surrogacy in Western medicine. Moreover, African scholars too have tried to juxtapose Western surrogacy with Yorùbá norm of reproduction. These attempts to juxtapose western surrogacy with Yorùbá norm of reproduction failed, because as we have universal elements of culture, there is also cultural diversity. Thus, the basis of cultural practices such as marriage and reproduction are at variance in differing cultures. The problem of infertility is a universal problem that concerns both Western and non-Western cultures, developments in Western health care system through genetic engineering to remedy the situation may not be universally accepted due to a people's conception of reality and value system. As Gbadegesin argues, every culture need to

cultivate a rejoinder to the technologies in the Health Care system. The reaction could be a rejection, or acceptance of the technologies with their consequences.⁷³

Significance of study/contribution to knowledge

The significance of this study is in its provision of a critical perspective of the Yorùbá idea of surrogacy and motherhood. This study demonstrates that surrogacy is not an aberration of the African norm of reproduction as erstwhile believed. It is not a strange practice in Africa. The Yorùbá society recognises *abánibímọ* as a way of resolving the problem of infertility. The study acknowledges the universality of the problem of infertility, but argues that the solution to the problem is culture specific. The study is equally significant in that it lays emphasis on the “being” of the child. The study in conjunction with the argument of personalism, argues that no matter the circumstances of the birth of a child, his/her personhood should be respected. As Peter Bertocci, a student of Bowne asserts, the person is an enigma that is self-conscious, in a process, budding, acquiring knowledge as he interrelates with the environs, advances an orderly learned unity of expression, variation that can be called his disposition.⁷⁴

Chapter outline

The study is distributed into six chapters as follows:

CHAPTER ONE

GENERAL INTRODUCTION

CHAPTER TWO

THE IDEA OF SURROGACY

The chapter explicated the concepts of surrogate and surrogacy. It discussed the historical background of surrogacy arrangement, and the debate surrounding the arrangement through a critical analysis of works of feminist and non-feminist scholars. The chapter also highlighted instances of surrogacy arrangement in Western and non-Western cultures. The types, forms and procedures involved in surrogacy were

⁷³Gbadegehin, S. 1998. Bioethics and cultural diversity. *A companion to Bioethics*. H. Kushe and P. Singer Eds. Oxford: Blackwell publishers. 23-31.

⁷⁴Buford, T. 2015. Personalism. *Encyclopedia of global bioethics*.

examined. Similarly, the chapter analysed the motivation for wanting to be a surrogate, and the problems and benefits inherent in surrogacy. The chapter concluded by examining the problems encountered by medical practitioners who render surrogacy and similar practices to women and couples.

CHAPTER THREE

SURROGACY AND THE PRACTICE OF *ABÁNIBÍMỌ* IN YORÙBÁ CULTURE

The chapter focused primarily on a comparative analysis of two different models of motherhood; surrogacy arrangements and *abánibímọ* practice in Yorùbá culture. The chapter conceptualised the terms motherhood and surrogacy, as well as instantiated how the *abánibímọ* practice works among the Yorùbá of south-west Nigeria. It highlighted the similarities and differences within the two models of motherhood.

CHAPTER FOUR

BORDEN PARKER BOWNE'S PERSONALISM AND *ENIYAN* IN YORUBA CULTURE

Using Bowne's theory of personalism, the chapter examined the social acceptance as well as moral worth of children who are the product of the *abánibímọ* arrangement among the Yorùbá. The chapter examined Yorùbá conceptualisation of the person as well as the notion of predestination and freewill. Questions such as: Who is a person? What substance is a person made of? What attributes differentiate a person from other creatures? What is the place of the person in existence are raised and critically explained from the perspective of Yorùbá ontology. The idea of predestination and human freewill was examined. Some pithy sayings, proverbs and Ifa corpus are used to underscore Yorùbá idea of person.

CHAPTER FIVE

METAPHYSICAL AND ETHICAL ISSUES IN *ABÁNIBÍMỌ* PRACTICE

The chapter interrogated the metaphysical and ethical issues in *abánibímọ* arrangement. The chapter discussed the general and African conceptions of metaphysics and ethics. It examined the metaphysical and ethical issues of being, and rights of the child that is the product of *abánibímọ* arrangement. The chapter equally discussed the

abánibímọ arrangement in relation to the core ethical principles - human dignity, benevolence, non-malevolence, and justice because these principles redound to the wellbeing of the child in the society.

CHAPTER SIX

FAMILYHOOD AND SOCIAL ORDER AMONG THE YORÙBÁ

The chapter discussed the effect of modernity on the traditional idea and structure of family, especially among the Yorùbá people. The concepts of *ajobi* and *ajogbe* were examined, and the reasons for the total breakdown in *alajobi* (Familyhood) within the Yorùbá social order were also elucidated. The chapter also examine some values which redound, not only to the welfare of the child but human beings in general. The argument in the thesis is that the *abánibímọ* arrangement is more acceptable to the Yorùbá than the Western idea of surrogacy

CHAPTER TWO

THE IDEA OF SURROGACY

2.0 Introduction

In this chapter the focus of study shall be on surrogacy; one of the ways society responds to the problem of infertility. Attention shall be on conceptual clarification of the terms ‘surrogate’ and ‘surrogacy’. The historical background of surrogacy shall also be considered. Furthermore, this chapter shall consider instances of surrogacy arrangement in Western and non-Western cultures as well as engage in a critical assessment of surrogacy, a means of reproduction, by critically examining its type, forms and procedures involved. Moreover, the chapter shall examine the motivation for wanting to be a surrogate, and the on-going surrogacy debate; this shall be achieved through a critical analysis of works of feminist and non-feminist scholars, among others. Similarly, the problems and benefits inherent in surrogacy shall be scrutinised. In the same vein, this chapter shall examine the problems encountered by medical practitioners who are involved in the practice.

2.1 Background to the Study

Most human beings yearn for children that are hereditarily connected to them, for this to happen, conception must first occur.⁷⁵ However, in certain cases, conception may not occur because either of the couple (or in rare cases, both of them) is infertile. There are a number of conditions responsible for infertility. First is the age factor; the older a woman, the more difficult it is for her to become pregnant. Second is genetic factor, which plays a role in childlessness. An unbalanced chromosomal make-up in one, or both partners can inhibit conception in the uterus. The third factor is sexually transmitted infections (STIs), which may later translate to sexually transmitted diseases (STDs). Examples of sexual diseases that are known to cause infertility are gonorrhoea and syphilis. If not properly treated, sexually transmitted infections could cause extensive or

⁷⁵ Caplan, A.L. and McGee, G. *Bioethics for beginners: Reproductive Medicine*. Retrieved Mar. 23, 2010, from <http://www.bioethics.net>

irremediable damage to the organs reproduction.⁷⁶ Apart from the above, the immune system can sometimes hinder conception in the uterus, both sexes may develop adverse reactions to sperms making their physiology create anti-bodies that bout and terminate sperms.⁷⁷ Apart from the factors mentioned above, other causes of infertility are environmental pollution, poverty, incompetently procured abortions as well as involvement of women in economic activities that lead to delay in child-bearing.

2.2 Responses to Infertility

Consequent upon the problem of infertility, different methods have been explored by humans in tackling the problem. Some barren couples have been known to resort to the underhand method of child stealing; some resort to legal adoption while others seek spiritual intervention through prayers or consultations with religious shamans and so on. Apart from these methods, technological developments in the life or empirical sciences have offered new platforms for dealing with the problem of infertility.⁷⁸

It is noteworthy that with new developments in reproductive technology, people are beginning to have a shift in their understanding of motherhood. Motherhood is now a phenomenon that can be shared between women or contracted to another woman.⁷⁹ The reasons for this is that it is a possibility for couples to transact for reproductive services, just like any other service, also women can to give birth to a children whose genes are unrelated to theirs. This practice is termed *surrogacy*, which is derived from the term *surrogate*.⁸⁰ The classical situation that gives rise to this practice “is that of a traditional, heterosexual married couple who wants to have one or more children but are unable

⁷⁶ Purdy L.M. 1998. Assisted reproduction. *A companion to bioethics*. H. Kushe and P. Singer. Oxford: Blackwell Publishers. 163.

⁷⁷ Purdy, 1998. Assisted reproduction. 164.

⁷⁸ Tong, R. 2015. Surrogate parenting. *Internet encyclopaedia of philosophy*. Retrieved July 3, 2015 from www.iep.umt.edu/surrogateparenting.

⁷⁹ Gibson, M. 1994. Contract motherhood: social practice in social context. *Living with Contradictions: controversies in social feminist ethics*. A. Jaggar. Ed. Oxford: Westview Press. 402-419.

⁸⁰ Lanre-abass, B. 2008. Surrogate motherhood and the predicament of the African woman. *PHAVISMINDA Journal*. 7. 44-59.

to.”⁸¹In Western culture, this method also affords same sex partners and people who desire single parenthood the opportunity to have children outside of the traditional marriage relationship. Shanley aptly puts the idea thus:

New reproductive technologies have made it possible to use eggs, as well as sperm, from someone else ... along with *in vitro* fertilization, has made it possible for couples to conceive who previously would have been unable to do so. Single women and lesbians can also now conceive using donated sperm, and single and gay men can use donated eggs that a woman ... can gestate for them.⁸²

It is, therefore, clear that though infertility still exists among couples, there are modern and legal methods through which infertile couples now conceive and have children of their own. Many of these reproductive technologies give rise to the term *surrogacy*.

2.3 The Baby M Incident

Mrs. Whitehead, a twenty-nine-year-old housewife in Brick Township, New Jersey, was married to a sanitation worker, Richard, and had two children. In a lengthy and intricate contract, scripted by a lawyer, Mrs. Whitehead agreed with the infertile couple, the Sterns to be impregnated with William Stern’s sperm to bear, and deliver the child to the Sterns, conceding her maternal rights, after she would have been paid the sum of \$10,000. The Sterns were a professional couple who lived in Tenafly, New Jersey. William Stern was a forty-year-old biochemist and his wife, Elizabeth, who was called Betsy, was a forty-one-year-old pediatrician. The Sterns had been married for twelve years and were childless, because they had deferred childbearing at the outset of their marriage, for financial and career reasons. Later, Elizabeth Stern ruled out pregnancy because she was having a mild case of sclerosis, and having heard of a colleague’s wife with a similar condition becoming temporarily paralysed when pregnant.⁸³

The Sterns did not attempt to adopt because of some self-perceived challenges. They did not talk with any adoption agencies because they felt they would be disqualified because

⁸¹Gibson, M. 1994. Contract motherhood: social practice in social context.

⁸² Shanley, M. L. 2002. Making babies, making families: what matter most in an age of reproductive technologies, adoption, and same sex and unwed parents. Boston. Beacon Press.

⁸³ Field, M. A. 1990. *Surrogate motherhood*. 3.

they were in their late thirties by the time they were seeking a child, and also they had different religious inclinations-Jewish and Methodist. Moreover, they feared that an adopted child might have Acquired Immune Deficiency Syndrome (AIDS). William Stern also said that he did not want a foreign child because the differences and therefore could have more emotional challenges integrating with them.⁸⁴ And Betsy said that she had misgivings about private adoption because “they would in some way need to convince a woman to relinquish her baby.”⁸⁵ In the contract Mrs. Whitehead promised she would not create a bond with the infant, but holding her after delivery, she knew she could not give up child to the Sterns. She said “Seeing her, holding her, she was my child. I signed on an egg. I didn’t sign on a baby girl” Mrs Whitehead declined the acceptance of the \$10, 000 fee that had been placed in custody of the contracting lawyer, which was supposed to be her payment for service rendered upon handover of the child to the Sterns, thereafter, a parental rights conflict ensued.⁸⁶

The child, born on March 27, 1986, has on her birth certificate the name Sara Elizabeth Whitehead, whereas the Sterns gave her the name Melissa Stern. The infant spent the first few days of her life in the hospital with her genetic mother; later in acquiescence to the contract signed Whitehead handed the child over to the Sterns. However, within twenty-four hours, Mrs Whitehead came to the Sterns asking to be with the child, she asked to keep the infant for a week. The couple agreed, Baby M was temporarily relinquished to the Whiteheads’, but contrary to the verbal agreement that the child would be with Whitehead for a week, the baby was kept for over a month in spite of the Sterns’ appeals for the return. The Sterns applied for a court injunction in order to reclaim the baby, in a court hearing where Whitehead was absent, the Sterns were granted a court order awarding them temporary custody.⁸⁷

In the bid to avoid compliance with the court order the Whiteheads left New Jersey with the baby. The Sterns engaged a private detective to find the Whiteheads, the detective found the Whiteheads in Florida living with Mary Beth’s mother. The Sterns had the

⁸⁴ Timnick, L. 1981. Surrogate mother wants to keep her unborn baby. *Los Angeles Times*, March 21.

⁸⁵ Field, M. A. 1990. *Surrogate motherhood*. 4.

⁸⁶ M. A. Field, 1990. *Surrogate motherhood*. 5.

⁸⁷ Galen, M. 1986. Surrogate law: court ruling. *National Law Journal*.

baby forcefully removed from the mother. The New Jersey judge continued to repose care of the baby with the Sterns, and only permitted Mrs Whitehead to visit the child for a two-hour session every week, in a controlled setting. The Baby M case advanced to a much-broadcasted trial.⁸⁸

2.3.1 Lessons from the Baby M case

The Baby M case brought surrogate motherhood under close and critical analysis in different fields of study. It awakened the moral philosophers, legal practitioners, journalists, psychologists, sociologists, medical practitioners and the general public to a new era of reproduction. According to Hartouni, the Baby M case conveyed to everyone the dawn of issues that were “many and confused”; it upturned “conventional understandings and assumptions”⁸⁹. In one of the silent cases before Baby M issue which also concerned the negotiation of surrogate agreements, the Kentucky Supreme Court had warned that surrogacy and other ‘novel’ solutions to infertility offered by developments in biomedical sciences were marshalling in a confusing ‘new era of genetics’⁹⁰. In the same vein, Hartouni reported that the head of the American Bar Association, Doris J. Freed, in 1984 anticipated that the deployment of the new technologies would provoke a moral, social and legal nightmare. Another commentator on surrogacy arrangements cautioned that the issues are still novel that there is not an agreed moral convention, the danger is that whatever practices medics float into become the standard.⁹¹

2.4 Historical Background of Surrogacy

Surrogate mothering is not a contemporary phenomenon; rather, it has been an accepted form of treatment for childlessness for centuries.⁹² Until most recently genetic surrogacy

⁸⁸ Galen, M. 1986. Surrogate law:

⁸⁹Hartouni, V. 1997. *Cultural conceptions: On reproductive technologies and the remaking of life*. Minneapolis & London: University of Minnesota Press.

⁹⁰ Hartouni, V. 1997. *Cultural conceptions*.

⁹¹Edward, J. et al. 2005. *Technologies of procreation: kinship in the age of assisted conception*. USA: Taylor & Francis e-library. 29.

⁹² Genesis 16: 1-15. Abraham and Sarah were in their old age and yet did not have any biological child, Sarah therefore gave her maid Hagar to her husband, so that through her they could have a child that is at least related to one of them biologically.

remained the single means of helping infertile couples have offspring. The earliest cases of surrogacy recorded are that of Abraham and Sarah, and Jacob with his two wives, Leah and Rachael. Sarah's maid Hagar, and Leah and Rachael maids, Zilpah and Bilhah, underwent pregnancy and gave birth to children for them (Genesis 16 and 30).

Anthropological findings have also shown that there are societies where social and biological parents are different; this occurs among the Kgatla of Southern Africa, where a man and woman may decide to deliver their next child for an infertile relative, surrogacy arrangements is evident among other African communities.⁹³ In the Middle Ages, alternative form of surrogacy occurred, then affluent women habitually give out their new-borns to wet nurses. The wet nurse would assume the care and feeding of an additional child in their homes, for a fee, until the child is weaned and returned to his or her biological mother.⁹⁴ While surrogate mothering seems to have been in vogue all through history, across series of cultural groups, it has just lately materialised as an important societal challenge in Western and non-Western literature.⁹⁵

2.5 Concept of Surrogacy

Surrogacy can be described as an act of one woman conceiving, gestating, and giving birth to a child for a different woman. Surrogacy is an ancient additional means of reproduction of children, women through ages have been using others to birth children that they could not conceive. They depend on a blend of custom, pressure, and friendliness to create the desired result. In the past, childless women take on at birth the excess children of a neighbour or friend.⁹⁶ Again, it has been argued that in places where resources were scarce, and contraception limited it made economic sense for children to

⁹³ See Anleu, S.R. 1992. Surrogacy: for love but not for money? *Gender and Society*, 6:1. 30-48.

⁹⁴ Spar, D. L. 2005. For love and money: the political economy of commercial surrogacy.

⁹⁵ Blyth, E. 1993. Children's welfare, surrogacy and social work. *The British Journal of Social Work* 23:3. 259- 275.

⁹⁶ See Spar, D. L. 2005. For love and money; Qadeer, I and John, M. E. 2009. The business and ethics of surrogacy. *Economic and political weekly* 14:2. 10-12.

be dispersed uniformly within a small community, comparable to grain or military service.⁹⁷

From the etymological definition of the concept *surrogate* as ‘a substitute’, or ‘in place of a person or thing’, we can infer in this study that any means of reproduction that does not take the natural course of coitus by a couple falls under surrogate arrangement, whether it is commercial or non-commercial. For instance, if only the wife is infertile, and the couple seek assistance or contract another woman as either a genetic surrogate or gestational mother, or the two of them, as a result of genetic incompatibility or for any other reasons, agree to have a child through any of the platforms offered by reproductive technology (the available means as mentioned above – IVF, AID, GIFT, ICSI), they are operating under the big umbrella of surrogacy.

2.5.1 Conceptual analysis of the terms Surrogate and Surrogacy

The term ‘surrogate’ was first used in the early 15th century, specifically in 1603.⁹⁸ The concept is etymologically derivative of the Latin concept *surrogatus*, the past participle of *surrogare* or *subrogare*, all of which mean to situate in someone else’s place, or substitute. Deconstructing the word *subrogare*, we have *sub* which means ‘in the room of’ or ‘in which’ and *rogare* which means *ask* or *propose*.⁹⁹ In the Collins Dictionary of English, the word ‘surrogate’ designate a person given a particular part to play because the person or thing that should have the role is not accessible or available.¹⁰⁰ As a noun, ‘surrogate’ refers to an individual or thing acting as a substitute. In Britain, ‘surrogate’, among other definitions, could mean a clergyman appointed to deputise for a Bishop in granting marriage licences; and in Psychiatry, it refers to a person who substitute for someone else, for instance in childhood, when a brother, sister or teacher acts as substitute for a parent.¹⁰¹

⁹⁷ Spar, D. L. 2005. For love and money.

⁹⁸ Surrogate: origin and meaning. *Online etymology dictionary*. Retrieved on Dec. 19, 2017 from <https://www.etymonline.com.word>.

⁹⁹ Surrogate: origin and meaning. *Online etymology dictionary*.

¹⁰⁰ Collins Dictionary. Surrogate definition and meaning. Retrieved Dec. 19, 2019 from <https://www.colinsdictionary.com>.

¹⁰¹ Collins dictionary. Surrogate definition and meaning

2.5.2 Surrogate Motherhood

The *Cambridge English Dictionary* defines the surrogate mother as a woman who begets a baby for another who, for one reason or the other, is unable to become pregnant or have a baby'.¹⁰² Some writers are of the opinion that if the term *surrogate* really means 'substitute' or 'replacement', surrogate mother therefore becomes an alternate mother, she is someone that for monetary or empathetic cause, come to an agreement, to give birth to a child for a different woman who is inept, or averse to doing so herself.¹⁰³ Therefore, she becomes a substitute mother because she conceives and gestates, in other words, delivers a baby on behalf of a different woman, who afterwards is understood as the genuine *mama* of the child.¹⁰⁴ It is from the concept *surrogate* that the term 'surrogacy' is derived. In this study we shall employ the terms surrogate, substitute/alternate mother and other *mama* interchangeably.

2.6 The Surrogacy Debate

Surrogacy arrangements promote a lot of questions about the family, the nature of parenthood, particularly motherhood, the role of women, the rights of children, and which of the couple should make decisions about management of childlessness. All the questions raised on surrogacy have consequently engendered polemicized controversy. A number of scholarly works have been done on Western surrogacy; while some scholars object to the practice, for instance, some feminist writers denounced surrogacy because of the level of medicalization. Others see it as commodification, and technological colonisation of the woman body, a form of prostitution and slavery resulting from male-controlled exploitation of female. Some other writers embrace surrogacy for a cluster of reasons, as such, there are arguments and counter-arguments on the issue.

Feminist writers who support surrogacy usually emphasise the increase in the freedom it affords women.¹⁰⁵ Surrogate agreements afford women supplementary choice over their

¹⁰² Cambridge dictionary of English. Surrogate meaning.

¹⁰³ Niekerk, A. and Zyl, U. L. 1995. The ethics of surrogacy:

¹⁰⁴ Van Niekerk, A. and Van Zyl, U. L. 1995. The ethics of surrogacy: women's reproductive labour.

¹⁰⁵ Shalev, C. 1989. Birth power.

reproductive capacity.¹⁰⁶ Shalev argued in support of the freedom that surrogacy bequeaths to women, and insists that eliminating such contracts fail to accord respect to the choices of women. Further, he believes that any woman who at will goes into an agreement to produce a child should be allowed to exercise that right, unless it would be authoritarian and condescending to preclude her choice.¹⁰⁷ However, there is the possibility of addressing individual level of women's right to choose has been questioned. Rothman, for example, believes that all choices made are structured within the social context; she argues that "there will never be free choice, unstructured reproductive choice"; but that structure within which choices are made, "can be made fair, ethical, moral"¹⁰⁸.

According to C. T. Sistare, the essential ethical dispute involved in surrogacy debate is the feature and scope of the freedom women wield, and that respect for women's personal freedom should be the guide in resolving the argument. She maintains:

The fundamental moral issue in the surrogacy debate is the nature and extent of women's freedom: their (women's) freedom to control their bodies, their lives, their reproductive powers, and to determine the social use of ... (their) reproductive capacities. ...respect for women's personal freedom ought to be a guiding moral concern in resolving the debate, and (the) recognition of the centrality of this issue ... is a basic source of the controversy and of much intensity.¹⁰⁹

Merino, in her work, 'Adoption and Surrogate Pregnancy', prefers traditional surrogacy over adoption because, according to her, it affords the couple the opportunity that adoptive parents do not have, such as the opportunity to choose the genetic heritage of a child. She canvasses for the sustenance of traditional surrogacy because it records a success rate of 95% and couples using it do not have to pay for in vitro cycles as is the case in gestational surrogacy.¹¹⁰

¹⁰⁶Shalev, C. 1989. Birth power.

¹⁰⁷ Shalev, C. 1989. Birth power.

¹⁰⁸Rothman, B. K. 1994. The meaning of choice in reproductive technology.

¹⁰⁹ Sistare, C. T. 1994. Reproductive freedom and women's freedom.

¹¹⁰Merino, F. 2010. *Adoption and surrogate pregnancy*.

Teman's work on surrogacy, which was carried out among Jewish women, is said to be the first ethnography study to probe the close relationship of parties within surrogate motherhood. She showed how surrogates and intended mothers cautiously and successfully navigate their cooperate enterprise. Teman commended the process through which surrogate mothers in Israel withdraw motherly claim to the baby, as well as how intending mothers navigate a complicated transition to motherhood. As a surrogate mother psychologically and emotionally detaches herself from the foetus she carried, she develops a deep and lasting tie with intended mothers.¹¹¹

In another work , 'My Bun, Her Oven', Teman contends that the metaphors and symbols Israeli surrogates use to describe their bodies and actions during pregnancy reveal widely accepted cultural perceptions of motherhood, family and the human body. She maintains that the reason for the unease that policy makers, psychologists, philosophers and the general public share about surrogacy is the fact that it challenges some of "our deeply held conventions and conceptual categories".¹¹²

Mahoney agrees that surrogate arrangements have existed tersely for a number of years, the earliest record is that of the biblical times. She moves against prohibition of surrogate contract, saying that the prohibition discriminates more tetchily on men, and not women, for women with sterile husbands could pay sperm banks, and be artificially inseminated, whereas men with barren wives are banned to pay productive women to carry their children.¹¹³

In her on submission, Baker argues that non-commercial surrogacy arrangements should be encouraged because it can be perceived as a case of giving a benefit or service to someone in need, it is an act that enunciates compassion, and institutes a relationship between surrogate mothers and eventual parentages that permits reciprocal consideration as well as a common personal interaction between all involved.¹¹⁴ Contending against the notion that surrogacy objectifies a child, which tends towards their commodification, she

¹¹¹ Teman, E. 2010. Birthing a mother.

¹¹² Teman, E. 2010. My bun, her oven.

¹¹³ Mohaney, J. 1990. An essay on surrogacy and feminist thought. L. O. Gostin Ed. *Surrogate motherhood: politics and privacy*, Los Angeles: Indiana University Press. 138-200.

¹¹⁴ Baker, B. M. 1996. A case for permitting altruistic surrogacy.35.

avers that no surrogacy exercise would take children as articles that one can do whatever one wishes with, as parents.¹¹⁵ Having in mind that the exercise allows a child at birth to be carried by would be parents under strict legal conditions implies that children are in general not perceived as articles that may be habitually and aptly reassigned between adults.¹¹⁶

Baker further opines that in this form of surrogacy (altruistic), the intending father and mother would have expectations, and goals for their child, and therefore would not want the child to experience a hazardous life, while the surrogate on her part too happily carries the pregnancy because she enjoys doing so, with the belief that her product (child) would live a decent lifetime in a caring family setting. For Baker, if it is ethically loathsome producing a child so that benefits or desires of some existing adults would be fulfilled, then natural reproduction in traditional families must be ethically suspicious.¹¹⁷ Since the argument that infertile couples want children not for the sake of the children is equally applicable to biological parentage. It is not the case that natural parentages have children for the sake of the children in themselves, they have children for a range of peculiar motives, amongst which are: continuity of family line, communication of love for one another through making, and providing siblings for their other offspring.¹¹⁸

On the other side of the divide on the surrogacy argument is the belief that surrogacy should be banned on many grounds, one of such grounds compares surrogacy to prostitution, and it is believed that it condenses women's reproductive labour to a form of estranged or dehumanising effort. Dworkin, for instance, in her work *Right-wing Women*, contends that surrogacy sanctions women to sell their reproductive capability, the same manner old time prostitutes exchange carnal capacities for money, but devoid of the stigma of been a whore, which is attached to prostitution, because of the absence of penile intrusion.¹¹⁹

¹¹⁵Baker, M. 1996. A case for permitting altruistic surrogacy. 36.

¹¹⁶ Baker, B. M. 1996. A case for permitting altruistic surrogacy.

¹¹⁷ Baker, B. M. 1996. A case for permitting altruistic surrogacy. 39.

¹¹⁸ Baker, B. M. 1996. A case for permitting altruistic surrogacy. 41.

¹¹⁹ Dworkin, A. 1983. *Right-wing women*. New York: Pedigree Books. 181-2.

Ince corroborates Dworkin's reproductive prostitution model after her experience in a surrogate company. She opines that: "The language and process encountered in my experience within a surrogate company is consistent with the reproductive prostitution model".¹²⁰ This is because the substitute mother is compensated for providing a man with children that his spouse cannot, the surrogate mother loves being pregnant, and she is therefore valued temporarily for her reproductive capacity. Kass objects to surrogacy but rather contends that it should not be encouraged on the grounds that it might lead to practises that deny persons clarity about their origin. In his words:

[Clarity] about who your parents are ... about who is whose, are the indispensable foundations of a sound family life, it is the sound foundations of civilised community. Clarity about your origin is crucial for self-identity, itself important for self-respect. It would be, in my view, deplorable ... to erode such fundamental beliefs, values, institutions and practices. This means ... no encouragement of ... surrogate pregnancy.¹²¹

According to Tieu, the opposition against surrogate arrangements is because it involves the making and handover of infants for the interest of the adult caretakers, not for the own advantage. This amounts to treating of children as things, for Tieu, it is a stage in the route the commodification children.¹²² He went further to say that the same criticism goes for commercial as well as non-commercial interests, guaranteeing that women participants are esteemed as autonomous entities, who are shielded from exploitation, does not remove the criticism that children are treated as objects.¹²³ The assignment of the child from the surrogate to the intending father and mother as an indispensable characteristic of surrogacy is such that creates an unacceptable objectification of the child.¹²⁴

¹²⁰ Ince, S. 1994. Inside the surrogate industry. *Living with contradictions*. A. Jaggar Ed. Oxford: Westview Press. 387-394.

¹²¹ Kass, L. 1979. Making babies re-visited. Public Interest 1979. Quoted by Steinbock, B. 2008 "A Philosopher looks at assisted reproduction, in Beauchamp et al Ed. Contemporary issues in bioethics, 7th Ed; USA: Thompson Wadsworth.

¹²² Tieu, M. 2009. Altruistic Surrogacy:

¹²³ Tieu, M. M. 2009. Altruistic Surrogacy:

¹²⁴ M. M. Tieu 2009. Altruistic Surrogacy:

The surrogacy debate just like many philosophical debates: the problem evil, the nature and structure of the universe, the relation between the mind and the world, freewill and determinism and the existence of God, is a perennial one which creates controversies and counter-controversies. For as much as reproductive technology keeps evolving, many old and new questions will keep popping-up. But, the caution is that, as the society makes headway in reproductive technology, there must be conscious, systematic and critical appraisal of realities within the society such that technology would serve to provide workable solutions which make the society a better place where the wellbeing of man is guaranteed.

2.7 Instances of Surrogacy in Western Culture

In Western medicine, the Baby M incident was the first surrogacy arrangement that introduced the issue of contract/commercial surrogacy to social beam. Though there were other cases of surrogacy involving litigations before the Baby M case, but such cases did not involve much publicity as Baby M's. One of such cases was that of Mr. and Mrs. Noyes of New York and Denise Thrane. Thrane, a divorced mother of three, contracted to bear a child for the Noyeses. Mr Noyes' sperm was ejaculated, frozen and flown to California, where Thrane lived and where she was artificially inseminated. The contract stated that Ms. Thrane was not to be paid, that only her medical expenses would be paid. However, as the pregnancy developed, Ms. Thrane made up her mind not to give up the baby, and before the child's delivery, the would-be parents, the Noyeses took her to court, seeking custody of the child when born. The case was settled on the eve of trial, the couple left custody with the genetic mother because Thrane got to know that Mrs. Noyes was a transgender. And since she could use this knowledge as a weapon of exposure and destructive publicity for the Noyeses, they backed down.¹²⁵

Another interesting case prior to the Baby M. case was that of a twenty- six years old housewife, Judi Striver, and Alexander Malahoff and his wife. Judy wanted the escrowed fee so that she can go on a vacation with her husband while Malahoff wanted a child to be able to cement his marital relationship with his wife. However, before the baby was born, Malahoff and his wife had already been separated, and when the baby was born it had a handicap and a life threatening infection, and neither of the parents wanted the

¹²⁵ Field, M. A. 1990. *Surrogate motherhood: the legal and human issues*. USA: Harvard University Press.

child. The genetic mother declared that she had no maternal bond for the child, though she agreed to have the baby treated of the infection.

On his part, Malahoff asked the hospital not to treat the infection or give any care for the baby. The hospital got a court order permitting the doctors to treat the baby. The infection was cured, the baby was placed in foster care because she had no home to go to after release from the hospital. However, to the amazement of the general public and the chagrin of the parties involved, when the paternity of the baby was released it was discovered that the husband of the surrogate was the infant's biological father, and not Alexander Malahoff. The Strivers became the baby's custodian and took the baby home. Both parties then went to the court of law complaining of breaches of the contract.¹²⁶

2.7.1 Instances of Surrogacy in Non-Western Societies

2.7.1.1 Surrogacy in India

According to A. Pande, the surrogate debate has often been a conversation about moral and ethical arguments but occasionally swerved to the view that surrogacy always equals subjugation. However, in another article, she comments that surrogacy business in India is a novel brand of gendered employment, which is not only manipulative, but stigmatising.¹²⁷ In the same vein, Pande says money-making surrogate motherhood has grown into a subsistence scheme and provisional livelihood for a number of womenfolk in India, both literate and illiterate, so it is unnecessary to fight about the acceptability, rightness or wrongness of surrogacy, but it should instead be evaluated as a novel system of labour, subsequently some understanding of the intricate veracities of women's involvement should be developed.¹²⁸

Contrary to the picture of victimhood that is painted when the forms of non-western women are the centre of feminists writing, viable surrogacy Pande maintains, is a form of labour. Surrogate motherhood should be identified as a system of employment that is

¹²⁶Field, M. A. 1990. *Surrogate motherhood*.

¹²⁷ Pande, A. 2010. Commercial Surrogacy in India: manufacturing a perfect mother-worker. *Signs* 35:4. 971.

¹²⁸ Pande, A. 2010. "At least I am not sleeping with anyone": resisting the stigma of commercial surrogacy in India. *Feminist Studies* 36:2. 293.

predisposed to abuse like other forms of labour, and recognise women as the critical agents.¹²⁹ The wage received from a surrogacy transaction corresponds many years of the aggregate income of most surrogate's families, several of the women who engage in surrogate business have husbands who were involved either in casual labour or are jobless.¹³⁰ Pande avers further that in India, women who are engaged as gestational substitute mothers are involved in a predominantly stigmatised system of work. Such women usually engage insignificant emotional activity as way of coping with the stigmatisation that is attached to their "labour/work"¹³¹.

Surrogacy as an economy process is swallowed up in moral predicament in practically all countries of the world where practised, but substitute mothers are not usually stigmatised as in India, where surrogates confront a high degree of humiliation. Consequently, almost all surrogates under Pande study kept their involvement in surrogate motherhood a surreptitious affair from their communities and families.¹³² The Indian structure of commercial surrogacy is largely controlled by individually owned, profitmaking organisations, they monitor, connect, and regulate arrangements based on their designed criteria, devoid of government intervention.¹³³

Pande, analysing the disciplining cum preparation progression of the different kind of worker projected the inadvertent concerns of the procedure. In the lack of any other study on surrogate mothering in India as at the period she was writing, felt it was vital to comprehend the character and constructions of power accompanying the punitive project, and to shed light on control of struggles by the workers themselves. "By first laying out the disciplinary project and ... the resistances, I demonstrate how enclosures (usually thought as the most tangible expression of control) have become gendered spaces for networking and collective action in the case of surrogacy hostels in India."¹³⁴

¹²⁹ Pande, A. 2010. Commercial surrogacy in India.

¹³⁰ A .Pande. 2010. Commercial surrogacy in India.

¹³¹ Pande, A. 2010. At least I am not sleeping with anybody.

¹³² Pande, A. 2010. Commercial surrogacy in India. 975.

¹³³ Pande, A. 2010. Commercial surrogacy in India. 972.

¹³⁴ Pande, Amrita. 2010. Commercial surrogacy in India.

Corroborating Pande on the business nature of surrogacy in India, Chang commented that in current years, there has been an intense increase in India's surrogate business because the industry serves overseas couples looking for surrogate mothers. Comparative ability to afford the procedure together with the loose legal restrictions make India the best select country for a lot of potential parents. The high rate of compensation for willing surrogate mothers in India have generated a growing group of providers for the business.¹³⁵ Chang asserts that the legalisation of business surrogacy in India makes the country susceptible to a host of bioethical challenges in the industry, he is therefore of the view that to deal with the concerns, the country needs to cultivate an encouraging system of legal observation and directive.¹³⁶

The first issue that makes surrogacy appealing in India is largely financial. Assenting to carry and deliver a baby may result in a new house, debt repayment, or investment for the future of the surrogate's own children. Nine months of inconvenience of pregnancy could yield US\$6,000, which corresponds to about 15 year's wage. This has made surrogacy a striking work preference for many women from lower socio-economic altitudes.

In United States, the expenses of a surrogacy procedure approximately adds up to seventy thousand US Dollars (\$70,000), the same procedure costs much less. The cogent factors responsible for this is the increase in the population of English-speaking Indians, and accessibility to advanced medical technology has made the country one of the potentially lower-cost countries. The attractive wage drawn from the procedure has a winning impact on many Indian women from across the country to fertility clinics in towns.¹³⁷

Another significant issue that makes India a hub of surrogacy is that the law of the land has not adequately addressed or regulated the fertility business. The industry is guided merely by non-binding recommendations from the medical research council. Many fertility clinics are self-regulated, the resultant effect is that adequate care is not provided

¹³⁵ Chang, M. 2009. Womb for rent: India's commercial surrogacy. *Harvard International Review* 31:1. 11-12.

¹³⁶ Chang, M. 2009. Womb for rent:

¹³⁷ Chang, M. 2009. Womb for rent.

for surrogate mothers. As productiveness treatment centre increase to meet the demand for surrogates, the incentive to weaken business rivalry in other emerging nations has led to unprincipled treatment of surrogates in centres, which compromised the well-being of surrogates.¹³⁸

2.7.1.2 Surrogacy in Israel

In her anthropological research on surrogacy among the Israelis, Teman came to the conclusion that the metaphors and symbols that surrogate mothers appeal to in describing their bodies and their actions during surrogacy reveal widely accepted cultural perceptions of motherhood, family, and the human body.¹³⁹ These same cultural patterns, significantly not only influence how surrogates respond to their role, but also inform how policymakers and the public at large react to surrogacy. Surrogacy, she argues, is a “cultural anomaly”, which produces apprehension since it demands questions on prior assumptions about everything termed families.¹⁴⁰ As a result of this, comparatively, only a few nations preferred to license and standardise surrogacy in definite terms, amongst these nations/states is Israel. The government of Israel has gone to the length to enact a comprehensive law that makes the state accountable for each and every surrogacy agreement carried out on Israeli soil.¹⁴¹

For Teman, Israeli legal response to surrogacy demonstrates that some groups respond to cultural anomalies by making them into symbolic occasions which extol the deepest values of the culture. She writes:

In Israel, surrogacy is legal, but strictly governed in a way that upholds, rather than challenges, the value of the modern concepts of motherhood and family. Passed in 1996, the Israeli surrogacy law requires a special committee to approve all surrogacy contracts and to ensure that the contracts follow the strict criteria of the surrogacy law. The law and the committee’s guidelines exhibit the

¹³⁸ Chang, M. 2009. Womb for rent.

¹³⁹ Teman, E. 2010b. My bun, her oven.

¹⁴⁰ Teman, E. 2010b. My bun, her oven.

¹⁴¹ Teman, E. 2010. My bun, her oven.

nation's effort to protect and strictly define all ... concepts that surrogacy potentially calls into question.¹⁴²

In Israel, the surrogate is defined as a temporary "carrier" who facilitates the creation of this mother and this family, and if an egg donor is used, she is anonymous and is completely erased from the legal equation.¹⁴³ In terms of the family, the surrogacy law allows only "nuclear families" to be created through these arrangements. Only heterosexual, two-parent couples can contract a surrogate, and only single or divorced mothers can become surrogates. This forms a situation in which an alternative family, the surrogate's single-mother family, creates a nuclear family with the help of the State.¹⁴⁴

2.7.1.3 Deductions from Surrogacy in India and Israel

It could be deduced from surrogacy arrangements in India and Israel (as cases of study) that there is not only a high level of exploitation by the operators of fertility clinics and hostels; but also a loose legal regulations of these outfits seems to be the case. According to one of the surrogates interviewed by Pande, the surrogate were informed that if anything happened to the child, it is not the centres responsibility, but the surrogates, that is they do not get paid, and that if anything happens to any of the surrogates, they cannot hold anyone responsible. In the contract it is specifically indicated that immediately after delivery the child must be given up, without the surrogate having the luxury of looking at the child, or determining its sex or colour.¹⁴⁵

This could mean that the surrogate mother is just used as a child-making machine and nothing more. Although, one may say that the surrogate mother must have been paid off, yet the level of hostility and cruelty towards her in respect of the child is high and unnecessary, and in fact inhuman. However, it must be noted that surrogates are better treated in Israel because of the intervention of the state in enacting laws for the practice of surrogacy.

¹⁴² Teman, Elly. 2010. My bun, her oven.

¹⁴³ Teman, E. 2010. My bun, her oven.

¹⁴⁴ Teman, E. 2010. My bun, her oven.

¹⁴⁵ Pande, A. 2010. Commercial surrogacy in India.

2.8 Types of surrogacy

It is common to categorise surrogacy into seven types, depending on the mode of arrangement.¹⁴⁶

1. Genetic/Traditional Surrogacy (G/TS)
2. Gestational Surrogacy (GS)
3. Traditional Surrogacy and Donor Sperm (TS+DS)
4. Gestational Surrogacy and Egg Donation (GE+ED)
5. Gestational Surrogacy and Donor Sperm (GS+DS)
6. Gestational Surrogacy and Donor (GS+DE)
7. Gestational and Egg and Sperm Donation (GS+ED&SD)

1. Genetic or traditional surrogacy refers to a case where the male partner in a family that desires parenthood provides the sperm. The sperm is then used to fertilise the egg from a woman other than his spouse, in whose womb the embryo develops, the child is handed over to the contracting couple at birth. Under this circumstance the surrogate is only the genetic mother, while another woman, the wife of the man who supplies the sperm, is the social mother. Another type is gestational surrogacy: Here, the female partner gives the ovum that is fertilised outside of the womb with the spouse's sperm, the subsequent embryonic life is placed in the uterus of surrogate, who carries, gives birth to, and relinquishes the baby and her maternal rights on the child to its genetic parents.¹⁴⁷
2. Genetic surrogacy (also known as traditional surrogacy) is the type that allows the wife and husband to be naturally related to the infant, the product of the arrangement. Some people believe that this form of surrogacy does "not to disrupt (the) idea of biological motherhood." Also, in case of any legal scrimmage, the couple would have a higher chance of winning the battle because the infant is genetically related to them.¹⁴⁸ Again, while the former is termed *partial surrogacy*, on the ground that it is the least technologised, and the surrogate being both the child's genetic and birth mother, the latter is termed *full*

¹⁴⁶ Surrogacy in Canada Online – Types. Retrieved from <https://surrogacy.ca/intended-parents/types>.

¹⁴⁷ Prokopijevic, M. 1990. Surrogate motherhood. *Journal of applied philosophy* 7:2. 169-181.

¹⁴⁸ Berend, Z. 2012. The romance of surrogacy. *Sociological forum* 27:4.

surrogacy because it employed *in vitro* fertilisation technique, which entails scientific abilities and technology subject to medical control.¹⁴⁹ Though genetic surrogate motherhood is simpler than and not as expensive as gestational surrogacy, yet it presents a greater legal risk for intending parenting couples if the surrogate changed her mind on relinquishing her maternity right.¹⁵⁰

3. Traditional Surrogacy and Donor Sperm (TS+DS): In this type of surrogacy, the alternate mother is artificially inseminated with a donor sperm through IUI, IVF or other means of insemination. In this surrogate arrangement, the product of the union is genetically related to the surrogate and sperm donor.
4. Gestational Surrogacy and Egg Donation (Gs+ED): In this form of surrogate arrangement, the surrogate carries the embryo developed from a donor egg that has been fertilised by sperm from the intending father. The child produced through this arrangement has no genetic relationship with the alternate mother, but with the father.
5. Gestational Surrogacy and Donor Sperm (GS+DS): In this type of surrogacy, the egg of the legal wife and the sperm of a donor are used to inseminate a surrogate. In this type of surrogacy, the child who is produced is genetically related to the intending mother while the surrogate has no genetic connection to it.
6. Gestational Surrogacy and Donor (GS+DE): In this form of surrogacy, the child that is born is not genetically related to either the intending or surrogate mother because the egg and sperm used to produce the child is gotten from other people, usually couples who have leftover embryo after completing their cycle of IVF.
7. Gestational and Egg and Sperm Donation (GS+ED&SD): In this type of surrogate arrangement, if the intending parents are unable to produce the egg or sperm, a surrogate can carry an embryonic life created from donated egg and sperm. The child resulting from the activity is not related to the contracting couple or the alternate mother, [but to the donors of the egg and sperm that produced the embryonic life.

¹⁴⁹ Blyth, E. 1993. Children's welfare, surrogacy and social work.

¹⁵⁰ Hasen, M. and Steinberg J. 2011. And baby makes litigation: as surrogacy becomes more popular, legal problems proliferate. *American Bar Association*.

Another uncommon development is the ‘tubal’ surrogacy that embroils the fertilisation of sperm and ovum in surrogate’s fallopian tubes, instead of being fertilised in the petri dish, before implantation, the embryonic life is removed, and transferred to the contracting mother’s womb for gestation. This form of surrogacy, like the full surrogacy, is dependent on technological competence and equipment.¹⁵¹

2.9 Methods of Surrogacy

Three forms of surrogacy are identifiable in Western culture. In the first form, pregnancy occurs when the spouse of an infertile woman impregnates another woman and she bears the child for the couple who hired her services. In the second method, the surrogate is artificially inseminated with sperm provided by the eventual father or a donor (where both couple have irregular genetic make-up). The third method is in vitro fertilisation, which involves a combination of the sperm and eggs provided by would-be parents or donors. The sperm is fertilised in a petri dish to produce embryonic life, which is then transferred into the surrogate’s womb.¹⁵² This method is referred to as gestational surrogacy, while the method make use of the surrogate’s egg is termed “genetic surrogacy.” The complexity of Western surrogacy is that it could make it possible for an individual to have up to five parents; a consequent of which is a web of issues - religious, cultural, social, legal, ontological as well as ethical.¹⁵³

Advances in medicine, biotechnology, and modifications of professional practises snowballed into making surrogate mothering a tolerable arrangement of family formation for many unproductive and involuntary childless individuals.¹⁵⁴ If we take away the first form above, which does not need the attention of the technology, then, we have two possible worlds of surrogacy through reproductive technology; genetic surrogacy and gestational surrogacy. After the British government banned surrogate motherhood arrangements in Britain, Patrick Steptoe, who pioneered IVF alongside the scientist,

¹⁵¹Bromham, D. 1992. Surrogacy: the evolution of opinion, *British Journal of Hospital Medicine* 47:10.

¹⁵² Teman, E. 2010. *Birthing a mother*. 1,3.

¹⁵³ Lanre-Abass, B. 2008. Surrogate motherhood.

¹⁵⁴ See Blyth, E. 1993. Children’s welfare, surrogacy and social work; Niekerk, A. and Zyl, U. L. 1995. The ethics of surrogacy.

Robert Edwards, in an open letter against the ban was the first to educate the government on the difference between commercial surrogacy and altruistic surrogacy, he argues:

A (difference) should be made between surrogacy of the kind arranged commercially ... and surrogacy induced by *in vitro* fertilisation using the commissioning parents' ovum and sperm. The outcome of the second procedure is that the child is the genetic offspring of the commissioning parents, which eases doubts about the status of the child and, probably, the question of the surrogate mother giving up the child.¹⁵⁵

2.10 Surrogacy Arrangements

Speedy advancement in reproductive technology has stretched the possibilities surrogate motherhood engagements. Surrogate reproduction could be accomplished by coitus or artificial insemination, making the substitute mother genetically related to the ensuing child. In circumstances where a woman is unable to gestate an embryo, but has functioning ovaries, *in vitro* fertilisation (IVF) aids her to genetically contribute to the child. On the other hand, a woman could donate an ovum to be inseminated test tubes. In these instances, the surrogate mother gestates the embryonic life, and gives birth to the child, by this she only rents her uterus to the contracting parents. Also, Embryonic Transfer (ET) can be deployed, if a woman is incapable of or indisposed to undergo a pregnancy, but is able to conceive. The embryo can be taken from her uterus and transferred to the surrogate mother's. The reverse could also happen, the surrogate conceives and the embryonic life is transferred into the contracting woman's uterus.¹⁵⁶

In the contemporary society, surrogacy as a method of resolving the infertility problem advances difficult questions on parenthood, primarily motherhood. The problems centre on the weights to be assigned to chromosomal contribution or gestation as platforms of claiming legal and familial relationship to the product of surrogacy arrangement.¹⁵⁷ According to Rothman, recognising the woman who made available the ovum as the

¹⁵⁵ Steptoe, P. 1987. Surrogacy. *British Medical Journal* 294:6588.1688-1689.

¹⁵⁶See Anleu, S. R. 1992. Surrogacy: for love but not for money. Anleu, S. L. R. 1990. Reinforcing gender norms: commercial and altruistic surrogacy. *Acta sociologica* 33:1.

¹⁵⁷Anleu, S. R. 1992. Surrogacy: for love but not for money. 31.

mother equates motherhood to paternity, the role of pregnancy is therefore ignored.¹⁵⁸ Also, it reflects that in surrogate motherhood arrangements, without in vitro fertilisation, the surrogate is the mother, and not the assigning woman. Typically, it is presumed that a child's genetic, legal, and social mother is the same person, but *in vitro* fertilisation, a child can have four mothers. A woman could provide the ovum, another gestates embryo, and gives birth to the ensuing infant, one other can be defined in law as having maternity rights, obligations, and provide nurturing.¹⁵⁹ One commentator has portrayed the developments in this field of medicine as 'reproduction without sex but with the doctor',¹⁶⁰

2.10.1 Forms of Surrogate Motherhood

Diverse forms of surrogate motherhood arrangements exist. There are commercial practices that involve the administration of third parties for profit; this refers to contract agreements that may be commercial or non-commercial. Non-commercial arrangements could include informal arrangements embarked on by close relatives or friends.

However, for Anleu, the peculiarity of saleable and philanthropic surrogacy is not self-evident or natural, but based on dominant sexual role standards, which permeate daily living, and are held by everyone. By everyone reference is to those in the medicinal profession, the mass media as well as men and women who observe social roles as deriving from nature.¹⁶¹ These roles inspire mothering as suitable and expected of women, because they are believed to want children for altruistic and affectionate motives. However, when a woman swerves from the models, and enters into an agreement to hand over her child at birth for monetary compensation, then by gender standards her motherly rights are rescinded, and if she decides to keep the child, she turn out to be a deviant on two levels, first, for entering an arranged relations for the purpose

¹⁵⁸Rothman, B. 1989. *Recreating motherhood: Ideology and technology in a patriarchal society*. New York: Norton. 236.

¹⁵⁹ Anleu, S. R. 1992. Surrogacy: for love but not for money.

¹⁶⁰Price, F. 2005. *Beyond expectations: clinical practices and clinical concerns. Technologies of procreation: kinship in the age of assisted conception*. USA: Taylor & Francis. 29.

¹⁶¹ Anleu, S.Roach. 1992. Surrogacy: for love but not for money. 31-32.

of procreation, second, for reneging on the obligations, consequent of which she might be labelled 'pathetic' and her claim to the child undermined.¹⁶²

2.10.1.1 Commercial Surrogacy

According to Dillaway, commercial surrogate motherhood is a form of third party reproduction, where a woman agrees to become pregnant, maintains, and go through the inconveniences of childbirth for another person or couple for financial advantage.¹⁶³ For Arneson, in commercial surrogacy, a woman is hired and remunerated to carry out the rigor of pregnancy, to deliver a child that would be given to the contracting couple to nurture as their own, and hold parental rights.¹⁶⁴ He went further to make a distinction between partial and full surrogacy. In restricted surrogacy, the surrogate donates the egg that becomes a living being, therefore she is the child's genetic and gestational mother. For full surrogacy, the surrogate is not the genetic mother of the child she is only paid to carry the pregnancy.¹⁶⁵

Commercial surrogacy is rejected for numerous cogent reasons. The arrangement is understood to be a process which views children as commodities that could be subscribed to, and vended as a means to attend the ends of others. Also, it is alleged that the practise directly and indirectly harm surrogates and women in general, it is believed to exploits women that are financially disadvantaged, and reduces the independence of gestational mothers in respect of their pregnancies, making surrogates subservient to the demands of childless couples, and to be obnoxious partakers of too much medication.

Also, the practise of surrogacy does not give women the chance of being receptive of the psychological and emotional experiences during pregnancies, and as well places more encumbrance or pressure on family relations. It could possibly be unsettling for ensuing children in their relationship with intending parents.¹⁶⁶ In addition, commercial

¹⁶² Anleu, Sharyn.R. 1992. Surrogacy: for love but not for money. 31-32.

¹⁶³ Dillaway, H. E. 2008. Mothers for others: a race, class and gender analysis of surrogacy. *International journal of Sociology of family* 34:2. 301-326.

¹⁶⁴ Arneson, R. 1992. Commodification and commercial surrogacy. *Philosophy & public affairs* 21:2.132-164.

¹⁶⁵ Arneson, R. 1992. Commodification and commercial surrogacy.

¹⁶⁶ B. M. Baker, 1996. A case for permitting altruistic surrogacy.

surrogacy arrangements are rejected on the grounds that they are harmful to the society because the practise reduces the positive self-image of females' reproductive capabilities, and the inherent value of children. Again, surrogacy strengthens communal approaches which define women's prominence and community role only in terms of mothering, and that it inspires a market place production model of procreation, thereby injecting much pressure on family relations.¹⁶⁷ According to Field, many surrogacy contracts are rejected on the ground that it is intimidating and manipulative, that it wrongly requires gestational mothers to hand over some legitimate moral claims in relation to the pregnancy and prospective child.¹⁶⁸

2.10.1.2 Altruistic surrogacy

There are instances of surrogate arrangement which do not involve monetary compensations. Many other motives besides money can contribute to a decision to become a surrogate mother, this could occur when a sister, mother or a good friend is involved.¹⁶⁹ The term *altruistic* in connection to surrogacy refers to surrogate motherhood arrangements where the surrogate is not waged for services rendered, but is motivated purely by a wish to help a childless couple to have a child or children they can call their own. Many instances is replete in literature on surrogacy. In South Africa, a 47 year old woman, Pat Anthony, served in the capacity of a surrogate for her biological daughter. The offspring's ovum was fertilised with the sperm of the husband, subsequent embryonic life was transferred into Pat's uterus, and she gave birth to a set of triplets by the time she was 48years. She is the gestational as well as genetic mother of the triplets, because the triplets carry her gene through their mother's ovum.¹⁷⁰ Other examples abound in other parts of the world. There is the case of Linda Kirkman of Melbourne, who gestated a baby inseminated with her sister's eggs. Another woman contributed her

¹⁶⁷ Baker, B. M. 1996. A case for permitting altruistic surrogacy.

¹⁶⁸ Field, M. A. 1990. *Surrogate motherhood*

¹⁶⁹ Field, M. A. 1990. *Surrogate motherhood*. 5

¹⁷⁰ Macklin, R. 2007. Artificial means of reproduction and our understanding of the family. *Ethics in Practise: Blackwell philosophy anthologies*. 3rd Edn. Ed.L. Hugh. Oxford: Blackwell Publishers. 233.

ovum so that her sister could gestate and give birth to her own child. Whatever the motive may be, this is termed altruistic surrogacy.¹⁷¹

The duration of surrogacy contract has been describes as a period of time when a woman's mothering personality is controlled and concluded by a contract.¹⁷² For Prokopijevic, the basic aim of the surrogate arrangement is to make a family complete with through procreation children, and again, probably having in mind the possibility of adoption "making a family complete with children". He further differentiates between surrogacy and adoption. He states that in surrogate arrangement, the child, to some extent, is genetically related to his/her care-giving or social parents.¹⁷³ From the outset of a surrogacy contract, the crucial peculiarity is the intention for contracting couples to be the child's long-term guardian.

2.10.2 Problems of Surrogacy Arrangements

Some challenges that could ensue from surrogacy arrangements are identified by Hansen and Steinberg: First, the publicity generated by surrogacy arrangements has over the years aided the acceptability of the process as a worthwhile substitute to childbirth. However, the authors cautioned that surrogacy might become an ordeal because it is generally unregulated, for the laws are yet to match the pace of advancement in surrogacy arrangements thereby making the procedure a possibly dangerous course for "the rash or unwise"¹⁷⁴.

Second, there is little or no data/record keeping since dependable statistics on the practise is difficult to find, and unfortunately too there is no governmental organisation or private group on the trajectories of surrogacy births, though estimate ranges from a limited thousand to some hundreds in a year. The exact number of babies that have been born through surrogacy cannot be ascertained¹⁷⁵.

¹⁷¹ Macklin, R. 2007. Artificial means of reproduction

¹⁷² Pande, A. 2010. Commercial surrogacy in India.

¹⁷³ Prokopijevic, M. 1990. Surrogate motherhood.

¹⁷⁴ Hansen, M. and Steinberg J. 2011. ...and baby makes litigation. 54.

¹⁷⁵ Hansen, M. and Steinberg J. 2011. ...and baby makes litigation. 55.

Third, there is no guiding law, as such, legal luminaries call for an identical International regulation to govern surrogate contracts. A universal law would prevent potential clients from going to countries with favourable surrogacy laws that inadvertently reduce the negotiating authority of surrogates, and attracts potential parentages all over the world to countries with promise of easy, non-risk transactions that allows agencies to get over the most restricting state laws.

Fourth, the high cost of procurement of surrogacy is another issue. Procured through the assistance of professionals (solicitors, medics, paramedics, and others), a single surrogate procedure costs up \$100,000, which makes it practically impossible for low income infertile couples to access.

The fifth is the removal of maternity insurance from health coverage policies. A lot of health insurance policies eliminate maternal coverage for surrogate mothers, while others reserve the right to seek compensation from the intending caretakers for any maternal benefit remunerated on behalf of the surrogate.

2.10.3 Other Problems of Surrogacy Arrangements: The Problems faced by Physicians and Embryologists

Another problem in the issue of surrogacy arrangement that many writers have not given thought to or are not concerned about is the question of the challenges faced by physicians and embryologists in the cause of carrying out surrogacy. One, some writers who write on surrogacy usually portray this group as monsters that delight in using women's reproductive capacity for experimentation for the sheer sake of it. However, Frances records the challenges some of these physicians and embryology face, one physician said from his experience, infertile women were the most impatient patients in the world; the infertility patient puts the physician under intense pressure because they realized that time for conception was not on their side, they therefore become impatient. He explained further by giving an account of the attitude of some women who came to his clinic for reproductive services:

There is one question you ask of all women first, or one of the early questions you ask How old are you? And the woman will look at you and she'll give you an age. And you write down her date of birth and then you look at it. Before you finish she says, 'Well I'm 34 on my next birthday.' Now that is against women's basic make-up.

What do they do? They try to keep their agedown. The truthful answer to the question is 'I'm 33.' But they *always* say—they will always add a year on...Now that is an interesting point. And it starts, it is the tone of the whole interview. The tone of the interview being the fact that they are really saying to you, look, you know, I'm losing an egg every month, you know. I'm going to stop.¹⁷⁶

He added that he found his infertility clinic 'much more stressful' than his general gynecological clinic. Between one in seven and one in ten couples in the reproductive population search for assistance in their efforts to conceive. Some couples inability to conceive remains unexplained after all the standard diagnostic tests.¹⁷⁷ The factor responsible for such unexplained infertility remains unknown. No physiological or pathological cause can be found for their childlessness. This group of people also put pressure on the physician and scientists to come up with answers to their infertility.

2.11 Motivation for wanting to be a Surrogate

What could possibly make a woman to wish for or desire pregnancy, gestate the baby to term, deliver the baby, only to give the child away? For commercial surrogacy, the answer is not far-fetched, it is greatly motivated by economic circumstances. The action of procreation is viewed as an economic act, which benefits surrogates and the contracting parents. For instance, in the case of Judy Striver versus Alexandra Malahoff, the surrogate was trying to make money for a vacation with her husband.¹⁷⁸

Also, the establishment of agencies that put up advertisement for commercial surrogacy process gives credence to the argument that commercial surrogacy is purely motivated by market relations. Pande corroborates this when she writes on what obtains in India. She reiterates that surrogate motherhood has become a money making subsistence scheme, a temporary occupation for many women hired steadily through fertility clinics, and connected to clients from other parts of the world.¹⁷⁹

However, for Baker, surrogates are driven by compassion for the infertile couple, especially the infertile woman, and because they find the practise of procreation of

¹⁷⁶ Price, F. 2005. *Beyond expectations*. 31.

¹⁷⁷ Price, F. 2005. *Beyond expectations*. 32.

¹⁷⁸ Field, M. 1990. *Surrogate motherhood* 1,5.

¹⁷⁹ A. Pande. 2010. *Commercial surrogacy in India*.

significance in their own lives, so they yearn to support others partake of the worthy involvement.¹⁸⁰ Arguably, surrogates discern the practise of motherhood to be a spring of pleasure, self-confidence and control, for they derive happiness and heightened nous of dignity from carrying out a task of remarkable value. Thus, a number of the surrogates desire to reprise the practise of reproduction.¹⁸¹

Tieu of Southern Cross Bioethics institute contends the view that the motivation underlying decision to become a surrogate for another woman could just be purely altruistic. He expresses the view that often surrogates justify their decision to become substitute mothers with verbal reports that repeatedly reflect socially accepted norms. However, other reasons are beneath their action, some engage in surrogacy because of guilt, low self-esteem, and moneymaking. The choice to be a surrogate is grounded on a multifaceted variety of reasons, and emotional temperaments that are kept from public glare.¹⁸²

M. M. Tieu further counsels that in the context of altruistic surrogacy many questions must be asked. The question must be asked if a close relative or friend contemplating to be a substitute mother is doing so with genuine informed consent, or she wants to be a surrogate for her relation or friend because of coercion, subtle or explicit. Is she aware of the psychological impression of handing over a baby she has carried in her womb for months would have on her? Could she explain the process, comprehend all details about pregnancy complications, and hazards connected with pregnancy beforehand? Does she understand the technology involved, the emotional implications for her, and the child she would carry? And lastly, can she say whether the terms of the contract has complex implications for future relations? Has she considered the wider moral consequences of her action on the community at large?¹⁸³ For, Tieu then, surrogacy is bedevilled with many uncertainties.

¹⁸⁰ Baker, B. M. 1996. A case for permitting altruistic surrogacy. 35.

¹⁸¹ Baker, B. M. 1996. A case for permitting altruistic surrogacy. 39.

¹⁸² Tieu. 2009. Altruistic Surrogacy: the necessary objectification of the surrogate. 171.

¹⁸³ Tieu, M. M. 2009. Altruistic Surrogacy.

2.12 Surrogacy and Adoption

The mutual issue in the practice of surrogacy and adoption is that both are ways people obtain children. However, while the former is concerned with manufacturing of children for infertile couples who desire to have biologically related offspring, legal adoption involves making arrangements for homes for children that are already living but need parents. In other words, in adoption or foster-parenting, a child is readily available, and the major challenge is to find a caretaker (or caregiver) who will take care of its essentials and welfare. In surrogacy children that would otherwise not have been are generated to satisfy the desires of childless couples.¹⁸⁴

The process of adoption in many countries is governed by instructive institutions, which are recognised largely by a progression of regulations that have little appreciation for the position, aspiration and benefits of the adopting parent, importance is usually on the interest of children. Adoption is targeted at attending to the necessity of children who have the misfortune of not having anyone to take care of or bring them up. Thus, adoption is primarily established to deal with the societal problem created with the presence of orphans and unwanted children.¹⁸⁵ The need of childless couples is secondary as far as adoption is concerned, it is clearly established that the concern of the adopting facilities must be the welfare of the child. On the other hand, surrogacy arrangements apparently have the interest of the infertile or commissioning couples as the primary concern. Surrogacy practise would not have existed, if the infertile couple do not desire to have a child.¹⁸⁶

2.13 Conclusion

So far in this chapter, the discussion have shown that though most couples desire to have genetically related children, this at times is impossible as a result of infertility. The chapter highlighted some of the causes of infertility, and how people, through the ages, have tried to overcome this unwelcomed situation. More importantly, the chapter considered how developments in reproductive medicine have greatly helped infertile

¹⁸⁴ See Baker 37 and PageDonation, surrogacy and adoption. *Journal of applied Philosophy* 2:2.

¹⁸⁵ E. Page. 1985. Donation, surrogacy and adoption.

¹⁸⁶ Page, E. Donation, surrogacy and adoption.

couples to overcome the huddles of childlessness through technology. It examined the concepts of surrogacy, the etymological definition of surrogate is derived from the Latin word *surrogatus*. By inference, any reproduction outside of coitus falls under surrogacy. Instances of surrogacy arrangements in both Western and non-Western cultures, were examined. This chapter also examined the on-going debate on surrogacy with a strong note of caution. Comparison was made between surrogacy and adoption, and the chapter concluded with some problems physicians and biologists encounter with potential clients for fertility treatments.

CHAPTER THREE

SURROGACY AND THE PRACTICE OF *ABÁNIBÍMỌ* IN YORUBA SOCIETY

3.0 Introduction

The preceding chapter examined the idea of surrogacy, that is, Western surrogacy. The present chapter focuses primarily on a comparative analysis of two different models of motherhood: surrogacy and *abánibímọ* arrangement in the Yorùbá society. Before we draw out the similarities and differences in these two modes of motherhood, it is pertinent to conceptualise the terms ‘motherhood’ and *abánibímọ*, considering the fact that surrogacy has been carefully explained in chapter one of this study. It is also important to instantiate how the *abánibímọ* arrangement works in Yorùbá land. The chapter shall examine the idea of marriage in Africa, more specifically among Yorùbá, the value of children in marriage, and some means to resolving the problem of infertility, in the pre-colonial and modern society. Also, the chapter is devoted to a critical understanding of the reasons why the *abánibímọ* arrangement is preferred in Yorùbáland to Western surrogacy.

3.1 Surrogacy and *Abánibímọ* arrangement among the Yorùbá

Surrogacy and *abánibímọ* are two kinds of motherhood practiced in different climes of the world as a consequence of infertility. There is no gainsaying that physiological differences exist between the male and female beings. Each have certain reproductive organs that are distinct to them.¹⁸⁷ It is the female distinctive reproductive organs, the womb and breast, for example, that make women mothers. Therefore, in any discourse on motherhood, the female gender is in focus.

African scholars such as Oyeronke Oyewumi have argued against the existence of streak of sexual role differentiation in Yorùbá culture, and language. Hence, social institutions

¹⁸⁷Bewaji, JAI. 2012. *Narratives of struggle: the philosophy and politics of development*. North Carolina: Carolina Academic Press.212.

and practices among the Yorùbá do not make social distinction in terms of anatomical differences.¹⁸⁸ Oyewumi contrasting European languages, where there exists male dominance or superiority, and where the class 'female' is often marked as supplementary to male, among the Yorùbásexual role differences only arise in terms of *anatomical sex difference*.¹⁸⁹ Arguments on male/female distinctions notwithstanding, one of the essential features of women world over is the ability to procreate and care for children. Some feminists such as Iris Murdoch and Sara Ruddick have argued that women have often been trapped by the burden of mothering, and that women should refuse to become mothers.¹⁹⁰ Others, however, view motherhood as a distinctive priority for women.¹⁹¹ Subsequently, we shall examine the concept of motherhood.

3.1.1 Motherhood

According to the *Oxford Dictionary of Sociology* motherhood is a word that encompasses everyday realities and collective meaning of being a mother. Maternity is an intricate role, a pact of responsibilities and varying degrees of emotions.¹⁹² It is also believed that mothering is a communal phenomenon that requires complete devotion, enclosing women's need, interest, and desire as sacrifice.¹⁹³ Lindsay discusses the pressures faced by women before becoming mothers. She reports that starting from when a woman was a child, direct and indirect messages are imparted on the girl child by the parents and other institutions in the society, indicating that her maternal destiny has been predetermined.¹⁹⁴ As a female child matures, such messages continue until adulthood, and are ingrained in the being of the girl child. According to Eva Steiner, for Professor Seriaux, motherhood is an unalterable state of being in that the association that exists

¹⁸⁸Oyewumi Oyewumi. 1997. *The invention of women: making an African sense of Western gender discourses*.

¹⁸⁹Oyewumi, O. 1997. *The invention of women*.

¹⁹⁰Grinshaw, J. 1986. *Feminist philosophers: women's perspectives on philosophical traditions*. Brighton, Sussex. Wheatsheaf books. 227.

¹⁹¹Grinshaw, J. 1986. *Feminist philosophers*.

¹⁹²Grinshaw, J. 1986. *Feminist philosophers*.

¹⁹³Grinshaw, J. 1986. *Feminist philosophers*.

¹⁹⁴Lindsay, 1997. *Gender roles: a sociological perspective*. New Jersey: Prentice-Hall INC.

between a child and its mother is an ontological relationship.¹⁹⁵ Then, it is the case that the act of carrying a child in the womb by a woman, for the purpose of handing it over to others constitutes an alteration of the connection between a child and its mother.¹⁹⁶

For the African, women in particular, the belief is that the essence of living and the height of womanhood is the attainment of motherhood.¹⁹⁷ Motherhood is a state every African woman looks forward to, with mothers seen as the indispensable building blocks of social relations, identity and family stability. They are also the symbols of familial ties, unconditional love and loyalty.¹⁹⁸ In Africa at a large, motherhood contributes to a woman's being or social worth. The woman's prospect of having a foothold, an increase of authority and effect in the connubial household is heightened by being a mother. Motherhood confers respect in the Yorùbá culture. In a predominantly patriarchal domain such as the Yorùbá society, motherhood, to a large extent, confers matriarchy on a woman.¹⁹⁹ With length of time in the family, an *iyawó* (wife), in the Yorùbá culture becomes *iyá-ilé* (mother of the household).

A Yorùbá woman's role as a mother overshadows her prominence as a wife.²⁰⁰ Mothers are appreciated as creators, nurturers and goddesses. They are also believed to inspire fear because of their capacity to either give or destroy life during delivery.²⁰¹ Maternal principles are emphasised and praised in the Yoruba society where it is believed that *Ikunle Abiamo* (the agony that accompanies labour and child birth) confers spiritual privileges on a mother. In other words, in Africa and Yorùbá society in particular, biological motherhood is highly valued because of the power, influence and prestige it bestows on a woman. The process of child delivery is especially perceived as a sacred and powerful spiritual path. That is aptly captured in the Yoruba sayings such as *iya*

¹⁹⁵Steiner, E. 1992. Surrogacy arrangement in French law. *The International and comparative Law Quarterly*41:4. 867.

¹⁹⁶Steiner, E. 1992. Surrogacy arrangement in French law.

¹⁹⁷ Lanre-Abass, B. 2008. Surrogate motherhood.

¹⁹⁸ Oyewumi, O. 2003. Abiyamo: Theorising African motherhood.

¹⁹⁹Olurode, L. Ed. 1990. Women social change and the perception of gender roles. *Women studies and social change*. Unity Publishing and Research Co.

²⁰⁰Lanre-Abass, B. 2008. Surrogate motherhood. 51.

²⁰¹Lanre-Abass, B. 2008. Surrogate motherhood. 53.

niOlorun eni (one's mother should be seen as his/her thin god) and *iya ni alabaro omo* (mother is a child's closest companion/confidant).²⁰²

As Nzegwu observes, the core of a mother's power, influence and prestige, is the ability to house a foetus in the womb during its helpless state of life. She wills the child into being and sustains him/her throughout the period of gestation. All human beings once travelled the confinement canal of a woman, and were delivered through the mother's reproductive organ. Therefore, this explains why both genetic and gestational factors define motherhood in the African culture. In this wise, it is held among the African that no one could be superior to mothers, since every human was born by a mother.²⁰³

Furthermore, she argues that:

The African ideology of motherhood constitutes the basis for compelling obedience from everyone ... The power of 'motherhood' covers a range of activities that continue after birth. Breast milk, for example, provides the first nourishment in life ... early human life is tied to lactation milk, mothers possess ... exclusive power of life and death over children. The fundamental nature of these maternal tasks constitute the basis from which mothers command allegiance from their children.²⁰⁴

It is a fact that among the Yorùbá, having children is an essential part of being a female; because it confers motherhood on a woman, unlike the Western society where adoptive rather than biological motherhood confers motherhood on a woman. A Yorùbá woman does not consider herself to be a real mother unless she participates in motherhood.²⁰⁵ Also, in many African cultures, the indices of motherhood is used to define womanhood. As a result of this, maternity is a prerequisite for social acceptance in many African cultures, lots of infertile women experience feelings of rejection and low esteem. Because they know that it cannot be said of them that: *bi'na ba ku, afi eeru b'oju, bi ogede ba 'ku, afi omo re ropo, bi abaku omo eni ni w'ole d'eni* (after fire is put out it is replaced by ashes; a rotten plantain is replaced by its young specie- a person's child

²⁰²Lanre-Abass, B. 2008. Surrogate motherhood.

²⁰³Nzegwu, N. 2004. The epistemological challenge of motherhood to patriliney. *JENDA: A journal of culture and African women studies*, 5.

²⁰⁴Nzegwu, N. 2004. The epistemological challenge of motherhood to patriliney

²⁰⁵See Lanre-Abass, B. 2008. Surrogate motherhood; Motherhood and maternity: history, religion and myth.

replaces him/her when they cease to exist). However, for the sake of *alajobi* (kindred spirit), the people desire that no one dies childless; and in the consciousness of this, the Yoruba people always try to help the barren to find a way to procreate. The people believe that a person should not *kú akúrìn* (die without leaving a successor/child) (considering their belief in the cyclical nature of the soul). Therefore, the emergence of the *abánibímọ* practice, which is the focus of examination in this study.

3.1.2 Surrogacy

Surrogacy is a contract based reproductive arrangement that involve different parties, the intending father, the agent, and the substitute mother. Usually, the intending father pays a solicitor or fertility clinic to find a suitable substitute mother, and make necessary medical and legal arrangements for the conception, birth, and onward assignment of legal custody of a child to him. After she agrees to be fertilised by intending father's sperm, or implanted with the embryonic life fertilised in a petri dish, the surrogate carries the resultant child to term, relinquishes her maternal rights by transferring custody of the child to the pater in exchange for a payment, and other expenses.²⁰⁶ The alternate *mama* and her husband, if she is married, would both come to an agreement to form no bond with the child, but to do everything requisite for an effective handing over of the baby to the anticipated father or parents.

In the analysis of surrogacy in chapter one, we posited that any form of reproduction that involves technology or a third party arrangement is surrogacy, given the etymological definition of the term as something that is “put in another's place” or to “substitute” something. Hence, whichever method of reproduction that contrast coital connection between the man and the woman, such as egg donation, *in vitro* fertilisation (IVF), and the related technologies of zygote intra-fallopian transfer (ZIFT) is surrogacy. Any of the above mentioned practises could involve some sort of market interplay or be done altruistically, as already mentioned.

3.2 Surrogacy in Africa

Surrogate motherhood is not strange in the African continent, but it is different in form and content from what has been developed in western medical practice. In the Igbo of

²⁰⁶ See Anderson, E. 2007. “Is women's labour a commodity?” and Lanre-Abass, B. 2008. Surrogate motherhood. 45.

culture, for instance, it is permitted for a barren widow to marry a young woman into the family to beget children on her behalf for the late husband. This is accepted because the philosophy of the Igbo, which T.U. Uwala describes as being “traditional and customary”, is pragmatic and geared towards solving existential hurdles of everyday life and the general welfare of the community.²⁰⁷ This is similar to what occurs through the initiation of woman – woman marriage by the Gikuyu people of Kenya. The woman-woman marriage is often initiated by a widow who is above middle age, and needs companionship and support for domestic chores which extends to cultivation of crops, to having children that would intensify effervescence in the home.²⁰⁸ Warimu and O’Brien corroborate this when they initiate reasons for woman-woman marriage as follows: for company in order to avert loneliness, for remembrance subsequent to demise, to have children that would make the household lively, to realise communal obligations in harmony with ethnic divine dogmas, and to circumvent determined dominance of male spouses in a powerfully patriarchal social ordering, because in Africa, men have control not only on their wives behaviour, but on the household finances as well.²⁰⁹

The Practice of Surrogacy in Nigeria

As with many other African countries, surrogacy is also a common practice in Nigeria. Whether it is the traditional/local form, or the *abanibimo* type, surrogacy is a common experience in the country. The reason why some people believe that surrogacy is a western phenomenon is because in Nigeria, it is usually shrouded in secrecy. In truth, to get to know the reality of surrogacy, one would need to be inquisitive, seek information from the elders who are usually the custodian of local culture. It is from these hoary ones who are white with age that knowledge of traditional practices are usually gotten. The researcher was wont to commit the fallacy of *argumentum ad ignorantiam*(appeal from ignorance) until she commenced this study and got in contact with people who were involved in the *abanibimo* arrangement themselves. Concerning the issue of

²⁰⁷ Uwala, T. 1985. *Igbo philosophy*, Lagos: Lantern Books. 7.

²⁰⁸ Rutere, M. A. M. 2010. Agikuyu female circumcision and woman-woman marriage in engaging patriarchy. A paper presented at the *International Research and Development Institute* conference held at the Conference Centre, University of Ibadan, 6th-7th October, 2010. 4

²⁰⁹ Njambi, N. W. and O’Brien, W.E. 2007. Revisiting woman-woman marriage: notes on Gikuyu women. *NWSA Journal*, 12:1. 6.

“technologiesd” surrogacy in Nigeria, Olanike Adedokun enunciated on family law and surrogacy in Nigeria in her article titled: *The concept of surrogacy in Nigeria: issues, prospects and challenges*. She maintains that there are gaps in family laws in Nigeria, in relation to surrogacy.²¹⁰ One of such gaps is that there are no regulations in the family law that capture in Nigeria the practice of surrogacy.

3.3 Marriage in Africa

At this point in this thesis, it is important to discuss some essential features of marriage as found among Africans. Usually, in Africa, the expectation is that procreation should only take place within the marital setting. However, as it sometimes happens, the problem of infertility usually arises in the marriage union. Infertility cannot be discussed among would-be suitors or couples, but between married couples.

Marriage has been described as the coming together of a man and woman, who to all intent or purpose, are joined together for procreation. According to J. S. Mbiti, for the African people, without exempting the Yorùbá, marriage is the centre of all existence; it concerns everybody in the family, it involves the living, the dead and the unborn.²¹¹ At this point all members of the family meet. All ranges of period meet here, the theatre of antiquity is reiterated, rehabilitated, and revitalised. The marriage institution is a production that all and sundry has a role to play, and not just a spectator. According to Odetola and Ademola, marriage is a religious obligation through which individuals contribute spores of lifetime to, it is an event of man’s tussle touching the forfeiture of initial immortality.²¹² A careful consideration of what Paul Kyalo stated as “the kernel”

²¹⁰ Adedokun, O. S. 2018. The concept of surrogacy in Nigeria: Issues, prospects and challenges. *African Human Rights Law Journal* 18. 604-624.

²¹¹ See Mbiti, J. S. 1970. *African religions and philosophy*. Anchor Books Doubleday & Co. 174. Nze, C. B. 2007. African marriage and individual integrity. *Perspectives on African communalism*. I. Odimegwu Ed. Canada: Trafford Publishing. 605-607.

²¹² Odetola, T. O. & Ademola, A. 1985. *Sociology: an introductory African text*. Low cost edition. Macmillan. 106-107.

of marriage, the ingredients that make marriage effective. One would have a more vigorous appreciation of marriage in Africa.²¹³

Hendrix, on marriage systems in African opines that marriage is multifaceted with delineations. This is reflected in the different meanings given to it across cultures in African societies. In many African society present in marriage is an anticipation of perpetuity, co-residence, and labour, sharing resources, sensual relationship, and cooperation in procreation and training of children in marriage.²¹⁴ Marriage is an avenue where a male and female partners come together to develop a union for procreative purposes. Oftentimes, it is echoed that marriage in African is effected majorly for this reason. Consequently, in African context, a childless marriage is viewed with much dismay, and the childless look for all means possible to remedy the intolerable situation. Certain necessities and customary observances have to be fulfilled for any marriage to be permissible.²¹⁵ Magesa adds that:

... the communities involved share their very existence ... they become one people ... Africans themselves would put it that through their marriage, their families and clans are also united so that what is done to one of their members is done to all. By this gesture, marriage also means that the partners' responsibilities are not limited to them alone ... Their own personal identity and identification are ... extended²¹⁶

Identifiable among Africans are different important characteristics of marriage. One, it serves as a medium of allocation of lawful privileges of a female from her kinfolks to her spouse. By so doing the man achieves privilege over the wife's labour, sexuality and offspring. Also, the man has the privilege to collect reimbursement for any injury done to

²¹³Kyalo, P. 2014. A reflection on African traditional values of marriage and sexuality. *International Journal of Academic Research in Progressive Education and Development* 1:2. 213.

²¹⁴ Hendrix, L. 1996. Marriage. *Encyclopaedia of Cultural Anthropology*. Vol. 3.

²¹⁵Ayisi, O. E. 1997. *An introduction to the Study of African Culture*. Nairobi: East African Publishers.

²¹⁶Magesa, L. 1998. *African Religion: moral tradition of abundant life*. Nairobi: Pauline. 110.

the woman by others. In several societies, the weight of the bride price by the husband determines the level of his rights to the wife's children, if he paid the full bride price, he gets unlimited access, but he receives limited access if he makes insignificant payment. Two, in Africa matrimony modifies or breaches the relationship of the wife and her close relatives. Usually, the lady move out of her fathers' abode, and their family membership is reduced by a number, whereas the man's family gains an addition into their household, and there is less disruption. Third, most cultures in Africa understand marriage not only as a relationship between two individuals, but an affair, essential association and covenant amongst two families or group of kin.²¹⁷

3.3.1 Marriage among the Yorùbá

In traditional Yorùbá society, marriage is an element of unification of both husband and wife's family, and not just the concern or affair of the individuals. As a result of this, families usually investigate the background of the family to which their children will be married. Families like to be convinced that there is no dangerous disease such as leprosy, epilepsy, insanity and tuberculosis in the family; and that such family is not noted for debts, murder, evil, magic, stubbornness and any other vice. Families will also find out whether or not the families of both husband and wife are related in anyway (so as to avoid inbreeding, and avert infertility).²¹⁸

In the past, parents ensured that their children got the right partners by deciding for them. They had more experience, and more knowledge of the family into which their sons and daughters would be married. Some parents betrothed their daughters while they were still very young and ignorant of what their parents were doing. The prospective husband of such a girl might also be young, and at times he could be very old. And when the girl or couple came of age, the arrangement made by their parents could not be revoked.²¹⁹ However, today things have considerably changed. A man and a lady now talk about marriage without reference to their parents first. It is after they have agreed on getting married that they introduce their intending partners to their parents. Also, the practice of betrothing a daughter when she is still very young is not a common phenomenon among

²¹⁷See Hendrix, L. 1996. Marriage; Awolalu and Dopamu; Kyalo. 2012. A reflection on African traditional values of marriage and sexuality.

²¹⁸J. O. Awolalu, and Dopamu, P. A. 1979. *West African traditional religion*. 178.

²¹⁹Awolalu, J. O. and Dopamu, P. A. 1979. *West African traditional religion*. 178.

the Yorùbá in the present age. There are some aspects of marriage within the traditional setting that still persist. One of such is the practice of getting *Alarina* – a go between or intermediary.²²⁰

The *Alarina* may be a man or a woman who knows the family of the girl. S/he is chosen by the parents of the boy to convey their message to the parents of the girl and to let them know their intention to marry their daughter to their son. The *Alarina* will bring back words from the parents of the girl. The parents of the girl will investigate the family into which their daughter would be married, after which they will consult the oracle to find out whether the union will be fruitful and peaceful. After consultation with the oracle, the parents of the girl will give their consent to the union through the *Alarina*. The boy will go to the homestead of the girl with *owo ibasọ* “money to initiate talking together”. The girl receives the money in order to initiate discussion between herself and her suitor. The money is usually delivered to the girl personally by the boy, and not through the *Alarina*. Once the boy and girl get talking, the work of the *Alarina* is less. He only intervenes when there is disagreement or misunderstanding between the would-be couple. That is why the Yorùbá would say: “*Bi ọkọ ba mọọju aya tan, Alarina ayẹba*” meaning that “when the husband gets acquainted with his wife, the go-between must step aside.”²²¹ Marriage among the Yorùbá is handled with all seriousness such that everybody concerned endeavours to discharge their responsibility so as to maintain the sanctity of the marriage institution.²²²

Females' position in precolonial Yorùbá culture depends on their condition as daughters in the father's ancestry, and wives in their spouse's lineage. Yorùbá considered marriage a necessary condition of adulthood. Every young woman or man was expected to marry at an applicable age, ladies, when they are twenty years, and males at age thirty. Marriage, first and foremost represented a union between families. A woman's responsibility in the family that she is married to lasted a lifetime, covering beyond the demise of her initial husband, because if the husband dies the wife is bequeathed to one of the husband's brothers or sons (not her genetic son). Johnson delineated four types of marriage: (1)

²²⁰Awolalu. and Dopamu. 179.

²²¹Awolalu and Dopamu. 179.

²²² Schwab, W. B. 1958. The terminology of kinship and marriage among the Yoruba. *Journal of the International African Institute* 28:4. 301-313.

traditional betrothal, marked by the interchange of bride price or services by the would be spouse; (2) levirate, the widow is bequeathed to a male relative of the deceased husband; (3) mutual consent between a woman and man in a union that was recognised by the man's family (usually involving widows who refused to remarry a deceased husband's relative, war captives, slaves, or redeemed slaves); and (4) gift marriage, there is no interchange of bride price or services (a practice found among Muslims).²²³

Any one of these marriage contracts conferred control over a wife's labour and her children by the husband and his family. According to oral tradition, divorce seldom take place in the precolonial era, for a family to allow for divorce, it must have exhausted all avenues of reconciliation. Accepted reasons for termination of connubial encompassed insanity, barrenness of couple, protracted diseases, slothfulness, indebtedness, and wickedness.²²⁴

3.4 Value of children in marriage among the Yorùbá

Expectedly, Yorùbá people attach much importance to child bearing in marriage. *Ọmọ*, (offspring) is extremely important to the Yorùbá people, for the reason that children gives the assurance of continuity of family or lineage, while childlessness is an extinction signal of a family or lineage. Therefore, the importance of children is replete in several Yorùbá sayings and songs. Some of which are:

" <i>Ọlómọ ló layé</i> "	Those who have children possess the world
" <i>Ọmọ ní adé orí</i> "	Child is a crown used to adorn the head
" <i>Ọmóboriowo</i> "	Child takes precedence over money
" <i>Ọmolaso ayé</i> "	Child is the cloth of the world

Like many other African societies, Yorùbá people set top priority on communal relationships. There is great sense of belonging, or identification by known groups within the community, an insulated man or woman, and anyone who defies categorisation is

²²³See S. Johnson. 1960. *The history of the Yorubas: from the earliest time to the beginning of the British protectorate*. London: Lowe and Brydone Printers Limited. Denzer, L. 1994. Yoruba Women: A histograhical study. *The International Journal of African Historical Studies* 27:1. 3-4.

²²⁴Denzer, L. 1994. Yoruba Women.

observed with misgiving as an unsociable person.²²⁵ Addition to appropriate social groups is acquired in a diversity of methods, the most momentous for females is child birth. Having offspring not only enable persons, families (nuclear and extended), and lineages perceived important, but also to attain the required status.²²⁶ A person achieves the veracious to be counted as a parent, regarded as a responsible person, and perhaps enter into the domain of ancestors after death, because he/she has the capacity for child bearing.

The family grows, is assured of continued participation in the human race, and cannot be relegated to the background in the community, with the birth of children. There are many local festivals in towns and villages which emphasise the value of children and motherhood. One of such festivals is *Odun Oba* (King's festival) in Ondo town that symbolises prosperity. All women fasten their children on their backs, those with older children substitute them with dolls. Usually, the King's household take part in the processions and rituals. Childless women are not allowed to participate in the festival.²²⁷

Unfruitfulness in marriage is not just perceived as a misfortune, but as a curse too, since this signifies that the couple has done nothing to contribute to the continuity of the lineage, by extension the general society. A barren woman is, no matter her level of wealth, fame or prosperity, considered a shame to her race. That is the reason almost every woman who finds it difficult to conceive seeks to get children by all means, even from impossible and unimaginable quarters. She, sometimes, consults the oracle to find out whether an ancestor is angry and, as such, preventing her from becoming pregnant, or a witch or sorcerer is standing in her way of conception, or a certain divinity is persecuting her.²²⁸ To remedy her childlessness, a woman confessed that she was asked to put on her back a live goat and walk through the market, singing lullaby for the goat, as for an infant, in day light. Her regret was that after participating in this dehumanising activity, her barrenness persisted.

²²⁵ Pearce, T. 1999. She will not be listened to in Public: perceptions among the Yoruba of infertility and childlessness. *Reproductive health matters* 7:13.

²²⁶ Pearce, T. 1999. She will not be listened to in Public. 75.

²²⁷ Ibid.75.

²²⁸ Awolalu and Dopamu, 1979. *West African traditional religion*.

3.5 Infertility in Yoruba society

The traditional Yorùbá society like many other societies believe that infertility is a problem. This can be attested to by some verses of the *Ifá* corpus, such as the *Esèkanólá Irètẹ̀ Òtúrá*. The verse depicts the way people struggle or try to grapple with the problem of infertility. The story in the *Ifá* verse above is of a king who married four wives, all of whom remained barren until the king courted the senior wife's (*Ilẹ̀gìrìgìrì*) indentured slave (*Àróòjo*). The slave lady eventually became pregnant and was in the course of time delivered of a baby boy by the senior wife, who out of sheer jealousy dumped the boy in the forest. A hunter who secretly witnessed the act later took the child to the king, and the king gave him charge over the boy. The mother of the child went in secret every day to breastfeed her child in the hunter's house. The third year after the birth of the boy, the king called for a solemn assembly of all the people in his household. The boy was placed in the midst of the gathering, and the king's wife, *Ilẹ̀gìrìgìrì* was asked to identify the child, but she could not. The king then asked the boy to go to his mother; the boy went to *Àróòjo*, the slave lady. The senior wife was killed, her position and all that she had was given to *Àróòjo*, and the boy became the heir apparent.²²⁹

Another verse of the *Ifá* corpus, among many others, that support the claim that infertility is an ageless problem that men and woman have had to contend with is *Òfún Òkànràn*, where a person is asked to make sacrifices to be able to obtain solution to her childlessness. The verse goes thus:

<i>Agogo ní ñ ró pe pére</i>	Assemble yourselves is the sound of the gong
<i>Arán gẹ̀jẹ̀ ní ñ ró mọ̀ kọ̀mọ̀ jọ̀ mọ̀ kọ̀mọ̀ jọ̀</i>	<i>Arán gẹ̀jẹ̀</i> sounds I will gather children
<i>A diá fún Kóórì</i>	Cast divination for <i>Koori</i>
<i>Èyí tí ñ fomi ojúu sògbéré ọ̀mọ̀</i>	The one crying because of children
<i>Òun le rọ̀mọ̀ bí báyii?</i>	Would I have children is the question she asked <i>Ifá</i>
<i>Wón ní ó rúbọ̀</i>	They told her to perform sacrifice

²²⁹A. Salami. 2002. *Ifa a complete divination*. 807-810.

Wón ní àgbébò adìẹ lẹbo

Lò bá pa adìẹ fúnra ẹ

Ñbẹ náà ló ti sè é

Ñbẹ náà ló ti jẹ é

Kò rọmọ kankan bí

Ó tún dẹ̀ẹ̀kẹ̀jì

Ó tún pa adìẹ

Ó tún dá a jẹ

Kò rọmọ pìnn

Nígbà ó dẹ̀ẹ̀kẹ̀ta

Ó bá lẹ̀dò Ọ̀rúnmilà

Họ̀wù!

Wón nì kóun ó fì àgbébò adìẹ rúbọ lẹ̀kíníni

Ọ̀n fì rúbọ lẹ̀ẹ̀kẹ̀jì

Wón sí ní àwọ̀n ọ̀mọ́ n̄ tẹ̀lé ọ̀un kírì

Ọ̀rúnmilà níwọ kóórì lò seun

Ò n̄ pa adìẹ

O sí n̄ dá a jẹ

Ọ̀rúnmilà ní kí Kóórì ó lẹ̀dò fì ídodo

kan ògírì

Lẹ̀nu ibi tí idodo ẹ̀ bá ga mọ́ lára ogírì

kó sàmì síbẹ̀

kó wáa pa adìẹ mún

kó mú ẹ̀jẹ adìẹ ọ̀hún

kó fì yí ojú àmì ọ̀hún

A matured hen is the sacrifice

She killed the hen herself

On the spot where she cooked it

It was on the same spot where she ate it

She got no child

She came calling the second time

She killed another matured hen

She ate the hen by herself

She found no baby

Therefore, on the third occasion

She went to consult Ọ̀rúnmilà

‘Why has these misfortunes beclouded me?’

She asked

‘They told me to sacrifice a matured hen each on two previous occasions’

‘I offered it’

‘And they told me that children are following me around’, *Koori* said’

‘You are the one that did not follow the instruction given to you’, Ọ̀rúnmilà replied

‘You killed all the animals mandated for you

‘You ate it alone’

Ọ̀rúnmilà then told *Koori* to use her navel to touch an upright wall

The height to which the navel reaches on the wall

‘You should mark that spot’

‘You should then kill another hen

‘Collect its blood this time around’

‘And use it to smear the spot of the navel mark

<i>kí èjẹ̀ adìẹ̀ ó wáá sà̀n wá̀lẹ̀</i>	‘Such that the blood would drip down through the trace from the mark’
<i>kó sí ta epo díẹ̀ sí ojú ibẹ̀ náà</i>	You should also smear some red palm oil on the same spot
<i>Òrúnmìlà ni kó mọ̀ jẹ̀ ñbi adìẹ̀</i>	You must never eat out of the chicken, Òrúnmìlà said
<i>Òrúnmìlà ní tí ó ba ti jẹ̀ ñbẹ̀</i>	Once you do not eat out of the chicken
<i>Àwọ̀n ọ̀mọ̀ ó tẹ̀le</i>	The children would come to you
<i>Kóórì bá ẹ̀ bẹ̀</i>	<i>Kóórì</i> did as instructed
<i>Ó bá kó gbogbo àwọ̀n èyàn jọ</i>	She assembled people
<i>Kò jẹ̀ ñmù ẹ̀</i>	She did not taste of the chicken
<i>Ọ̀mọ̀ bá dé</i>	The babies then started to come
<i>Kòòrì bímọ̀ yè</i>	<i>Kóórì</i> had a successful childbirth
<i>Ní bá ñ jọ ní ñ yò</i>	She then started to dance and rejoice
<i>Ní ñ yin àwọ̀n Babaláwo</i>	She was praising her <i>Babaláwo</i> s
<i>Àwọ̀n Babaláwo ñ yin Ifá</i>	Her <i>Babaláwo</i> s were praising <i>Ifá</i>
<i>Ó ní bẹ̀ẹ̀ lawọ̀n Babaláwo tòún wí</i>	She said it was as her <i>Babaláwo</i> had said
<i>Agogo ní ñ ró pé pére</i>	Assemble yourself in totality is the sound of the gong
<i>Àràn gẹ̀jẹ̀ ní ñ ró mọ̀ kọ̀mọ̀ jọ̀ mọ̀ kọ̀mọ̀ jọ̀</i>	<i>Àràn gẹ̀jẹ̀</i> sounds I will gather children
<i>A díá fún Kóórì</i>	Cast divination for <i>Koori</i>
<i>Èyí tí n fomi ojúú sògbéré ọ̀mọ̀ ...²³⁰</i>	The one crying because of children

There are many other *Ifá* verses which discuss infertility and the efforts made by the barren or infertile to procreate. The verses include: *Ogbe Odi*, *Ogbe Okanran* and *Ogbe Irosun*, The last of the three is about a person who was instructed to offer some sacrifices by a diviner. She did as she was told and later became the mother of children. The verse goes thus:

<i>Ọ̀kan pọ̀</i>	Ọ̀kan pọ̀
<i>Babaláwo Agogo ló díá fún agogo</i>	The <i>babaláwo</i> of the gong casts divination for the gong

²³⁰Salami, A. 2002. *Ifa a complete divination*

<i>Eji gbòngàn gbòngàn</i>	<i>Eji gbòngàn gbòngàn</i>
<i>Babaláwo Àjilà ló díá fún Àjilà</i>	The <i>babaláwo</i> of <i>Àjilà</i> casts divination for <i>Àjilà</i>
<i>Mo rú wẹ̀rẹ̀</i>	I sacrificed in quantities
<i>Ó dà wẹ̀rẹ̀</i>	It proved efficacious in quantities
<i>A díá fún Ọ̀ṣin Gàgààgà</i>	Cast divination for <i>Ọ̀ṣin Gàgààgà</i>
<i>Èyí tí ó kọ̀mọ̀ dà sí àtàrí</i>	The one that would carry his children on his head
<i>Wọ̀n ní kó rùbọ̀ kó lè baà bímọ̀</i>	They told him to perform sacrifice for him to bear children
<i>Ọ̀ṣin Gàgààgà gbébo ñbẹ̀</i>	<i>Ọ̀ṣin Gàgààgà</i> heard about the sacrifice
<i>Ó rúbọ̀</i>	He performed it
<i>Mo rú wẹ̀rẹ̀</i>	I sacrificed in quantities
<i>Ó dà wẹ̀rẹ̀</i>	It proved efficacious in quantities
<i>Ọ̀ṣin Gàgààgà ló bímọ̀ báwọ̀nyí?</i>	It is <i>Ọ̀ṣin Gàgààgà</i> that has children this plenty?
<i>Mo rú wẹ̀rẹ̀</i>	I sacrificed in quantity
<i>Ó dà wẹ̀rẹ̀²³¹</i>	It proved efficacious in quantity

3.6 Resolving the problem of infertility among the Yorùbá

Infertility is a socially and emotionally traumatising experience for all people, particularly the typical traditional Yorùbá family. Given the importance attached to procreation, and the precautionary steps families take in the selection of partners for their children, couples who find it difficult to give birth to a child(ren) will usually do everything within their power to remedy this socially unpleasant situation. There are different ways the Yorùbá treat the problem of infertility.

²³¹ Salami, A. 2002. *Ifa a complete divination*.

The first is recourse to the supernatural. In Yorùbá culture, *eniyan* (person) is perceived as a combination of metaphysical, physical and social elements.²³² Therefore, in a bid to address the problem of infertility, the Yorùbá would usually consult the metaphysical realm of the gods or other spiritual forces, presumed to be responsible for the problem. Where these forces are believed to be responsible for any case of infertility, they would be appeased through offering of sacrifices so as to help find solutions to the problem. Usually if successful, there are some taboos binding the woman when she eventually conceives. Sometimes, such children would be named by the oracle.²³³

The second way the Yorùbá try to deal with infertility is *abánibímọ*, a Yorùbá word that can be used to capture the term surrogacy. In the Yorùbá practice of *abánibímọ*, a younger woman is brought into a family through marriage and the first child she gives birth to would be given to an older infertile woman, who would be considered the mother and nurturer of the child, and would be called by whichever name the child bears, for example, if the child is named Ade, she would be called Mama Ade (Ade's mother). As the younger woman births other children, she (the younger woman) would be called by their names, with the exception of the first child who is believed to be the child of the older infertile woman.

In addition, if a couple is infertile because the husband is impotent or sterile, most times the wife is usually encouraged, in a very discreet manner, by the husband or the family to procure pregnancy through a sociological father, who may be a close relation of the man or even the husband's brother. The story was told of a sterile man whose wife got pregnant by "communal effort", that whenever the wife put to bed and people congratulates him, he will always respond by saying "na by your power", that is, he became a father because of the joint effort of his kinsmen.

The Yorùbá people engage in the second and third means of resolving the problem of infertility after consultations with the supernatural realm of the gods and other spiritual forces yield no results. This is because the average Yorùbá man is not fatalistic in his belief, but understands that he can through personal effort remedy his problem. This is

²³²Oyeshile. O. A. 2002. Towards an African concept of a person: person in Yoruba, Akan and Igbo Thoughts. *ORITA: Ibadan Journal of Religious Studies*. XXXIV. 104.

²³³ Discussions with market women who sell herbs pertaining to children. They are usually called *Elewe Omo*.

captured in the musing of Àkàrà Ogùn in *Ògbójú Ode Nínú Igbó Ìrúnmolè*, a work by D. O. Fagunwa, which translates thus:

When I cast the pieces of kola ... For if it spoke (well), would two pieces not face down and the other two up? Alas, it was not so for me, sometimes three pieces faced down and one up, and at other times all four faced down. The matter of this kola-nut was simply beyond my comprehension. So when I had cast them many times without augury, with my own hands I turned two up and faced two down saying, “with his own hands does a man mend his fortune; if you kola pieces will not predict good, I will predict that good for you.”²³⁴

The above is in consonance with the Yorùbá saying that *owó ẹni la fí tún iwá ara ẹni se*, literally translated: “with our hands we get our lot improved”. Hence, the effort to resolve the problem of infertility through *abánibímọ*.

3.7 Conceptualisation of *Abánibímọ* practice among the Yorùbá

Abánibímọ is the name given to a recognised practise of reproduction amongst the Yorùbá of south-west Nigeria. This practise is instituted because infertility is viewed as a serious problem by the Yorùbá people, since value is placed on having children, for spiritual, as well as social reasons. Children are considered to be the *summum bonum* – the highest good – of the Yorùbá.²³⁵ Children are regarded as the forward flowing stream of immortality, and it is believed that by nature the spirit flows in a cycle through the lineage when children are given birth to.²³⁶ *Abánibímọ*, therefore, is a way of resolving the problem of infertility through the marriage of another woman (usually younger than the infertile woman) into the family for procreation purposes. Although there are no written documents on this practice, many people attest to its existence within the Yorùbá culture.

²³⁴ Oyeshile, O. A. 2003. “Predestination and freewill in the Yoruba concept of the person: contradictions and paradoxes.” *Philosophy, Culture & Tradition* .2:

²³⁵The Yoruba family.

²³⁶See Babatunde, E. 1990. *Culture, religion and the self: a critical study of Bini and Yoruba value systems in change*. Lewiston, New York. Edwin Mellen Press; Hallgren, R. 1991. *The good thing in life: a study of the traditional religious culture of the Yoruba people*. New York. Plus Ultra.

It is worthy of note to mention that there are variations to the arrangement of *abánibímọ*. Some engage in it as a result of sex selection, some men who have been having girl children in the bid to have male children who they believe would propagate their names could engage another woman to give them male children, and often they bring such children home to their wives to raise. Another variant of *abánibímọ* is the idea of posthumous offspring, which Babajide Ololajulo extensively engaged in his paper titled *Unshared Identity: paternity in a contemporary Yoruba community*. The paper highlighted a practice whereby a woman begets children for her deceased husband, usually through another male member of the late husband's family, in a second marriage termed *isunilopo*.²³⁷

Many Yorùbá elders who were interrogated during the course of this study argued that the practice originated as the Yorùbá people came into contact with other people of the world. They opined that in the beginning, there were rare occurrences of infertility. This was because before any family allowed their children to marry into another family, thorough investigations would have been conducted to ascertain the biological compatibility of the two families. The Yorùbá did not have laboratories, but they made enquiries about the genealogy of the family their child was getting married into.²³⁸ They asked questions on the predominant traits in the family; whether there was any disease or illness that was peculiar to them; whether the family enjoyed longevity of life or otherwise; whether members of the family were hardworking or lazy; whether the family was known for fertility challenges or not.

After satisfactory responses had been proffered to their queries, they went further to consult the oracle to ascertain the compatibility of the individuals involved and their prospects in the marriage. Most of the Yorùbá elders were of the opinion that as the Yorùbá race expanded and people began to move away from their roots, their local communities, and began to interact with the external communities, they were exposed to foreign religions and modes of worship; and that as they married from other

²³⁷Ololajulo, B. 2018. *Unshared identity: Posthumous paternity in a contemporary Yoruba community*. Grahamstown, South Africa. African Humanities Program. 44-46.

²³⁸Interaction with Yoruba Elders.

communities, they failed to make enquiries about the compatibility of the individuals before marriage. As a result, the problem of infertility began and is on the increase.²³⁹

There is no consensus on the *abánibímọ* practice. A woman, Mrs Omonike Monehin, commenting on the acceptability of the *abánibímọ* practise said: “*eni ómo sín lo bi ‘mo*” meaning that “it is the man or woman who is buried by a child that can be called a parent”. Upon further interrogation, she said that the joy of motherhood or fatherhood should not just be to procreate, but what becomes of the child in future, is also important. So, if a woman cannot give birth and *Olódùmare* provides a child for her through another person, and the child stays by her and takes care of her needs when she gets old and performs the duty of a biological child, then what else does that person want? This view is supported by the Yorùbá saying that: *àikúkú bi òsan ju ràdàràdà omo lo* (it is better not to give birth rather than give birth to an imbecile)²⁴⁰

Some Yorùbá elders, for example, Chief Akin Akingbade, the Alatunse of Isinkan, in Akure, Ondo State, are not favourably disposed to the practice because of the attendant problems they had witnessed in times past. They cited different instances to support their aversion to the practice. Some believe that it causes disharmony in the family because some people do not keep to the terms of the contract. A story was told of a child who did not know his identity until the point of signing his marriage certificate, when the woman who he had been regarding as a junior wife to his mother turned out to be his real mother. The younger woman kept to the contract all along until, according to information, she was incited by some members of her family to take her rightful position in the life of the child. Though the younger wife was sanctioned by the family and some other social groups to which the family belonged, the effect of disharmony caused by her action was not easily reconciled.

As observed from the younger wife’s action, there is need for a form of legality or legal policy to guide the *abánibímọ* practice because if this is not done, the partners to the contract can breach the oral contract engaged upon at the onset of the arrangement. The legal policy we are canvassing may not be acts of government as crusaded by Olanike Adalakun for surrogacy in Nigeria, the kind of legality we cavass for is enunciated in the

²³⁹Interaction with Yoruba Elders.

²⁴⁰Interaction with Mrs Omonike Monehin.

next paragraph.²⁴¹ Adedokun advances formulation of laws to regulate surrogacy because despite the fact that fertility clinics exist and advertise their functions in the dailies and on the internet, and the availability of large numbers of young ladies who are willing to serve as surrogate mothers, the government is yet to put up a legal perspective on the issue of surrogacy. This negligence, she avers, would continue to make surrogate mothers susceptible to exploitation and would-be parents to blackmail.²⁴²

The legality that is being canvassed for *abánibímọ* is such that will protect the morality of the arrangement and the stakeholders involved. The legislation can be a function of elders of the families coming together to commit stakeholders to an oath of fidelity. During such a meeting they could put the symbol of their god in their midst, such that if any of the parties wants to act contrary to the arrangement, like the young woman in the story above, there would be people to remind him/her that: “we sat down to discuss the matter, therefore it is binding on all parties.”

On the question of who should initiate the *abánibímọ* contract, many believe that it can be initiated by the infertile woman or by the man. But in many cases, it is the man who initiates the contract, given the Yorùbá patriarchal social arrangement. Narrating her story, Oyebola Akinwale, a woman who served as *abánibímọ* to a couple over fifty years ago said the arrangement was made by the prospective father and her own father. The husband of the infertile woman approached her father through a friend who was the age mate of the surrogate father. She said her father explained the predicament of the man to her and later her dowry was paid and gift items were given to the family. The union produced two children, a girl and a boy. The older woman is usually referred to as the mother of the girl, and even after the demise of the older, infertile woman, the girl who is now over 50 years refused to accept her real mother, which has become a source of sorrow to the girl’s mother.

As earlier noted, the woman could also initiate the arrangement. A story was told of a prominent judge in the old Ondo State and his wife who experienced childlessness. It was the wife who married a younger woman for her husband, because she was infertile. She was called by the name of the first child which the second wife bore and she was

²⁴¹ Adedokun, O. S. 2018. The concept of surrogacy in Nigeria: issues, prospects and challenges.

²⁴² Adedokun, O. S. 2018. The concept of surrogacy in Nigeria:

accorded much respect by the younger woman. The story of this couple is similar to what we have in the case of the biblical Sarah and Abraham.

3.7.1 Reasons for *abánibímọ* practice

The question that may be asked is the reason for the *abánibímọ* practice among the Yorùbá; why is it that infertile couples do not go for adoption but prefer to engage another woman to procreate for the family? Why could infertile Yoruba couples not just engage the services of a surrogate like their Western counterparts?

As mentioned earlier, Yorùbá culture places tremendously high worth on having children. Children are regarded as the ultimate or highest good – *summum bonum*- of the society. This is so because in traditional Yoruba religion, it is believed that different elemental portions of the soul can continue to exist in a series of three states; the living, ancestors, and the unborn waiting to be reincarnated. Therefore, offspring are believed to re-embody ancestors of their ancestry, and to continue the cycle would depend on having children, and other factors.²⁴³ The importance and value that the Yoruba attach to children is perceptible in many *Ifa* verses examples of which are *Eji Ogbe Ọ̀tọ́ọ́tọ́tọ́* and *Eji Ogbé Èdùdú*. *Eji Ogbe Ọ̀tọ́ọ́tọ́tọ́* goes thus:

<i>Ọ̀tọ́ọ́tọ́tọ́</i>	Separately
<i>Oroorooro</i>	<i>Oroorooro</i>
<i>Ọ̀tọ́tọ́ làá jẹ̀pà</i>	Separately is how we eat groundnuts;
<i>Ọ̀tọ́tọ́ lajẹ̀ mumu</i>	Separately is how we eat tiger nuts;
<i>Lọtò lọtò lomodé mólú esunsun şénu</i>	Separately and distinctively is how the children eat the edible winged termite
<i>Ohun tori ni tori</i>	Entities of the head belongs to the head
<i>Ohun tòrì tòrì</i>	Things wrapped beautifully as gifts;
<i>Là á fỌba Mokin lóde Irànjé</i>	Are presented to Ọba Mokin (Ọbatala) in the city of Irànjé
<i>Kolè ba a fohun tori tòrì ta ni lóře</i>	So that he can give us special things with head as gifts

²⁴³The Yoruba family.

<i>A difá fún Ògo Tẹ́ẹ́rẹ́</i>	Ifá divination was performed for the gloriously slender one,
<i>Nijó ti n gbogun lo sí ilú Gbèndùgbendu</i>	On the day he was going to wage war on the expendable City
<i>Ipànpàdẹ tá a jọ bá pàdẹ</i>	The war they fought with their legs
<i>Ọtọ̀tọ̀ èèyan lá á fi yin bọ ru</i>	Resulted in separate persons that are praiseworthy as the result of sacrifice
<i>A á ẹ mo Ògo Tẹ́ẹ́rẹ lá á pe Ọkùnrin</i>	We know the Gloriously slender one as ‘Male’
<i>Ilú gbandugbendu là à pe obinrin²⁴⁴</i>	The Expendable City is called ‘Female’

The issue of legitimacy of a child is another important factor that gave rise to the development of *abánibímọ* practise in the Yorùbá culture, vital to the Yorùbá is this factor. Each family desires that a child is their direct offspring and not *ọmọ-àlẹ* (a bastard- a term used to describe a child whose paternity is questionable, and a legitimate child who possesses the genes of a family, but whose behaviour contradicts the expected family norms). It is considered an abomination for a woman to bring another man’s child into her husband’s house, the Yoruba believe that this may not only lead to the problem of identity, but might bring anti-social behaviours into the lineage. Thus, such infertile couple will not just pick any stranger and pay her to bear children for them. They want to be sure that the character of such children conform to the character of the lineage.²⁴⁵ That is why the Yorùbá people will say that *bí ọmọ ò bá jọ sòkòtò á jọ kiji pá*. (a child that does not resemble the father, must surely resemble the mother). Some families marry into other families based on some distinguishing virtues they see in the other family which they want to import into their lineage.

For the *abánibímọ* contract to be effectual, both the *abánibímọ* and the beneficiaries of that act must exhibit the *omolúàbi* tendencies. Else, the gains of such a gesture would not be consolidated. This brings us to a consideration of the idea of the *omolúàbi*, a very

²⁴⁴Abimbola, K. 2016. Ire ọmọ “Children”: *Orisa Devotion 015*. Washington DC. Ifá University.

²⁴⁵Jegede, A. S and Fayemiwo, A. S. 2010. Cultural and ethical challenges of assisted reproductive technologies. *African Journal of Reproductive Health*. 14:2. 115-127.

important concept among the Yoruba people which means ‘a person of credible character’. This concept expresses the idea of the qualities that are to be admired in a man. *Omoluàbí* is an adjective in Yorùbá language composed of – *omọ tí olú iwà bí*, literally interpreted, ‘an infant born by the king of *iwà* (morals)’. The concept has also been expressed by Sophie Oluwole as “*omọ tí ó ní iwà bí...*” meaning, “a child who takes after...”²⁴⁶ Realising that the phrase does not make a complete sense, she completes it by adding “*enití a kọ, tí ó sì gbà èkọ*” to *omọ tí ó ní iwà bí*, meaning, a being who acts like somebody that is correctly nurtured, and subsists by the principles of the education she or he received. The concept of *omoluàbí*, for Oluwole, can aptly be extracted as a collation of three inter-related explanations as follows:

<i>Omọ tí ó ní iwà bí</i>	(A being who acts like)
<i>Enití a kọ</i>	(somebody properly nurtured)
<i>Tí ó sì gbà èkọ</i>	(and behaves accordingly) ²⁴⁷

The above conceptualisation depicts an *omoluàbí* as someone who has acquired deep cultural, and moral knowledge, someone who is educated in order to be morally upright and develop a sense of responsibility. These attributes must necessarily manifest in the private and public spheres of such a person’s life. A man is not referred to as *omoluàbí* just because of physical endowment or accomplishments, but because of the innate quality or embodiment of qualities which find expression in good moral behaviour. The concept of *omoluàbí* is a product of *iwà* (character). An *omoluàbí* is someone who is patient, places very high premium on religiosity, the sanctity and dignity of human life, truthfulness, dignity of labour, social justice, integrity, hospitality, honesty, simplicity of life and frugality, neighbourliness and respect for social standards, and sanctions. So, *omoluàbí* is someone who radiates manners and is courteous in social relations in his

²⁴⁶Oluwole, B. S. 2007. Who are we the Yoruba? A keynote paper delivered at a pre-word Philosophy day conference, June 12, at the National Theatre Lagos.

²⁴⁷ See Oluwole, B. S. 2007. Who are we the Yoruba? A keynote paper delivered at a pre-word Philosophy day conference on June 12, 2007 at the National Theatre Lagos; Fayemi, A.K. 2009. Human personality and the Yoruba worldview: an ethico-sociological interpretation. *Journal of Pan-African Studies* 2:9.

community. And it is of great importance to be able to trace the pedigree of such an individual²⁴⁸.

3.8 *Abánibímọ* practice and polygamy

Abánibímọ practice is not the same as polygamy in a number of ways. Polygamy, a practice that is fairly common among the Yorùbá, involves having more than one wife. In the *abánibímọ* arrangement, the young woman married into the family has the pre-knowledge that she is coming to help remedy an ugly situation, infertility. So, her coming into the family is a sort of contract, and this she understands before she accepts to go into the marriage. Moreover, in *abánibímọ*, the older infertile woman is usually aware of the intention to marry another woman into the family, unlike in polygamy where the wife in the house may, for years, not know that her husband has acquired another woman as wife.

Also, the first issue the younger woman births is handed to the older infertile woman, and the nurture of the child is exclusively the preserve of the older infertile wife. However, though *abánibímọ* arrangement is not of polygamy, because it is instituted at solving the problem of infertility, and the relationship between the wives, the older infertile woman and the *abánibímọ* is more often that of a mother and a daughter, and in some extreme cases, it is like that of a mistress and her maid, just like the relationship between Sarah and Hagar in the Bible, some *abánibímọ* can even take over the home, and eject the infertile woman.

It is pertinent to state that there are certain interplays which make the *abánibímọ* practice either a success or a failure within the Yorùbá society. These include the conduct of the infertile woman within the family, the conduct of the young woman being married into the family, the disposition of the man, that is, the husband of the infertile woman, and the disposition of the entire family to both or either of the infertile couple.

3.9 Comparative analysis: Surrogacy and *Abánibímọ* practice in Yorùbá culture

Having been equipped with an understanding of the major concepts in this chapter (surrogacy, motherhood and *abánibímọ*), it is important to engage the two norms of reproduction with the aim of making manifest their similarities and differences.

²⁴⁸Oluwole, B. S. 2007. Who are we the Yoruba?

The major similarity between Western surrogacy and *abánibímọ* is the intention or purpose of the two practices. The end result of the two is to help with the act of procreation, and the major difference is the social, epistemic and ethical foundation of each. Whereas in Western surrogacy there is much involvement of medication, strict legal engagement and the creation of centres and clinics for the practice, the Yoruba *abánibímọ* arrangement does not require all the afore mentioned because it is premised on kinship/family relations. And the oath of secrecy is a strong pillar of the arrangement. Secrecy is entrenched in order to protect the child that is the product of abanibimo from being stigmatised. Like the story of an adopted child named “Fowobi” by members of the extended family because of their belief that the child was forcibly brought into their lineage through financial transaction.

Again, while the ‘surrogate’ in Western surrogacy is an agent, who discharges her duties strictly in line with the contract engaged, in the Yorùbá perception, the surrogate is a part of the family. She is a co-wife and co-mother, whose rights, relationship and duties toward the child is never relinquished. She has the pleasure of seeing her child on a daily basis in the same compound with her co-wives. This is in contrast to the surrogate in Western society who relinquishes her maternal rights, relationship and duties towards her child, often with a token compensation, which often results in emotional torture for some of the surrogates. Surrogacy in Western culture is a legal relationship wherein the surrogate has no legal freedom to be the parent of the child she bears.

Obviously, the Yorùbá idea of surrogacy is quite different from the Western conception. In the West, the surrogate, after delivery, hands over the baby to the father. She gets her fee and relinquishes her maternal rights. She goes her way and her path and that of the child she gestates in her womb may never cross again in life. This has made some feminist writers to describe Western surrogacy as nothing but “reproductive prostitution.” In Andrea Dworkin’s words, maternity has become a novel brand of female prostitution that with the assistance of physicians, women can sell their procreative abilities, same manner prostitutes sell sexual abilities, only devoid of humiliation of whoring because of the absence of penile intrusion.²⁴⁹ She insists that the womb has been turned to specimen of experimentation and power for a physician who

²⁴⁹Dworkin, A. 1982. *Right-wing women*. 181-2

want access to, and be an agent of reproductions, so that he can dominate and control conception and reproduction.

Susan Ince corroborates the reproductive prostitution model after her experience in a surrogate company. She observes:

The language and process encountered in my experience within a surrogate company is consistent with the reproductive prostitution model ... the surrogate is paid for giving the man what his wife can't, she is loved for being pregnant; and valued solely and temporarily for her reproductive capacity²⁵⁰

On the one hand, the Yorùbá believe that *ení bí omo fún ni kúrò ni àlè eni*, (she who bears a child for one is no more a mere concubine, she passes for a wife). In the Yorùbá culture, some marital rites are usually conducted and dowry paid on behalf of women who serve as *abánibímọ*. The marriage may not be celebrated elaborately as when the man married the older infertile woman. The exchange of marital vows affords the younger woman (the *abánibímọ*) some measure of protection or security in the community. She is not treated as a mere object of procreation, and there is no emotional trauma for the child since its mother is seen as a part of the family.²⁵¹

Scholars have investigated the role of the surrogate mother in providing germinal materials needed for surrogacy. Elizabeth Anderson, for example, argues that given the shortage of children for adoption and the strain of been eligible as adopting parents, surrogate engagements serve as an alternate method for childless couples to raise family of their own.²⁵² So, surrogate contracts not only help to fulfil the longing of a man and woman to rear healthy children, but also provides a window whereby the child carries the gene of one of the partners. Surrogacy arrangements equally aid the resolution of marital conflicts that could occur as a result of infertility, which can degenerate to anguish and self-doubt between and among couple(s).²⁵³ The surrogate mother serves as a procreator, who provides the ovum to be fertilised. Also, she acts as host to the foetus, providing nurture and protection while the child develops in the womb.

²⁵⁰ Ince, S. 1994. Inside the surrogate industry. 387-394.

²⁵¹ Interaction with Omonike Monehin.

²⁵² E. Anderson. 2007. "Is women's labour a commodity?"

²⁵³ Lanre-Abass, B. 2008. Surrogate motherhood. 45.

In addition, it is posited that the exercise of procreation, and freedom of contract are two fundamental rights that sustain surrogacy. Effusively informed autonomous agents have rights to make any decision they desire on the use of their bodies, for reproduction of children, as long as the children are not maltreated.²⁵⁴ Furthermore, it is believed that the willingness of substitute mother could be for economic reasons or love. Whichever is the case, surrogacy agreements should be contracted and permitted on altruistic grounds.

Also, in line with the “reproductive prostitution model”²⁵⁵ argument, the surrogate in Western surrogacy can engage in the business of child production for as many infertile couples as possible. But this is not the case with the surrogate in the Yorùbá norm of reproduction, because the woman is married into the family where she would act as surrogate. The cultural and legal validity of her marriage means that she cannot make procreation a money making venture just as she cannot go about giving children to different men, as the need arises, like her Western counterpart.

Another thing that differentiates the *abánibimọ* practice from Western surrogacy has to do with the social system, in most African countries this is based on communal relations, as against the unrestrained, and inflated idea of individual freedom and autonomy at the cost of communal interests²⁵⁶ that is witnessed in liberalised Western countries. In African traditional cultures, the idea of the individual person, for the most part, is tied to the idea of community, where there is cherished private interaction among human beings.²⁵⁷ Although, the communal nature of life in African societies has been misconstrued in some quarters to mean that there is destruction of individuality in Africa.

However, as Emmanuel Obiechina avers, it is incorrect to understand the absorption of common social, economic, spiritual as well as political objectives, that is, primacy of the

²⁵⁴ See Robertson, 2004. Procreative liberty and harm to offspring in assisted reproduction. *American Journal of Law and Medicine* 30, 2004; Lanre-Abass, B. Surrogate Motherhood. 2008. 44-59.

²⁵⁵ See Dworkin, A. 1983. *Right-wing women*; Ince, S. 1994. Inside the surrogate industry.

²⁵⁶ Ogbujah, C. N. 2007. The individual in African communalism. *International Journal for Philosophy of Religion*.

²⁵⁷ Ogbujah, C. N. 2007. The individual in African communalism.

common interest, as a matter of suppression of the personality or constraint on the part of an authority. Accordingly, he opines that communal conformity and deterrence of nonconformity to the common standards of behaviour is not the same thing as suppressive curbing of individual freedom. Communal independence is in the concluding examination related to legitimacy, which is usually expressed as the principle of the greatest good for the greatest number. African traditional communal thinking is based on this principle, and it is fundamental to the very persistence and general well-being of the society, its assumed validity being moored on customary practice, and protected by ancestral and divine authorities.²⁵⁸

Also, remarking on the ideals of community and individuality in Africa, Segun Gbadegesin claims that there is no strain amid individuality and community ideals in Africa, since it is conceivable for a person, without compulsion, to surrender his or her apparent concern for the good of the community. As one gives up his or her benefits, one is also sure that the society will not repudiate one, and one's well-being would be community's concern too. Gbadegesin further reiterates the idea of individual rights in the West, which is initiated on the notion of individuals as particles, is inevitably alien to African communal system. The community in Africa is instituted on ideals of inherent and continuing affiliation amongst its populace.²⁵⁹

Furthermore, Western surrogacy advances the fundamental question of which of genetic or gestational relationships impart motherhood on a woman. According to L. M. Purdy, if one argues that neither bestows motherhood on a woman, but that child-rearing is what confers motherhood on a woman, then this creates tension in the understanding of the concept of motherhood.²⁶⁰ As important as child rearing is, one cannot undermine biological links between a mother and her child as well as the whole essence of motherhood to mere biology.

²⁵⁸Obiechina, E. 1975. *Culture, Tradition and Society in the West African Novel*. Cambridge: Cambridge University Press. 202-03.

²⁵⁹Gbadegesin, S. 1991. African philosophy traditional Yoruba philosophy and contemporary African realities. 66-7.

²⁶⁰Purdy, L. M. 1998. Assisted Reproduction. *A companion to Bioethics*. H. Kushe and P. Singer Eds. Oxford: Blackwell publishers. 168.

Another problem with surrogacy which is yet to be examined is the issue of cryopreservation and subsequent destruction of excess embryos.²⁶¹ The issue of embryonic destruction shall be examined subsequently.

In Vitro Fertilisation (IVF), one of the techniques used in surrogacy arrangement, is a standard technique for the treatment of infertility. However, the consequent of usual IVF management is the production of surplus embryos, more embryonic lives are created than can be used in the initial round. The remaining embryos are then frozen for other sessions if the initial experimentation is abortive or if the couple desires another baby. However, if the initial session is successful, and couples do not indicate what should be done with the surplus embryonic lives. The amassing of frozen embryos has resulted in a remarkable number of embryos stocked in the freezers of large fertility clinics. The massive growth of this number demands for ethical consideration on what to do about these embryos. Two questions are generally raised in this context. They are: Who should determine what is to be done with the embryos? What should be done?²⁶²

Thomas Douglas and Julian Savulescu in an attempt to answer the questions raised above distinguish between “wanted” and “unwanted” embryos. Wanted embryos refer to the embryos which are cherished or treasured by the would-be parents, whose gametes are fused to produce them, and who may wish to have a child from the gametes. For Douglas and Savulescu, destroying wanted embryos would be wrong, but for the unwanted embryos, it is morally permissible to conduct destructive investigation on them with the consent of the parents, possibly since the reproductive desire of the childless couple had been fulfilled or abandoned altogether.²⁶³

However, their arguments apply to embryos only, not foetuses or foetal tissue, because according to them, an embryo develops to a foetus eight weeks after

²⁶¹Robertson, J. 1994. *Children of choice*. Princeton, New Jersey: Princeton University Press.

²⁶² Pennings, G. 2000. What are the ownership rights for gametes and embryos? Advance directives and the disposition of cryopreserved gametes and embryos. *European Society of Human Reproduction* 15:5.

²⁶³Douglas, T. and Savulescu, J. 2009. Destroying unwanted embryos in research. Talking point on morality and human embryo research.

fertilisation.²⁶⁴ Therefore, they assert that it is morally acceptable to conduct destructive research on embryos that are not wanted. Especially, since such research cases can lead to the development of treatments that elongate lives, assuage anguish, and permit parents to achieve their procreative objectives. They maintain that:

Research on embryonic stem (ES) cells—totipotent or pluripotent cells taken from an early embryo—will lead to techniques for inducing stem cells to form tissues and organs in vitro transplantation ... This may help to close the growing gap between organ demand and supply, ... improve transplantation success rates; it might be possible to produce tissues that are genetically identical to the cells of the recipient, thereby avoiding the problem of graft rejection.²⁶⁵

The implication of Douglas and Savulescu's submission is that embryonic destruction is not harmful, since the embryos to be destroyed have not grown to the foetal stage. The embryos are still less than eight weeks old. Hence, it is morally acceptable to use such embryos for destructive researches, if such studies would foster human wellbeing, or be for the greater good.

According to Professor Richard Stith, for the chance bystander it may appear that the arguments against abortion must be stronger than those against the destruction of embryos.²⁶⁶ For him, the destruction of embryo for researches, is fundamentally worse than legal abortion. He admits that to a large extent some might disagree with his submission, but insists that the embryo, if allowed to develop, would grow into an individual with its own identity which then implies that destroying such an embryo is no less harmful than having an abortion. He states further that the whole phases of life is the phases of the same existence. Every individual was once an embryonic life that has grown up. Since fertilization, we have been growing and developing, we have been alive all the while. If anyone was killed at any period before birth, a human life would have been lost. So, for him, abortion, and lethal researches are likewise evil.²⁶⁷

²⁶⁴Douglas, T. and Savulescu, J. 2009. Destroying unwanted embryos in research.

²⁶⁵Douglas, T. and Savulescu, J. 2009. Destroying unwanted embryos in research.

²⁶⁶Stith, R. 2006. Why embryo destruction is worse than abortion.

²⁶⁷Stith, R. 2006. Why embryo destruction is worse than abortion?

Again, it has been argued that abortion is worse than embryo destruction because abortion does not merely involve killing, but betrayal. In abortion, it is argued, a woman destroys an unborn child entrusted to her, a child that depends on her, towards whom she has the moral duty of nurturing. The physician who dismembers an embryo is doing no harm to his own children, though he affects a life wrongly, but not necessarily that of his household, which makes its impact lesser than abortion. Reacting to this argument, Stith suggests that a closer look be taken at the two issues; one, somebody who decides on abortion may not necessarily be completely set against life. Two, she might not desire an abortion deep down in her mind, but been overwhelmed with emotions of anxiety and fright because she had been uninhibited or abused by one or more persons she has trusted, and if her fears is not so great, that moral culpability is absent. She is not fully an enemy of her unborn child. She may intensely regret what she feels compelled to do. If the circumstances were better, if she had enough support, probably she would have allowed the baby to live.²⁶⁸

He maintains that though the person who administer abortion is not under duress, that is, he or she is not pressurised by any circumstance to implement abortion, he too is conditionally against new life in the sense that he performs abortion just because his clients asked him to do it. By contrast, the scientist seeking for embryonic stem cell research wants to destroy life, and at the same time he tries to influence the public to pay for the destruction of life, when he seeks for funding.²⁶⁹

What most abortions aim to do is to inhibit an unwanted child. But paradoxically, the act of abortion restates the parent-child connection that it betrays, the foetus is unwanted as a child who must eventually be cared for by her parents. Such parents reject the child because s/he is their offspring, and they would be duty bound to care for the child if s/he lives. So, in order to escape this duty, they prefer that the child should not live, thereby acknowledging paternal or maternal relationship, and obligation by the act of abortion.²⁷⁰

An additional problem with surrogacy has to do with surrogacy centres. A surrogacy centre usually attracts clients and surrogates through advertising. These centres stand as a

²⁶⁸ Stith, R. 2006. Why embryo destruction is worse than abortion?

²⁶⁹ Stith. 2006. Why embryo destruction is worse than abortion?

²⁷⁰ Stith. 2006. Why embryo destruction is worse than abortion?

negotiator between surrogates, and couples seeking solution to their infertility. The centres provide clients with the names of would-be surrogates. Some provide a manual on potential surrogates that include photographs, physical description, and a list of personal interests, data on marital status, children, employment, and the kind of health insurance the potential substitute is under.²⁷¹ In many of the surrogacy births, the infant is readily given up to the commissioning couples, the surrogate voluntarily terminates her rights to the child, and no litigation ensues. Apparently, surrogacy seems like the perfect resolution for a childless couple who would like to have a child that is naturally connected to one of them. Regrettably, prevailing are important social, ethical, and legal questions that necessitate profound scrutiny of the seemingly “perfect solution”.²⁷²

In surrogacy, particularly in commercial surrogacy, a major challenge is the issue of public policy. Public policy is very much lacking as regards the operation of centres.²⁷³ There are people with good intentions on both sides of this debate, as shown in chapter one of this study. Thus, it becomes necessary to achieve a workable surrogacy policy, which will articulate the social, legal and ethical questions generated by surrogacy arrangements. The rate of commercial exploitation in the surrogacy business is also alarming. This is so because there is no licit charter for alternate mothering contracts. This queried the validity and enforceability of such transactions.²⁷⁴

3.9.1 Strengths of the *abánibímọ* practice

An advantage of the *abánibímọ* practice over surrogacy in the West is the issue of clarity about one’s lineage. In surrogacy arrangement in Western culture, one important element that could be lost is the information about who ones parents are. Questions often arise regarding who is who in a family lineage. Knowing ones true identity provides the right foundation for a sound family life, and is necessary in raising a healthy and civilised community.²⁷⁵ In most societies, clarity about ones origin is essential for self-identity

²⁷¹Merrick, J. C. 1990. Selling reproductive rights: policy issues in surrogate motherhood. *Politics and the Life Sciences*. 162.

²⁷²Merrick, J. C. 1990. Selling reproductive rights. 161.

²⁷³Merrick, J. C. 1990. Selling reproductive rights.

²⁷⁴Steiner, E. 1992. Surrogacy arrangement in French law. 868.

²⁷⁵Kass, L. 1979. Making babies re-visited.

and respect. Therefore, it is unacceptable to destroy such fundamental beliefs, values, institutions, and practices.²⁷⁶ Meaning that the encouragement of Western surrogacy, in all its forms, against the *abánibímọ* practice in Yorùbá culture, is an erosion of ultimate beliefs, values, institutions, and practices, which provide inform on clarity of one's lineage.

In addition, women's labour under surrogacy in the West is treated as a type of commercial production process that violates valued emotional ties that a mother creates with her unborn child. In Yorùbá culture, pregnancy is perceived as a biological as well as a social process. Biological, because of the gestational and genetic bond that exists between the mother and her child, and social because of the expectations surrounding the natal of a child. It is a moment that parents get ready to welcome a new life into the family. Both biological and social processes of pregnancy have implications for motherhood in Yorùbá culture.²⁷⁷ But in Western surrogacy, there is a dichotomy between the two processes of pregnancy in relation to the term *mother*.

Ruth Macklin aptly captures this when she avers that: "Newly developed ... means of reproduction have rendered the term "biological" inadequate for making some critical conceptual distinctions ..."²⁷⁸ The ability to separate the procedure of egg production from the act of gestation makes out-of-date the use of word "biological" as interchange for the word "mother". In the past, it was possible to distinguish only the biological mother (the "natural" mother) from the rearing or adoptive mother. The techniques of egg retrieval has made it a possibility for two different women to make biological contributions to the formation of a child.²⁷⁹

Again, it is prescriptive rather than descriptive to define a woman who donates ovum as the only biotic mother, the woman who contributes her womb for gestation, whether she is a surrogate or is the intending nurture mother is a biological mother too, because the intrauterine environment, and maternal behaviour during pregnancy have ways of

²⁷⁶Kass, L. 1979. Making babies re-visited.

²⁷⁷Lanre-Abass, B. 2008. Surrogate Motherhood. 52.

²⁷⁸Macklin, R. 2007. Artificial means of reproduction.

²⁷⁹Macklin, R. 2007. Artificial means of reproduction.

influencing foetal and latter childhood development.²⁸⁰ The emotional bond that many pregnant women form with their unborn children manifests in situations where surrogate mothers refuse to give up the baby she carried in her womb for nine month, or when the surrogate mother experiences grief upon handing over a child. Sometimes, this is so intense that about ten percent of them go for therapy.²⁸¹ This is due to the fact that the surrogate sees herself as someone who has suffered great personal loss.

The question of who should be considered the biological mother of child, does not arise in the *abánibímọ* practice in Yorùbá culture. The same woman who produce the egg is the one who gestate the baby. The *abánibímọ* practice preserves the traditional idea of motherhood, while Western surrogacy distorts it.

A. A. Amodu notes that: “technological development must be man-centred, it must involve respect for human values, persons and society’s wellbeing.”²⁸² This underpins the *abánibímọ* practice in Yoruba land which, unlike the Western surrogacy culture, wears a human face. The *abánibímọ* practice enhances the development of human relationships and practices that promote human values. In contradiction, the technological development and complexities involved in the Western reproductive methods, where there is some level of detachment among the parties involved in the reproductive process, has left one with no choice than to accept the argument that in this century, humans are no longer the centre of attention, and complex machines are regarded as more important than man.

Foreseeing the possibility of giving more attention to technological development at the expense of human development in the reproductive structure, Derek Morgan asserts:

Surrogacy...challenge(s) the notions of self and conception ... the institutions of motherhood, fatherhood, of childbirth and bearing, of fertility and infertility of value and worthlessness. Reproductive technology has become the bureau de change of the moral economy. Surrogacy represents a challenge to the way in which societies

²⁸⁰Macklin, R. 2007. Artificial means of reproduction.

²⁸¹ Lanre-Abass, B. 2008. Surrogate Motherhood. 52.

²⁸²A. A. Amodu, 2000. Technology and social existence: a philosophical shaping of the future. A. Fadahunsi Ed. *Philosophy: science and technology*. Ibadan: Hope publications. P. 32.

respond to evaluation of the currency of personhood which technology forced upon it. That response will help (us) understand the people we say we want to be and want to become.²⁸³

Considering the advantages of the Yorùbá practice of *abánibímọ* over the Western form of surrogacy, it is, therefore, imperative to encourage a norm of reproduction that protects human relationship, and promotes human values.

3.10 Conclusion

This chapter focused on surrogacy and the *abánibímọ* practice in Yorùbá culture: two different forms of motherhood in different social climes. The term motherhood was conceptualised as well as surrogacy. The chapter considered the Yorùbá perspective on infertility, from the ifa corpus, and the nature of surrogacy in Africa. It examined the reasons for adopting the *abánibímọ* practice among the Yorùbá. A comparison between surrogacy in the West and *abánibímọ* practice in Yorùbá culture was also done. The next chapter shall be on Borden Parker Bowne's personalism and its role in the *abánibímọ* practice among the Yorùbá.

²⁸³ Morgan, D. 1986. Who to be or not be: the surrogacy story. *The modern Law Review* 49:3.

CHAPTER FOUR

BORDEN PARKER BOWNE'S PERSONALISM AND ÈNÌYÀN IN YORUBA CULTURE

4.0 Introduction

The focus of the last chapter was on surrogacy and the practice of *abánibímọ* in Yorùbá culture. Although the two practices are forms of motherhood which tend to alleviate the problem of infertility in different social and epistemic climates, there are glaring differences in the way both are practiced. Some of these differences were articulated in the last chapter. Also, we scrutinised which of the two practices best protects human values and well-being, and in the long run, the *abánibímọ* arrangement was established as the option that best protects human values and wellbeing. The present chapter is concerned with Bowne's notion of personalism and the idea of a person in Yorùbá culture. Who is a person? What substance is the person made of? What makes a person different from everything else? What is the place of the person in the scheme of existence? These, among other questions, have bothered philosophers over the years and have generated various arguments between different schools of thought concerning the idea of the person. Therefore, this chapter attempts to provide answers to these questions in relation to Borden Parker Bowne's notion of personalism, and what exists within the Yorùbá ontology. Also, the chapter examines the metaphysical and structural composition of man, explores his nature and constituents (as both a physical and spiritual being) in the Yorùbá world view, and the place of man in the Yorùbá ontological, hierarchical and authoritarian structures and how he was created. It is noteworthy that throughout this chapter, 'man' and 'person' are used interchangeably to mean the same thing. The chapter concludes with a juxtaposition of Borden Parker Bowne's notion of personalism and the Yorùbá idea of a person.

4.1 Borden Parker Bowne: A brief history

Borden Parker Bowne is the first Personalist in any thorough going sense of the concept, because he advanced a logical understanding of reality, claim to knowledge, correct

living, and psychology. Bowne was a teacher at Boston University from 1876 until he died in 1910. It is on record that Boston Personalism began with him, but was later established and enhanced by his student, Edgar Sheffield Brightman, Brightman's student, Peter Anthony Bertocci continued with the tradition. Bowne worked in all the foremost aspects of philosophy, but generally in metaphysics, epistemology, ethics and philosophy of religion. As a systematic philosopher, Bowne criticised the absolutism of Hegel, evolutionism of Spencer, and all other form of materialism. The critique is expressed in *The Failure of Impersonalism*, one of the chapters in his work titled *Personalism*. As a metaphysician, Bowne was a Pluralistic Idealist. His belief in the existence of God distinguished his Personalism from that of many idealists. God is the Celestial Being, architect of the world. Persons are created by God and natural surroundings is the power of the Celestial Mind. As the creator of all things, God is intelligence in authority for directing the affairs of the world. He is the cause accountable for order and continuity of the world.²⁸⁴

4.2 The Impact of Bowne's Personalism in Boston

According to Thomas Bufford, the understanding of person in the Boston tradition of Personalism began with philosophers' search for truth, or the most experimentally intelligible interpretation of experience to guide creative living. In the search for truth they found free will, a pivotal characteristic of the person. On this point, Boston Personalism revolves. Borden Parker Bowne, the founder of Boston Personalism, claimed that the experience of choice, among alternatives, is to be irreducible and necessary for the possibility of truth-finding in the moral life. To claim a conclusion to be true requires the possibility that it is not true. Anyone attempting to persuade another person that a proposition is true must assume that that person has genuine alternatives among which choices can be made.²⁸⁵

Bowne argues that if a person's claim that the inference of an argument is true, is the claim based on the outcome of the psycho-physical or divine forces working their way through that person's brain, nervous system, or 'soul'? We cannot correctly say that the

²⁸⁴Buford, T. 2015. Personalism. *Encyclopedia of global bioethics*. Springer Science+Business Media. DOI: 10.1007/978-3-319-05544-2_333-1. 1. 9.

²⁸⁵ Buford, T. 2006. Persons in the tradition of Boston personalism. *Journal of speculative Philosophy* 20:3. 214.

claim is based on that person's deliberation over the problem, evaluation of data presented in support of the conclusion, and choice between two genuine options. No genuine alternatives, no truth, or falsity, Bowne contends that the determinist proposal cannot be true or false. The choice among options is rooted in the will or the agency of the person, who, believing he has options, throws himself "into one side or the other in the argument."²⁸⁶

4.3 Principles of Personalism

Personalism refers to any philosophical discourse which consider personality to be of extraordinary value, key to discernment of reality, and human rights.²⁸⁷ In other words, personalism is the idea that attempts to expand the knowledge of significance and value of personhood. The theory creates a philosophic groundwork for the self-worth and theory of person.²⁸⁸ The concept equally denotes the thinkers who defend the inviolability of the person. These thinkers express gravity of the relationality of persons; see the person as a subject and object of free action, and emphasise the person as a centre of meaning, and value.²⁸⁹ There are different versions of personalism, but the common/unifying theme to all personalists is the assertion of person as fundamental in the quest for knowledge, accurate perception of reality, the authority of persons in veracity, and moral living.²⁹⁰ Personalism defends the supremacy of person against any attempt to reduce man to an infrastructure as Scientific Naturalism and Metaphysical Absolutism attempt.²⁹¹ According to *Stanford Encyclopaedia of Philosophy*, personalist thoughts was established as a response to observed depersonalising components of the enlightenment rationalism, pantheism, Hegelian absolute idealism, individualism,

²⁸⁶See Bertocci, P. A. 1980. Why personalistic idealism? *Idealistic studies*. www.pdcnet.org Buford, T. 2006. Persons in the tradition Boston personalism.

²⁸⁷ Buford, T. 2015. Personalism. *Encyclopedia of global bioethics*. 12.

²⁸⁸ Bengtsson, J. O. 2006. *The worldview of personalism: origins and early development*. Oxford: University Press.

²⁸⁹See William, T. D. and Bengtsson, J. O. 2018. Personalism. *The Stanford Encyclopaedia of philosophy*. Mooney, M. A. 2012. What is Personalism? A rectification of individualism and collectivism. *PATHEOS*.

²⁹⁰Buford, T. 2015. Personalism. *Encyclopedia of global bioethics*. 1.

²⁹¹ Buford, T. 2015. Personalism. 1-2.

collectivism in politics, materialism, psychology, and evolutionary determinism. In its different strains, personalism at all times accentuates the uniqueness of the person as the principal centre of enquiry for any philosophical, theological, and humanistic studies. In other words, as a system of thought, personalism regards the individual as ultimate explanatory, epistemological, ontological, and axiological principle of all reality.²⁹²

4.4 Personalism, Individualism and Collectivism

Personalism and individualism agree on the inviolability of the human person, but Personalism opposes individualism on the grounds that it underestimates the relational character of human persons. According to the Personalists, “human freedom does not consist in being free from others, but rather in freedom through others. Humans are set free in their obligation and service to others.”²⁹³ From Franz Schumacher’s analysis, if we consider the terms from which Personalism and individualism are derived, we would deduce the difference between the two schools. He opines:

Individual in an abstract sense is thus the definition of the minimum set of properties that each member of a group must possess to belong to that group. It defines at the same time the group (excluding and including) and the generic elements that make up the group. Personal can ... be seen as the specific combination of properties (observable or not) that make up one element of the group. This set of properties makes it unique within a group of elements. ... The individual would be defined by the object, the personal would be a specific instance of the object”.²⁹⁴

Possibly, as a result of the religious training received by many of the personalists, they affirm the significance of the body and spirit in understanding the person, and are mindful of the actuality of the transcendence.²⁹⁵ Personalism is in contrast to materialist

²⁹² William, T. D. and Bengtsson, J. O. 2018. Personalism. *The Stanford Encyclopaedia of philosophy*. E. N. Zalta. Ed. Retrieved <https://plato.stanford.edu.ng/archive/win/2018/entries/personalism>.

²⁹³ Personalism as opposed to individualism. Retrieved may 2, 2019 from www.personalisme.dk.

²⁹⁴ Schumacher, F. 2018. What’s the difference between individualism and personalism? *QUORA*.

²⁹⁵ Mooney, M. A. 2012. What is Personalism? A rectification of individualism and collectivism.

philosophy and other forms of collectivism, which subsumed individual's inherent worth under the communal. Like Immanuel Kant in the second version of the Categorical Imperative, personalism holds that a person cannot simply be used as a means to an end, but each person should be perceived as an end in themselves.²⁹⁶ Also, personalists discard utilitarian idea that a person's utility is the same as his value, but affirms the uniqueness of each person.²⁹⁷

What then distinguishes an individual from a person? According to *Stanford Encyclopaedia of Philosophy*, the main difference between an individual and person is the fact that individual signifies a solitary unit in a homogeneous set that can be interchanged by any other participant in a set, whereas a person is branded by his inimitability and irreplaceability. This means that every human being is different in that he or she is a member of the human race, a particular being. But a person has a dignity, an irreplaceability.²⁹⁸

Nevertheless, according to T. Bufford, another significant input of personalists is their attention on value theory, superior character, and dignity of human life. Some philosopher of personalism have developed basic theories that facilitate the improvement of a Global Bioethics, which offers the prospect to influence a comprehensive assemblage of bioethical issues, such as distribution of fixed medicinal and health-care means, autonomy, uses and limits of chromosomal operation to produce desired medical outcomes, death and dying, and family relations. For Buford, the issues require cautious moral investigation, with a moral structure from which those decisions can be adequately reached.²⁹⁹

4.5 Historical Development of Personalism

²⁹⁶ Mooney, M. A. 2012. What is Personalism

²⁹⁷ See Bengtsson, J. O. 2006. *The worldview of personalism*; Mooney, M. A. 2012. What is Personalism?

²⁹⁸ See William, T. D. and Bengtsson, J. O. 2018. Personalism. *The Stanford Encyclopaedia of philosophy*. Mooney, M. A. 2012. What is Personalism?

²⁹⁹ Bengtsson, J. O. 2006. *The worldview of personalism*.

The origin of personalism is found in Europe, in Western philosophy to the Mediterranean basin. It also has roots in Asia through the six traditional schools of India philosophy, which were dispersed about the Indus river valley of the India space. The belief is that personalism developed in India within the Hindu religion long before its development in Western philosophy.³⁰⁰

4.5.1 Personalism in Asia (India)

The background of Personalism in India was hatched by the Vedic text, the religious practice and thought of Hinduism, from around 1500 BCE. Personalism in India has its origin from the goal of Hindu philosophical enquiry, the edict of which means liberty from misery. Hindu philosophy in its entire structure search for ways to assist persons to obtain liberty, by providing insight into the nature of definitive reality and man's place in it. The Hindu system advocates awareness of self, in order to be able to obtain desired liberty. The nature and purpose of individual persons is the unifying subject of the six orthodox Hindu philosophical systems. Each structure assures one of inner knowledge that bond all other structures to one particular theoretical orientation.³⁰¹

In seeking freedom and knowledge of self, Hindu personalism focuses on the following demands: the constituent of self, link of self to the physical world, the relationship between self and the ultimate reality, and the path from pain and misery to liberation. For Hindu schools, persons are marked by innumerable characteristics, which include an enduring, and external spirit (*atman*) that powers existing observed perception, have a physical body (*jiva*) that exists as part of a mutable substantial world. All the schools agree that phenomenon *atman* is the timeless, static, autonomous essence. The schools are at variance on the question of whether the transcendental life remains sentient or insentient, energetic or flaccid. Also, all the schools recognise that notwithstanding that persons are connected to the sensible world, man possesses other features such as, agency, thinking, longing, freewill, purpose, and uniqueness.³⁰²

³⁰⁰ See Buford, T. 2012. Personalism. *Internet Encyclopedia of Philosophy*. Retrieved May 2, 2019 from <https://www.iep.utm.edu> Buford, T. 2015. Personalism. *Encyclopedia of global bioethics*.

³⁰¹ Buford, T. 2012. Personalism.

³⁰² Buford, T. 2012. Personalism. *Internet Encyclopedia of Philosophy*

4.5.2 Greco-Roman and Christian Roots of Personalism

Western personalism trace the origin of the nature of person to the confluence of Greco-Roman philosophy, Christian experience and Theology. Man is viewed with superlative significance as vital to the understanding of reality. The concept ‘person’ was first used in Greek and Roman cultures. Its origin is from the Greek expression *prosopon*, which denotes the face around or near the eyes. Later the term came to designate costumes worn in Greek theatre. The Latin equivalent is *persona*, which also denoted masks that functioned as loudspeakers. In the Greek theatre then, masks were worn by actors on stage in order to aid their performance. Later the concept ‘persona’ was employed in locus to a King suggesting a variance between the socially important and the relatively unimportant, ordinary fellow. However, by the end of the second century *persona* became a judicial term portraying Roman citizens as possessor of legal rights in contrast to a slave, a non-persona that possessed no legal rights.³⁰³

As the ancient philosophers influences (Pythagorean, Platonic, Aristotelian) persistent, individuals had little or no philosophical importance. For example, Plato dichotomised the specific and universal; he understood the specific from the eye of the universal. For Socrates the individual partakes in the universal “human being”, and to understand the particular, we must first understand the universal. Thus, we can only know and account for the particular, through the universal. The term *persona* later acquired a negligible existence among the Stoics, and Neo-Platonists. Stoics held that God formed an ordered world, a stage on which every human as a rational being plays an assigned part. Every *prosopon* or *persona* not only plays a social role, but also his essence is constituted by God. Man possesses no ontological significance in himself. Human beings are “microcosms of the macrocosm”.³⁰⁴

In Eastern Mediterranean culture, the Jewish term *nephesh* was translated as person, but in ancient Hebrew life, and culture no expression was analogous to *prosopon* or *persona*

³⁰³ Buford, T. 2012. Personalism.

³⁰⁴ Buford, T. 2012. Personalism.

appears. *Nephesh* is more often interpreted as soul, life, creature, or self. *Nephesh* is the stimulating attitude of a corporeal being or the existential worth, or state of life.

Greco-Christian understanding of person came into focus in the 4th and 5th centuries, respectively. The Christian church worked out a satisfactory rational analysis of the Trinity, and the individuality of the personhood of Jesus the Christ. This entailed many controversies, a crucial issue in the argument was the understanding of individual persons. Again, in the course of the time of Origen (185-254CE), the concern was on whether an individual possesses the attribute of being or whether an individual, created by the unrestricted and self-determining God, who is made in the image of God, is limitless or reliant. If the former, it indicates that man shares the attribute of God expressed in the Greek philosophical expression, *ousia*, which articulates the Trinity as *una substantia* (God) and the *tres personae*, where the Father, Son and the Holy Spirit are understood as three independent Supernatural being. If the latter, man is not an attribute of *ousia*, but *upostasis*. Initially, both *ousia* and *upostasis* meant substance, but later they were used independently, *ousia* referring to substance and *upostasis* referring to individual person. This means that persona is no longer a mask worn by an ontological substrate, *ousia*. Gregory of Nazianus (329-389) leading the Cappadocians agreed that individual persons were ontologically ultimate. This is a dominant theory of personalist philosophy, however, an explanation of the inner life of persons lay beyond the Personalists' philosophical interest.³⁰⁵

Augustine (354-430) offered an examination of the inner life of individuals. He sustained the substance view of person when he defines a person as a lucid spirit using a finite body. According to Augustine, a spirit inhabiting a form is not two people, but one man. Augustine's input to personalism is on the exploration of the innate knowledge of person. He presented the knowledge of reality of man from an appreciation of the internal existence of people. He submitted that the understanding of God moves from the peripheral to the internal, and from the substandard to the greater, and in man, free will is supreme to rationality. By doing this, he developed a key insight of personalism.³⁰⁶

4.6 Bowne's notion of Personalism

³⁰⁵ Buford, T. 2012. Personalism.

³⁰⁶ Buford, T. 2012. Personalism.

Bowne's notion of personalism is cognisant of the perception that explicit human categories must be considered by anybody attempting to cultivate a satisfactory philosophical construction. At the core of philosophy, according to the general teaching of personalism, and that of Bowne's, is the person and his significance.³⁰⁷ For Bowne, a lot of conversant actions of everyday life have significance, and meaning in the invisible. For instance, he said, when people moving along the street are observed, and considered merely under empirical laws, we notice only what we can see or what the camera can report, the effects of the observation become meaningful only when we relate the actions to our personal experiences, otherwise the actions are in highest degree bizarre. A lot of man's physical procedures and movements seemed quite ridiculous whenever they are considered in abstract of their subjective meaning or the subjective life behind the movements.³⁰⁸

On that premise, Bowne argues that there are many confusions in the philosophic enterprise, and we are unable to bring common assumptions to better philosophical perception because of the captivity of our thoughts to sense object, and a failure to recognise or admit the significance and importance of the inner life of human personhood. For Bowne, great confusion exists in the philosophic enterprise because of the failure on the part of philosophers to acknowledge the significance and importance of human personhood. In his words:

Great crop of errors readily springs up on the plain of sense and mechanical thought. ... Sensualism, materialism, atheism, like weeds, are sure to grow unless there be a philosophy of higher character to keep them down. These lower philosophies tend to usurp possession of the mind; ... in their presence the higher faiths of the soul ... wither and perish.³⁰⁹

To rid philosophy of the confusions, he asserts further, saying:

We need ... a sound philosophy ... as a kind of intellectual health officer whose business it is to keep down disease-

³⁰⁷ Buford, T. 2006. Persons in the tradition Boston personalism. *Journal of Speculative Philosophy* 20:3.

³⁰⁸ Bowne, B. P. 1908. *Personalism*. 275, 276.

³⁰⁹ Bowne, B. P. 1908. *Personalism*.

breeding miasms and pestiferous growths ... a moral police whose duty it is to arrest those dangerous and disturbing intellectual vagrants which have no visible means of support, and which corrupt the people.³¹⁰

Thus, for Bowne, the first step out of the confusion we find in philosophy lies in seeking to reduce it, if we cannot obliterate it completely; and the way to have an enhanced appreciation of the problem is to consider some standpoints that would serve as a mutual foundation of shared sense for truth-seekers of all schools, a platform on which all may agree on as a point of exodus. This starting point for Bowne is: one, the co-existence of individuals. We live in a private and public world, and it is within these spheres of existence that conjectures must start. Every man and his neighbours are actualities that cannot be wished away. Secondly, present is a rule of reasonableness, lawful and binding on all, the highest state of every rational community. Thirdly, at hand is a domain of shared knowledge, authentic or conceivable, the point everybody meet in reciprocal understanding, where the great business of life goes on.³¹¹

The implication of Bowne's idea or theory of Personalism is the affirmation that every human person possesses an intrinsic worth, which is not determined by the manner or place of his or her birth. Similarly, implied in his theory is the fact that human personality is a standpoint from which every other philosophical abstractions should be made. He asserts that the rationality explains everything, but itself, it reveals other things as its own yields, demonstrating its own principles. Rationality recognises itself in existence, and only in existing, it is under no circumstances explained by anyone or whatever thing, it is by itself the only standard of explanation. When effort is made to explain it by something else, or even by its own doctrines, we plunge into the level of machine again, thereby purpose and justification disappear altogether. But when active intelligence is made the base detail, every other truths become glowing and understandable, and intelligence knows itself as their source and explanation.³¹² Bowne's notion of Personalism grants moral and social worth to every human being or individual. In relation to the *abánibímō*, therefore, any child born under this arrangement possesses

³¹⁰ Bowne, B. P. 1908. *Personalism*. 8.

³¹¹ Bowne, B. P. 1908. *Personalism*. 20-21.

³¹² Bowne, B. P. 1908. *Personalism*.

not only the full right of a citizen, but should also be accorded respect and dignity in the social environment or the community of other human beings.

In Yoruba culture children born outside of wedlock are usually referred to as *omo-ale* (bastards), and they are seen as misfits in the family cum society, and are precluded from sharing in the family inheritance, ascension to the king's throne, if they are from the royal lineage. Also, they are barred from offering ritual oblations to the ancestors or the preternatural forces that superintend over the cosmic order. But this is not the case with the product of *abánibímọ* arrangement, the child is accepted as a full member of the community into which he or she is born, and can partake in all the rights and privileges due other children in the community. This includes the right to offer ritual oblations to the ancestors or gods and goddesses in the lineage. Such a child can also be initiated into the cultic practices of full citizens, having the right to become a *baalẹ* or village elder where the opportunity exists. He or she can also aspire to the kingly throne, if they are from a royal lineage.

In line with Bowne's theory of inherent worth, this study posits that the significance and value of a child who is a product of the *abánibímọ* arrangement lies in his or her being, and not in the legality or otherwise of the process through which such a child came into the world. In extension, this study argues that the idea that some children are *omọ-àlẹ* (bastards) and are thereby considered as social pariahs or outcasts has no impact on their personhood. Arguing in the same vein, Kant also arrived at the same conclusion that the human person has an intrinsic worth and therefore should be respected. This Kantian idea of deference for persons is expressed in the second formula of the Categorical Imperative which says: "Act ... that you treat humanity, whether in your own person or in that of another ... as an end and never as a means only".³¹³

Kant's objective for articulating the formula is the quest for, and instituting of *the supreme principle of morality*. He formulates the standard in different means, two of which are significant variants that are supposed to bring the moral principle "closer to intuition" and thereby "provide entry and durability for its precepts" by linking it further

³¹³ See Wood, A. W. 2006. Kant's Formulations of the moral law. Bird, G. *A companion to Kant*;

closely to human experience and feelings.³¹⁴ He calls this principle the *categorical imperative*. Kant formulates three versions of the imperative. Though differing in wording and emphasis, he conceives them as three different “views” of the same overarching principle.³¹⁵ His efforts birthed virtue ethics, and ethics of duty, which provide perceptions on what manner to live a virtuous and gratifying human life.³¹⁶

Again, for Bowne in the last chapter of his luminous book titled *Personalism* human beings are invisible. The physical organism that we carry about is just an apparatus for communicating the innate life. For him, the existing personality is never seen, but every person knows himself or herself in instantaneous experiences, and others are known by their effects, that is, you know others only through an abstraction of self-knowledge. Personal knowledge and knowledge about others do not come in formed or shaped arrangement, but in actions. In this respect, Bowne submits that human beings are without form and imperceptible as God himself, not just because of being invisible, but because of not lying within the ambit of perceptibility, since it is not possible to give the form of the spirit or measure what is the length and breadth of the soul, it is therefore absurd to question notion of mans’ invisibility.³¹⁷

Moreover, for Bowne, the human system as an entity in space, would have little magnificence or attraction, aside human understanding of it as the instrument of expression of innate life, when defined in material terms there is nothing in it that is fascinating to us. The stealthy of its exquisiteness and worth is hidden in the imperceptible realm.³¹⁸ In the same way, in many African communities, an individual is believed to be constituted of two basic elements: one, corporeal and extended, and the other, incorporeal and unextended.³¹⁹ And to a great extent, it is believed that the

³¹⁴Bird, G. 2006. *A companion to Kant*; Sullivan, R.J. 1994. *An Introduction to Kant’s Ethics*. Cambridge. New York: Cambridge University Press. 199.

³¹⁵Foundations of Bioethics: Ethical Theories, Moral Principles, and Medical Decisions

³¹⁶ Sullin, P. 2012. Immanuel Kant’s ethics of duty.

³¹⁷ Bowne, B. P. 1908. *Personalism*. 269.

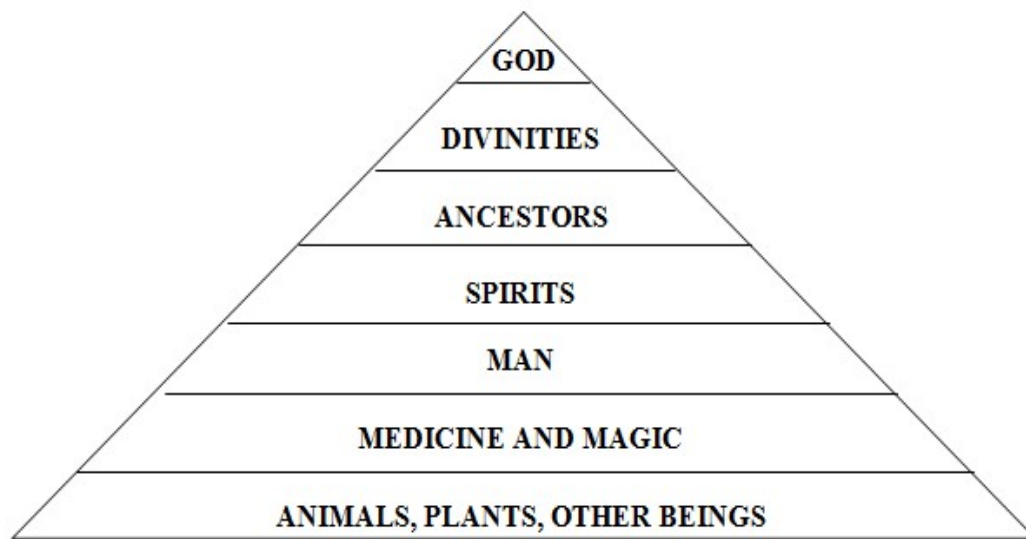
³¹⁸ Bowne, B. P. 1908. *Personalism*. 271

³¹⁹ Offor, F. 2013. Personal identity and “life-here- after poetics”: A critique of Mduabuchi Dukor’s metaphysics. *Open journal of philosophy*. 3:1A.

spiritual has much influence over the physical. Awólàlú and Dòpámú are of the opinion that person is made up of material and immaterial constituents.³²⁰ *Ara* (body) is the physical body and houses other physical constituent of the person, and the *è mí* is the immaterial, invisible and non-physical part of the person. In other words, the Yorùbá believe that *è nì yàn* is constituted of physical and non-physical elements which are related, and have implications for the moral, and social status of a person.³²¹ According to Oládipò, *è nì yàn* is “an integrated physic-chemical system whose conscious activities are products of the harmonious interaction between its various elements or sub-systems”.³²² The next section, therefore, is devoted to a critical consideration of the Yorùbá idea of the person.

4.7 *È nì yàn*: Yorùbá idea of a person

4.7.1 Yorùbá Ontological Structure



³²⁰ Awolalu, J.O. and Dopamu, P. O. 1979. West African traditional religion.

³²¹ Oyeshile, A. O. 2002. Towards an African concept of a person: person in Yoruba, Akan and Igbo thoughts. *ORITA: Ibadan Journal of Religious Studies*. XXXIV 105-114.

³²² Oladipo, O. 1992. The Yoruba conception of a person: an analytico-Philosophical study. *International Studies in Philosophy* XXIV 3. 16.

It is important to state here that man is not the only creation of *Olódùmarè*, the Yorùbá believe in an “authoritarian and hierarchical structure of existence.”³²³ At the apex of the Yorùbá structure of existence is *Olódùmarè*, the Highest or Supreme Being. The Yorùbá hold that *Olódùmare* in timeless prehistory created all things, whatever happens is due to his creative activity, and whatever exists holds its existence to *Olódùmarè*. Assistants of *Olódùmarè* during creation were the numerous divinities that lived in the sky/heaven with him.

The Yorùbá ontological structure is a pluralistic one that recognises that besides the Supreme Being, *Olódùmarè*, *Eleda* or *Olórun*, as he is variously called, are other categories of being as well, the *Òrisà* (divinities), deities, ancestors, spirits, man, medicine and magic, then others, at the bottom of the hierarchical structure, are animals, plants, and natural objects and phenomena. Although, man is lesser than spirits but higher than animals, plants and other natural objects, he relates well with both the spirits, on the one hand, and with the animals, plants and other beings, on the other.

In Yorùbá ontology, divinities emanated from the Supreme Being *Olódùmare*, they were brought into being as a result the celestial status of the world.³²⁴ *Orisanla*, also called *Obatala* in Yorùbá religion, is believed to be a partaker of the character of *Olódùmare* (God). Generally, *Obatala* is referred to as the son or deputy of *Olódùmare*, other divinities like *Olokun* in Edo, and divinities in *Akan* are regarded as *Onyame's* (God) children. It is the sonship of these divinities that qualifies them as divinities. Likewise, divinities exist as officials in the supernatural government of the cosmos. Consequently, divinities like ministers have their own department of action, and perform as arbitrators between human beings and God. Nevertheless, divinities are not autonomous beings, their being is predicated only on the being of God. The divinities in Yorùbá belief can be said to be made up of three categories: First are the prehistoric divinities, these are the foremost divinities, they were part of the novel ordering of effects; second are the ones who are just conceptualisation of protuberant characteristics of God, as discerned especially through natural phenomena; and third are the consecrated ancestors and

³²³ Omolafe, J. A. 1992. The socio-cultural implications of *Ìwa* in Yorùbá traditional thought. *ORITA: Ibadan Journal of Religious Studies* 22:2. 74-5.

³²⁴ Ikenga-Metuh, E. 1987. *Comparative Studies of African Traditional Religions*. Onitsha: IMICO Publishers.

heroes. They are venerated because they exhibited the attributes of deities in their lifetime.

Next to divinities are the custodians of the lineage, the ancestral spirits. The foundation of belief in ancestors is in the Yorùbá belief that communication takes place between the living and the dead, and that the dead are able to be of help or to destroy the living. It should be noted that there is a delineation concerning the Supreme Being and the divinities on one hand, and ancestors on the other hand. The divinities (deities) belong to the unseen world, while the ancestors were and are part of the existence of the living. In other words, the ancestors relate with the living in a way that divinities do not; ancestors are still regarded as part of the family or community they belonged while they were on earth, but they have taken up immortality, since it is assumed that they have traversed to the supernatural world, and are unrestrained by the physical restraints of the terrestrial world, and therefore can assist members of the family alive, who are still under the restraints of physical restrictions.³²⁵ Since they have crossed to the other world, they serve as intermediaries of the ‘seen’ and ‘unseen’ worlds, they carry on the role of custodians of the family. Interestingly, ancestors are perceived as spirit beings in cognisance of the circumstance that they have attained immortality.

Progressively, in the pyramid of existence are the spirits. Spirits are believed to be ubiquitous. Yorùbá people believe that places and objects do have their own spirits. For example, it is held that spirits inhabit trees, dwelling areas, artefacts, pillars, mountains, hills, and valleys. Generally, it is believed that spirits can take possess of a person, use the person for either worthy or evil cause. Although, spirits do not have specific names except for the general local names that are attached to them. Spirits could be categorised into evil spirits (*ajogun*) and guardian-spirits.³²⁶ The guardian-spirits are believed to be an essential part of human’s existence, acting as the person’s spiritual counterpart, and guiding against misfortunes. They also convey prosperity, but some other times put hurdles in one’s way to positively delay one from being a victim of an evil occurrence.

³²⁵ Mbiti, J. S. 1969. *African Philosophy and Religions* (1990 edition). London: Heinemann.

³²⁶ Idowu, E.B. 1973. *African Tradition Religion: A Definition*. London: SCM Press Ltd.

The level below man in the ontological structure is magic and medicine. Universally, human beings have acknowledged the need to be assisted by mystical powers in order to be able to manage the intricacies, problems, and puzzles of survival.³²⁷ Man needs mastery of, succour, and deliverance, from environmental circumstances. To meet the necessities of their being, human beings recognised two major powers. The first is magical power, which is approached through submission and appeal. The other is medicinal powers that are approached by harnessing them for man's own ends. Magic and medicine are closely connected with Yorùbá religion, not only because they have their origins in religion, but also because the priests, most times, double as divine healers. Traditional healers in Yorùbá often assert they were instructed the art of medication by their forefathers. Some alleged they were taken away by whirlwind for a period of time, to be instructed, the period ranges from seven days to seven years.

4.7.2 Yorùbá Idea of Person

In our everyday interaction and conversation, human beings are referred to as persons. At the level of ordinary discourse, the term person does not raise any controversy, because many people agree that a person is made up of a combination of certain physical and/or mental properties or forms of consciousness, but this seemingly simple concept has being a source of controversy in the history of philosophy since the ancient epoch, and there is no exception in Yorùbá philosophy

Generally speaking, in answering the question 'who is a person?', the response of an average Yorùbá speaker will be that the person is the most important creation of the Supreme Being, *Olódùmarè*; that the person receives his/her essence of being from *Olódùmarè*, and also that a person is intricately related to *Olódùmarè* because it is *Olódùmarè* who seals the destiny of man even before his birth.³²⁸ *Ènìyàn* is the Yorùbá term for a person.³²⁹ *Ènìyàn* is an integrated physic-chemical structure, whose cognisant activities are products of the agreeable interaction of its different elements or sub-

³²⁷ Shorter, A. 1975. *African Christian Theology*. London: Geoffrey Chapman.

³²⁸ Awolalu, J. O. and Dopamu, P. O. 1979. *West African traditional religion*. Ibadan: Onibonoje. 155.

³²⁹ Gbadegesin, S. 1998. *Ènìyàn: the Yoruba concept of a person*. Eds. P. H. Coetzee and A. P. J. Roux. *The African philosophy reader*. London: Routledge. 14.

systems.³³⁰ In many African communities, an individual is believed to be constituted of two basic elements: one physical and extended; and the other is spiritual and unextended”.³³¹ *Ara*, refers to the physical body that houses other physical constituents of the person, and the *è mí*, the immaterial and non-physical part of the person.³³² In other words, the Yorùbá believe that *è nì y à n* is constituted of physical and non-physical elements that are related, and which have effects continuously on the moral and social status of man.³³³ Gbadegesin, commenting on the concept asserts that the *è nì y à n* as a concept has a normative and a descriptive element. In reference to the normative understanding of the concept we hear people say of a person considered not to be morally upright that: *kì í se è nì y à n* (he or she is not an *è nì y à n*).³³⁴ This statement is a verdict on the moral status of the person in question. In the Yorùbá language, more importance is employed on the normative sense of *è nì y à n* than on what obtains in the concept of a person in English language.³³⁵ Thus, the Yorùbá do not share the idea that “something is at stake in human beings, which is obscured, suppressed, disregarded or distorted (such that) our difficulty is that we know so little about the humanity of man ... we know what he makes but we do not know what he is.”³³⁶

However, the dichotomies should not be confused with Western dualism, because the Yorùbá, for example, do not produce a single entity as the substance responsible for all mental activities and therefore do not have the equivalence of the word “mind” in their diction.³³⁷ Before we undertake an analysis of the Yorùbá understanding of the concepts

³³⁰ Oladipo, O. 1992. The Yoruba conception of a person: an analytico-Philosophical study. *International Studies in Philosophy* XXIV: 3. 16.

³³¹ Offor, F. 2013. Personal identity and “life-here- after poetics”: A critique of Mduabuchi Dukor’s metaphysics. *Open Journal of Philosophy*. 3:1A.

³³² Awolalu, J.O. and Dopamu, P. O. 1979. West African traditional religion.

³³³ Oyeshile, A. O. 2002. Towards an African concept of a person: person in Yoruba, Akan and Igbo thoughts. *ORITA: Ibadan Journal of Religious Studies*. XXXIV 105-114.

³³⁴ Gbadegesin, S. 1998. *È nì y à n*: the Yoruba concept of a person. 149.

³³⁵ Gbadegesin, S. 1998. *È nì y à n*: the Yoruba concept of a person.

³³⁶ Heschel, A.J. 1966. *Who is man?* Stanford: Stanford University Press. 5.

³³⁷ Oladipo, O. 1992. The Yoruba conception of a person: an analytico-Philosophical study. 18.

and structural composition of man, it is imperative to examine the Yorùbá ontological structure.

4.7.3 The Concept and Structural Composition of Man: Yorùbá Perspective

Several terms are employed in Yorùbá understanding of the concept, and structural composition of person, prominent among these are: *ara*, *okàn*, *èmi*, *oṣoṣo*, *òjiji*, *orí*. Gbádégesin points out that there are some confusions in the understanding of what each means and what relation they have one to another, and it becomes more confusing if we start to analyse these concepts with the English equivalents in mind. So, rather for the concepts to be explained in their English equivalents, they should be explained according to the usage of each among the Yorùbá, and to “relate to them in terms of their functional independencies”.³³⁸

Ara (body) embodies the tangible constituent of person; *ara* refers to the external and internal components of man such as the skin, flesh, bone, heart, eyes, brain, intestine to mention a few. It is the part of man that is physical and can be designated in concrete terms.³³⁹ *Ara*, in other words, refers to the physic-material frame that a person shares with the lower animals; with it individuals act, and react to the physical environment. In physical terms *ara* is described as being strong or weak, heavy or light, hot or cold; well as in normative terms, then we hear them use the word *ìmótára-èni* for someone who is self-seeking. The body is viewed as a container that houses the senses, which make up its most important element.³⁴⁰ Also, a part of this physic-material element could be used in reference to the whole body, for instance they refer to someone who is covetous as *olójú kòkòrò*. Here, the eye is used to refer to, one, the whole body, and two, to describe the act of covetousness. Some part of *ara* could be misplaced, without the loss of life, once the impaired part is cured or replaced, man continues to exist.³⁴¹

³³⁸ Gbadegesin, S. 1998. Ènìyàn: the Yoruba concept of a person.

³³⁹ Awolalu and Dopamu, 1979. *West African traditional religion*. 251.

³⁴⁰ Gbadegesin, S. 1998. Ènìyàn: the Yoruba concept of a person

³⁴¹ See Awolalu, J.O. and Dopamu, P. O. 1979. *West African traditional religion*. 252; Alofun, G. O. O. 2006. The problem of freedom and choice in Yoruba philosophy of existence. An unpublished Masters’ degree project of the Department of Philosophy, University of Ibadan. 8.

Okàn, another prominent part in the structure of the human person, is literally translated as heart, the physical *Okàn* is a representation of another *Okàn*, which is essentially immaterial. The physical heart is a part of the human body and its primary function is the pumping of blood (èjè) to other parts of the body. *Okàn* also denotes the aspect of man called *iyè* (mind, mentality or rationality).³⁴² This is clearly shown in the way people use *Okàn*: people say of a person buried in thought, *Okàn rẹ tí lo*, the sentence is also used for a person who is absent-minded. To the Yorùbá, therefore, *Okàn* is not just a sensible component whose activities involve the psychic, emotional, and thinking state of a person; but it possesses something not corporeal that is accountable for systems of conscious identity. In this sense, Yorùbá will say of a brave man *ó ní okàn* (he/she has heart), and of a person that is cowardly, or fearful, *kò ní okàn* (he/she has no heart). The problem that may arise from the above explication of *okàn* as the seat of thought is the question of the function performed by the *opọlọ* (brain). But according to Gbádégesin, through the analysis of the Yorùbá language, *opọlọ* could be acknowledged as spring of rational cognition, while *okàn* is the cause of every conscious and emotional responses.³⁴³

Another element that makes up the person, according to Yorùbá, is *Èmí*. *Èmí* has been translated to mean soul, or spirit. There is no English word that succinctly captures the term as used by the Yorùbá people. According to Makinde, *èmí* is important in the life of human persons because it is believed to be a creation of *Olódùmarè*, and its creation is different from that of the body.³⁴⁴ *Èmí* is considered as an essential principle of life, seat of life or active principle of life. *Èmí*, the Yorùbá reflect is the animating force, without which, an individual cannot be said to be a living being at all, let alone be a conscious human person. This element in man is held to be connected to *èémí*, breath, the act of inhalation, the contrivance of breathing is its most expressive manifestation.³⁴⁵ Its absence in the body indicates death, for it is the guarantor of existence. The question now is: What is the nature of *èmí*?

³⁴² Awolalu and Dopamu, P. O. 1979. *West African traditional religion*. 155.

³⁴³ Gbadegegin, S. 1998. *Ènìyàn: the Yoruba concept of a person* 151.

³⁴⁴ Makinde, M. A. 1984. *An African concept of human personality*. 191.

³⁴⁵ Idowu, E. B. 1962. *Olódùmarè: Quoted in Oladipo, O. The Yoruba conception of a person*. 19.

Èmí is believed to be spiritual/immortal in nature, and at the same time believed to possess an independent existence. This belief has been criticised on two grounds. Firstly, *è mí* cannot be spiritual, and at the same time occupy space, or have an independent existence. Secondly, the claim that *è mí* has an independent existence has been doubted on the basis that it is not an entity, but a force. Again, if *è mí* is able to exist independently, that is to say that it can perform certain conscious actions exclusive of the body. But this cannot be the case because the concept of consciousness presupposes other concepts, some of which are sight, touch, thought, feeling and emotions, and since we cannot talk about these concepts without the concept of the body, then, *è mí* cannot exist without the body.³⁴⁶ Also, it can be argued that to claim that *è mí* is capable of existing independently leads into an infinite regress, reason being that, if *è mí* were capable of independent existence, it would need another life-giving force, another *è mí*. And for this to be able to live by itself, it would need another life-giving force to keep it alive, and so on *ad infinitum*.³⁴⁷

According to Gbadegesin, the Yorùbá hold the belief that *è mí* is spiritual and have independent existence because of the way it comes into the human being. It is believed that it is supplied by the *Olódùmarè*, and since *Olódùmarè*, who is the source of *è mí* is spiritual, then, the spiritual nature of *è mí* cannot be denied, unless one denies *Olódùmarè's* spirituality.³⁴⁸ Also, if *Olódùmarè* is spiritual, and to have independent existence, then there should be no difficulty in comprehending the independent existence of *è mí* separate of the bodily frame, since the “owner of *è mí*” *Olódùmarè* is conceived as been independent of a bodily frame.

Related to the *Okàn* and *è mí* is the *èjè* (blood). The physical heart (*okàn*) is the tissue in control of pumping and transmission of blood to other parts of the body, and as Makinde maintains, the heart and blood are two vital organs to the soul in the practise of traditional medicine. Lifeblood (*èjè*) is perceived as crucial benefactor of medicine, and life itself. That is why it is said that “the life of a man is in the blood stream” *Èjè* displays

³⁴⁶ See Oladipo, O. 1992. The Yoruba conception of a person. 20; Alofun, G. O. O. 2006. The problem of freedom and choice in Yoruba philosophy of existence.

³⁴⁷ See Oladipo, O. 1992. The Yoruba conception of a person. 20; Alofun, G. O. O. 2006. The problem of freedom and choice in Yoruba philosophy of existence.

³⁴⁸ Segun Gbadegesin, 1998. *Ènìyàn: the Yoruba concept of a person*. 151.

an important role in determining the biological, as well as metaphysical composition of the human being in the Yorùbá belief system.³⁴⁹ The blood is related to the *èmi* in the sense that when a man dies, the blood disappears from the body. Though the disappearance is physical, it connotes a spiritual understanding, the disappearance of the soul from the body.³⁵⁰

Ìfun (intestine) is another physical composition of a person that plays an essential role in his existence. The Yorùbá hold that the nature of a man's physical intestine to a large extent determines the person's physical strength. Thus, certain physical and emotional characteristics are ascribed to the *ifun*.³⁵¹ When it is said of an individual that *kò ní ifun* (he/she has no intestine, what is implied is that he is not strong and has no resilience at all. In the same vein, *ó ní 'fun kan* (one with just an intestine), it refers to someone who is not resourceful or who has little or no initiative.³⁵²

According to the Yorùbá people, *Ori* (head) is a spirited element in the make-up of the human person. *Ori* in Yorùbá language refers to the visible head, it encloses the brain and is the seat of intellect. But the Yorùbá believe that this visible head symbolises a spiritual head, which they call *ori-inú* (inner head). *Ori-inú* determines the full personality of man, and doubles as the porter of the person's destiny. *Ori-inú* is held to be an individual's personal divinity, which accommodates a person's individual interests.³⁵³ Also, the Yorùbá hold that a man's *ori* can either be good, or bad, the fact of this can be gleaned from Yorùbá sayings such as: *olóri ire* "one who possesses good head" denotes a person who is lucky or prosperous, while the saying *olóri burúkú* "one who possesses a bad head is used to describe someone who is unfortunate or

³⁴⁹ Oyeshile, O. A. 2006. The physical and non-physical in Yoruba concept of the person. *Philosophia: International Journal of Philosophy* 35:2. 155.

³⁵⁰ Oyeshile, O. A. 2006. The physical and non-physical in Yoruba concept of the person.

³⁵¹ See Oyeshile, O. A. 2006. The physical and non-physical in Yoruba concept of the person; Makinde, M. A. 1984. An African concept of human personality. 191.

³⁵² Oyeshile, O. A. 2006. The physical and non-physical in Yoruba concept of the person.

³⁵³ Awolalu, J.O. and Dopamu, P. O. 1979. *West African traditional religion*.158.

unlucky.³⁵⁴ This belief is expressed by Wándé Abímbolá when he asserts that achievement or catastrophe in life is contingent on the variety of *or-inú í* that a person chose in the spiritual world (*Ìsálú Òrun*). The choice of an *orí-inú* that is good guarantees a prosperous and flourishing life in the world for the individual who chose it, while the choice of an *orí* that is bad sentences the individual whose portion it is to life of wretchedness. *Orí-inú* is an intangible component of man that represents human destiny.³⁵⁵

However, contrary to the above claim about the goodness or badness of *orí*, Awolalu and Dopamu aver that the Yorùbá conceive of all *orís* as basically good because they are derived from *Olódùmarè*, but that the existential situation in the world, how a man lives in tandem with the environment, and his general conduct, could also produce a change of condition of his *or-inú*.³⁵⁶ For Idowu, *orí-inú* (inner-head) regulates, directs and chaperons the undertakings of man in life.³⁵⁷

Some African scholars believe that *orí* (the individuality element) is another entity just like the *ara* (the bodily structure which is visible and tangible), and *èmi* (the life-giving element, that is invisible and intangible). Makinde maintains that *orí* is an entity. He claims that *Orí* executes an incorporeal function, apparently it evacuates the body after death, and it returns to heaven where it was initially formed, waiting to be recycled in a new soul at a different cycle of rebirth. For Makinde, *orí* does not perish on earth unlike the physical body.³⁵⁸

Essentially, what Makinde is saying is that *orí*, like *èmi* lives a separate existence of its own, and like *èmi*, goes back to *Olódùmare* after death. For Makinde, the initial choice of *ipín-orí* by an individual in the presence of *Olódùmarè*, is the selection of a definite

³⁵⁴ Awolalu, J.O. and Dopamu, P. O. 1979. *West African traditional religion*. 159.

³⁵⁵ Abimbola, W. 1976. *Ifa, an expository of Ifa literary Corpus*. Ibadan: University Press. 113.

³⁵⁶ Awolalu, and Dopamu, 159

³⁵⁷ Idowu, E. B. 1962. *Olódùmare*. 170.

³⁵⁸ Makinde, M. A. 1983. Immortality of the soul and the Yoruba theory of seven heavens (*orun meje*). *Journal of Cultures and ideas* 1:1. 46.

entity *orí*, which can be good or bad”.³⁵⁹ Makinde’s claims so far imply that *ori* has the same ontological status as the *èmi* and *arà*, and this belief is reinforced by the fact that the Yoruba offer sacrifices to the *ori* of departed ancestors.

Attenuating Makinde’s assertions concerning the *orí*, Oladiipo opines that *orí* is not an entity. He submits that conceptualising *orí* as an actual entity capable of independent existence introduces some theoretical difficulties. Of such difficulties is the question of what can be regarded as an adequate representation or characterisation of *orí*. He further argues that for the assertion that *ori* has an ontological status to be acceptable, it must not be the case that its identification is impossible, yet the certainty of its ontological status is impossible. He avers that:

If it (*orí*) is an entity at all, it is either spiritual or physical, given the different ways it is conceived in Yorubá thought. If it is spiritual, then like *èmi*, its existence cannot be ascertained. And if it is physical, then, it should be possible to perceive. Yet this is not the case.³⁶⁰

Another problem associated with the conception of *orí* as an entity, is the question of how its activities can be related with events that add up to the biography of an individual in the world. Because it is believed that a person has had his life script written before he came into the world. In view of the difficulties exposed above about *ori*, this study agrees with Oladiipo that *orí* should not be conceived as an entity, but rather as “a series of events agreed to in a covenant with *Olódùmarè* ...”³⁶¹

In the Yorùbá conception of a person, one notices a form of dichotomy between the material, and immaterial component of a person but this may not be taken as dualism as we have in the Cartesian interactionism, or in Western philosophy at large. The reasons being that: One, Yorùbá people do not postulate a single element or entity such as will or memory as the reality responsible for all mental or psychic activities.³⁶² As we can see

³⁵⁹ Oladipo, O. 1992. The Yoruba conception of a person: an analytico-Philosophical study. 39.

³⁶⁰ Oladipo, O. O. 1992. The Yoruba conception of a person: an analytico-Philosophical study. 40.

³⁶¹ Oladipo, O. O. 1992. The Yoruba conception of a person: An analytico-Philosophical study. 41.

³⁶² Menkiti, I. A. 1984. Person and community in African traditional thought.

from the above analysis of the constituent of a person, *ara* is about the only element which is typically material, other elements have some form of mental cum spiritual connotations.

Two, the Cartesian theory of the person and the materialist theory, and most theories in Western philosophy are theoretical positions put forward by individual philosophers, but the Yorùbá conception is not the product of an individual's strict ratiocination, but rather a collective view which is brought about by certain experience of the Yorùbá people. Thus, the starting point of analysis of the person among the Yorùbá is social relations.³⁶³ It would, therefore, amount to a category mistake to try to comprehend one conception in term of the other.

In addition, in response to the question of why the Yorùbá postulate a division between the material, and immaterial aspect of man, Oladipo argues, the Yorùbá make the claim so that they could provide a foundation for regulating course of experience. That is, it is part of an attempt to understand, and control human activities through the environment where such activities take place. Yorùbá people do not see the material constituent of the person as sufficient in itself or self-enclosed, and since they allot the capacity to operate as dependent on a higher principle which gives them life. The Yorùbá, therefore, reason that there is more to life than the capability of all the internal and external organs of a person to function.³⁶⁴ From all said, the result of the *abanibimo* practice shows that the child who is the product of the arrangement is an *eniyan* (person) that possess *ara*, *emi* and destiny.

4.8 Creation of the Human Person: Yorùbá Perception

The Yorùbá believe that the material and immaterial aspects of a person were not created at the same time. They believe that the material came before the immaterial, *Olódùmarè* commissioned *Òrìsánlá* to mould the *ara*, the physical composition of the person, including the human heart, which at times is taken to mean the chest or breast, from clay.³⁶⁵ After the physical elements were moulded by *Òrìsánlá*, *Olódùmarè* created the

³⁶³ Menkiti, I. A. 1984. Person and community in African traditional thought. 172.

³⁶⁴ Oladipo, O. O. 1992. The Yoruba conception of a person: an analytico-Philosophical study. 21.

³⁶⁵ Makinde, M. A. 1984. An African concept of human personality. 190.

èmi. Wándé Abímbolá believes that *èmi* is the life-force, because any person who does not possess *èmi* cannot be said to be alive, he writes:

Èmi ... is the most important element of the human physical make-up; it is also believed that on the spiritual plane, *èmi* (soul) is of supreme importance because it is an imperishable element of human personality. When a man dies, his *èmi*, the spiritual part, does not perish; rather it goes to *Òrun* (heaven) where it enters a new era and thus takes its proper place among the ancestors.³⁶⁶

Àjàlá is regarded as the potter that moulds human physical heads in heaven, and he is held to be in charge the formation of *orí-inu* (metaphysical head) of each individual. Thus, *Òrìsánlá* is accountable for moulding of *ara*, the physical body, *Olódùmare* is creator and controller of *èmi*, the vital principle of life, the human beings so created proceed *Àjàlá*'s abode, to receive their portion of *orí (ipín-orí)*.³⁶⁷ It is believed that the quality of an *ori* one gets to a large extent is dependent on *Àjàlá*'s mood or state of mind when one is choosing, receiving or being affixed *orí*.³⁶⁸ How *Àjàlá* gives this inner head is ambiguously conceived in Yorùbá understanding of destiny. In one way, man chooses his destiny, in another he receives his destiny and in the third manner, man's destiny is affixed to him. The first conception is expressed by the Yorùbá as: *Àkúnlèyàn*, "that which one kneels down and chooses". It is expressed in oral literature thus:

<i>Àkúnlèyàn ní ádáyé bá</i>	What is chosen kneeling, is what we found on getting to the world
<i>Akúnlè á yàn ipìn</i>	We knelt and chose a portion
<i>A dáyé tán ojú nro ní</i> ³⁶⁹	We got to the world and are not pleased.

Another saying goes like this:

³⁶⁶ Abimbola, W. 1971. The Yoruba concept of human personality. 78. Quoted in Makinde, M. A. 1984. An African concept of human personality. 191.

³⁶⁷ See Abimbola, 1971. The Yorùbá concept of human personality. 70; Makinde, M. A. 1984. An African concept of human personality. 190.

³⁶⁸ Oduwole, E. O. 2018. Philosophy and challenge of relevance in African society. An Inaugural lecture, Olabisi Onabanjo University, Ago-Iwoye, Abeokuta. Tuesday February 20, 2018. 21.

³⁶⁹ Yoruba oral literature.

<i>Omo eniyàn kúnlè ó yan ipín</i>	The son of man kneels and chooses portion
<i>Ó yan ikú to maa paaje</i>	He chooses the death that would slay him
<i>Olódùmarè se to si</i>	<i>Olódùmare</i> seals it
<i>Ówádi àìpàdà</i>	It becomes unalterable
<i>Orí mo ibùsùn re</i>	<i>Orí</i> knows its last resting place
<i>Alààrù rẹ ní kò mò o.</i> ³⁷⁰	Only its carrier that does not know.

The second conception is known as *Àkúnlègbà* that which one kneels down and receives

<i>Àkúnlègbà ló wà ńńwọ ẹ̀dà</i>	That which is received kneeling, is what the creature holds;
<i>Kò sọgbón owó</i>	There is no other means of possessing money
<i>Kò sọgbón omọ</i>	There is no other means of possessing children (Than that which the <i>orí</i> received at <i>isálúòrun</i>)

This conception is not popular among the Yorùbá as the first and third conceptions.

The third conception is *Àyànmọ*, that which is affixed on one. This is rendered in oral poetry as:

<i>Àyànmọ ọ gbògùn</i>	That which is affixed cannot be altered by medicine
<i>Igi tí Olorun gbìn</i>	The tree which the owner of heaven (<i>Olódùmarè</i>) plants
<i>Èdà kan kò le faa tu.</i>	No creation can uproot it.

The exploration of the concept of *orí* introduces into Yorùbá philosophy the problem of determinism and human freedom. The Yorùbá believe that by its very nature, the *ipín-orí* (destiny) is permanent and unalterable because it was doubly sealed, first during the cause of its conferment by *Àjàlá*, and authentication by *Olódùmarè*, and secondly, at the “gate” by the *Oní-bodè* “the gate attendant” of the gate demarcating heaven from

³⁷⁰ Awolalu, J.O. and Dopamu, P. O. 1979. *West African traditional religion* .161.

earth.³⁷¹ Therefore, it is held that after the matter of a person's destiny is settled in the prenatal existence that is the end of it.

4.9 Determinism and Human Freedom: The Yorùbá Perspective

The question now is: Does the Yorùbá idea of inalterability of destiny not obliterate from the ontology the idea of human freedom? Before we give the highlight of scholastic responses to the above question, it is imperative to examine the concept *freedom* or *freewill*. Freedom is one of the philosophical concepts that is impermeable to one definition, that is, it is an ambivalent word. There exists different understandings of the term: The economic, political, social, religious sense, metaphysical as well as the practical senses.³⁷² In this study, the metaphysical sense is more important to us than any of the other senses mentioned above. There are negative and positive conceptions of freedom.

Freedom, from the negative conception, can be understood as a situation in which there is absence of obstruction, interference, coercion, and indirect control, while the positive conception can be understood as a situation whereby “a moral agent in his initiative makes choices and acts in a more concrete and less formal manner without external control”.³⁷³ According to Isaiah Berlin, the negative conception of freedom presupposes that one is *free from* constraints that could be externally or internally imposed. And in the positive sense, freedom means being *free to* do one thing or the other.³⁷⁴ However, MacCallum, an ardent critic of Berlin contends that the difference between *free to* and *free from* is nothing but a misunderstanding of language, since either of the freedoms can be described in both ways.³⁷⁵ He opines that freedom can only be understood as a triadic

³⁷¹ Idowu, E. B. 1962. *Olódùmare*. 175.

³⁷² Homer, C. and Westacott, E. 2000. *Thinking through philosophy*. USA: Cambridge University Press. 6.

³⁷³ Orangun, A. 1998. *Destiny: the unmanifested being, A critical exposition*. Ibadan: African Odyssey Publisher. 143.

³⁷⁴ Berlin, I. 1969. Two concepts of liberty. *Four essays on liberty*. 121-148.

³⁷⁵ MacCallum, G. C. 1972. Negative and positive freedom. P. Lasslet Ed. *Philosophy, politics and society*. Oxford: Basil Blackwell. 47.

relation in which, “x is (is not) free from y to do (not do, become, not become) z”³⁷⁶ For J. S Mill, we are free in so far that our freedom does not validate our engagements or actions that will be at the peril of the society. In his formulation of the Harm principle in his work, “Liberty”, he asserts that liberty should be understood in such a way that one’s liberty ends where another person’s begins.³⁷⁷

The focus of the study at this point is on metaphysical freedom, which oftentimes is referred to as freedom of the will or freewill. Freedom in the metaphysical sense implies that man is not determined, that one can exercise his/her freewill. Freewill can be described as the power of self-determination, or the power to act as one chooses or wants.³⁷⁸ The exercise of this freedom implies that ultimately one is responsible for one’s choices.³⁷⁹ Freedom of the will is usually conceived as something that all men have more or less in the same degree.³⁸⁰ Meaning that it is either someone has it or does not have it, depending on one’s basic mental capacities.³⁸¹ It is this type of freedom that determinism and the idea of inalterability of destiny in the Yorùbá philosophy threatens.

The introduction of the idea of freedom into the realm of predestination in the Yorùbá contextual scheme has generated heated debate about the compatibility of the two ideas. Typical of a debate, there are at least two opposing views, so it is concerning the question of compatibility of freedom and destiny in Yorùbá thought. While some hold that freedom is an antithesis of destiny, thereby ruling out the question of compatibility, others believe that a detailed discussion on destiny entails making reference to freedom as a twin concept, for this group, destiny is compatible and complementary to freedom.³⁸² The first group explains predestination in a rigidly fatalistic approach,

³⁷⁶ MacCallum, G. C. 1967. Negative and positive freedom. *The Philosophical Review* 76:3. 314.

³⁷⁷ Skorupski, J. 1998. Mill, John Stuart. Edward Craig Ed. *Routledge Encyclopedia of philosophy* 6. London: Routledge. 373-374.

³⁷⁸ Dworkin, G. 1980. Determinism, freewill and moral responsibility. Melvin Reader Ed. *The enduring questions*. USA: Holt, Rinehart and Wilson. 283.

³⁷⁹ Homer, C. and Westacott, E. 2000. *Thinking through philosophy*.

³⁸⁰ Homer, C. and Westacott, E. 2000. *Thinking through philosophy*.

³⁸¹ Homer, C. and Westacott, E. 2000. *Thinking through philosophy*.

³⁸² Orangun, A.1998. *Destiny: the unmanifested being*. 144.

whereas the second group strives to strike a balance between freedom and predestination. For easy reference, we shall name these groups as the compatibility school (those who believe that destiny is compatible and complementary to freedom) and the incompatibility school (those who hold that freedom is the antithesis of predestination).

The incompatibility school holds that once the book of destiny was written in full at the time the individual chose his/her life's portion in the spiritual world, its alteration is null and void, in the terrestrial plane, that is, it is impossible to change the initial choice made or affixed to it.³⁸³ It can never be rectified either with medicine or any other means. Adherents of this school usually support themselves with sayings such as we have above, and others such as:

<i>Orí burúkú kì í wú tùùlù</i>	A bad <i>ori</i> does not swell up
<i>A kii dáesè asiwèrè mò lójú-ònà</i>	No one knows the footprint of a mad man on the road
<i>A kì í m' orí Olóyè l'áwùjò</i>	No one recognises the head destined for a crown among the crowd
<i>A difá fún Móbówú</i>	<i>Ifá</i> divination was performed for <i>Móbówú</i>
<i>Tí íse Obìnrin Ogún</i>	Who was the wife of <i>Ògún</i>
<i>Orí tí ó jòba lóla</i>	The head that would be crowned
<i>Enìkan ò mò</i>	No one knows it
<i>Kí toko-taya ó mó pe raa won ní wèrè mò</i>	Spouses should stop calling each other names
<i>Orí tí ó jòba lóla</i>	The head that would be crowned
<i>Enìkan kò mò</i> ³⁸⁴	No one knows it.

Among proponents of the fatalistic or incompatibility school of thought are Scholars like Professors Wándé Abímbolá, Olá Rótímí, and Èbùn Odúwolé. Wándé Abímbolá posits that accomplishment or failure in life is dependent on *ori* that was picked in *Ìsálú òrun* (pre-natal world). The selection of a good *ori* indicates positive and flourishing life, and the selection of a bad *ori* ultimately condemn one to a life of failure. Rótímí, in *The gods are not to blame*, tells the story of a king Ọdewálé, who was cursed at birth by the gods,

³⁸³ Abimbola, W. 1976. IFA: an exposition of Ifa literary corpus. 142.

³⁸⁴ Abimbola, W. 1976. IFA: an exposition of Ifa literary corpus. 147.

and was predestined to murder his own father and then marry his mother. In spite of attempts by his parents, and even Odéwálé to thwart the plans of the gods, the curse came to fulfilment. This story is an adaptation of Sophocles' *Oedipus Rex*, and it is not without some notable complications.³⁸⁵

Dasylyva observes that Rótímí's work is an attempt to impose the classical Greek tragedy into African dramatic cosmic without a thorough decolonisation and presentation of the idea of destiny in light of the Yoruba framework. Though the idea of destiny is not sacrosanct to the Yorùbá, but the depth of consciousness of the idea differ from one culture to another culture, notwithstanding the fact that there are areas of similarities in both classical Greek and pre-literate Yorùbá culture, there are areas of divergence too, brought forth by the characteristic spirit and beliefs of each community.³⁸⁶ Their conceptions about the gods and divinities are not the same, the Yorùbá pantheon as mentioned above, is hierarchical and each divinity has a specific function. And besides Èsù, who Dòpámú refers to as the "invisible foe of man"³⁸⁷ and who possesses the traits of a trickster, none of the Yorùbá gods engage in sheer vendetta, or strike if they are not provoked. But the contrary occur amongst the Greek gods. According to Dasylyva, the Greek gods are "sadist and thrive on unprovoked vendetta against one another and against humanity in general. Man is but a pawn in the hands of the Greek gods". So in the *Oedipus Rex*, Sophocles portrays the bizarre relationship between the Greek gods and man and the helplessness of man, whereas in the Yorùbá situation people abandon a god for another who they believe will promote their wellbeing. There is no absolute surrender to the gods.³⁸⁸

Èbùn Odúwolé is of the opinion that the fatalistic construal of *ori* offers the best solution to the paradoxes attending the discourse of *ori* and human destiny in Yorùbá literature, and the debate on whether destiny can or cannot be changed through a good character or

³⁸⁵ Dasylyva, A. O. 1998. Kadara-ayanmo, the yoruba concept of fate-destiny: a critique of man's station in life in Ola Rotimi's *The gods are not to blame*. ORITA: Ibadan Journal of Religious Studies 30:1&2. 36.

³⁸⁶ Dasylyva, A. O. 1998. Kadara-ayanmo, the Yoruba concept of fate-destiny

³⁸⁷ Dopamu, P. A. 1986. Esu, the invisible foe of man: a comparative study of Satan in Christianity, Islam and Yoruba religions.

³⁸⁸ Dasylyva, A. O. 1998. Kadara-ayanmo, the Yoruba concept of fate-destiny

some other means.³⁸⁹ She argues further that all attempts at changing destiny might in fact be attempts at fulfilling it, since people are now in the world and have forgotten the choice of destiny made in their pre-natal world.³⁹⁰

The second group, the compatibility school holds that though the book of destiny had been written in full in the spiritual world, it is yet to be closed for it can be reopened in this visible world.³⁹¹ The compatibilists argue that selection of good *ori* does not necessarily imply success, and the choice of a bad *ori* does not readily condemn one to failure in life. This group base their argument on the following principles:

One, destiny is a sort of covenant between two parties, and if so, the two parties can always review their covenant; two, the use of sacrifice through *Òrúnmilà*, the arch divinity, can help remedy an erstwhile bad *ori*, and, ward off the nefarious activities of the *Ajogúns* from someone who possesses a good *ori*; three, *Ìwà* plays a critical role in changing a man's destiny; four, human freewill is depicted in their practical day by day existence, and that since each person kneels down as individuals to choose his/her *ori*, man's freedom has been entrenched from that point onward.³⁹² The compatibility school is of the opinion that accomplishment or catastrophe in life, to a large extent, is dependent on efforts, struggle, and hard work of human beings. This belief is supported with verses from the *Ifá* corpus, one of which is *Ogbè-Atẹ̀*:

<i>Í jẹ́ bí a ko mí, n ó tún ra mi ko</i>	After I have been taught, I must teach myself
<i>Èwò tí won bá kà fún mi n ó gbó</i>	I will observe the taboos I am supposed to observe
<i>Títè la tẹ̀ mí, n ó tún ra mi tẹ̀</i> ³⁹³	I have been taught, I must also teach myself.

A verse from *Ìwòrì-méjì* supports this too:

³⁸⁹ Oduwole, E. O. 2018. Philosophy and challenge of relevance in African society. 22-23.

³⁹⁰ Oduwole, E. O. 2018. Philosophy and challenge of relevance in African society.

³⁹¹ Orangun, A. 1998. *Destiny: the unmanifested being. A critical exposition.* 133.

³⁹² See Oyeshile, A. O. 2002. Towards an African concept of a person: Oladipo, O. 1992. The Yoruba conception of a person: Oladipo, O. 1992. Predestination in Yorùbá thought: A philosopher's Interpretation. ORITA Ibadan Journal of Religious Studies XXIV/ 1-2.

³⁹³ Orangun, A. 1998. *Destiny: the unmanifested being.* 133-4

Ìwòrì-méjì tejúmó n tí í ẹ̀ ni; <i>Iwori-meji</i> attends closely to his matter:	
Bí babaláwo bá ẹ̀ ‘fá tán	When an <i>Ifa</i> priest had divined
A túnbo tejúmó	He continues to pay more attention to it
Bí n bá tejúmó ‘fá	If I pay attention to <i>Ifa</i>
Mà lówó lówó	I will have riches in abundance
Bí n bá tejúmó ‘fá	If I pay attention to <i>Ifa</i>
Mà á bímọ̀ lémo	I will bear children after children
Bí n bá tejúmó ‘fá	If I pay attention to <i>Ifa</i>
Mà á kólé mọ̀ lé	I will build numerous houses after houses
A dífá fún Èjì gbogbo n’Ìwòrì	This was the prescription given to all <i>Ìwòrì</i> chapters
Nígbà tí ó ẹ̀ tán láti tejúmó akápò rẹ̀. ³⁹⁴	When he was ready to be committed to his provider.

An advocate of this school is Olúségún Oladipo, he argues that the belief in predestination is not incompatible with the belief in free will, and it is rather inappropriate to assign a stoical explanation to the Yorùbá conception of human destiny, because their attitude towards life contradicts such fatalistic interpretation. He believes that the Yorùbá embrace determinism that embraces freewill, he explains the compatibility of destiny and freewill with the varying connotation of law and liberty in the civil society.³⁹⁵ In his analysis, Oladipo asserts that to be free, in the negative sense, is the absence of constraint on the actions of persons. Yet, it does not limit the action of individuals by stating what they can or cannot do in any given situations, but the existence of law obliterates not the point of human beings been free in interpersonal relations as well as relation to the state, the meaning and significance that freedom has for man as a being-in-society is premised on the existence of law. We cannot be free in the society without the law; for it is the law that defines the conditions guiding social and political relations within the society, if not we retrogress into the Hobbesian state of nature. Therefore, the fact that human actions are determined, since they can be linked to some antecedent conditions, does not imply that humans are not free. He maintains that the significance which freedom has for men in civil society is grounded on the existence

³⁹⁴ Orangun, A. 1998. *Destiny: the unmanifested being*. 133-4

³⁹⁵ Oladipo, O. 1992. *Predestination in Yorùbá thought*.

of laws, just as freewill depends on the presence of some circumstances, which in turn determine the nature of human actions”.³⁹⁶

4.10 Bowne’s Notion of Personalism and *Ènìyàn* in Yoruba Culture

Bowne’s theory of personalism is in contrast to the materialists’ philosophy, and other forms of collectivism, because the individual is subsumed under the communal, and he has no inherent worth. Bowne, like Kant, maintains that a person simply cannot be the means to an end, but each person should be treated as an end of himself.³⁹⁷ Bowne’s idea or theory also rejects the utilitarian idea, which contends that a person’s utility is the same as his value. Similarly, this study argues that the significance and value of the child who is the product of the *abánibímọ* practice lies in his/her being, and not in the legality or otherwise of the process through which the child is brought into the world.

Therefore, the child should be accepted as a full member of the community into which he or she is born, and also should partake in all the rights and privileges due other children in the community. This includes the right to offer ritual oblations to the ancestors or the preternatural forces that superintend over the cosmic order. Such a child can also be initiated into the cultic practices of full citizens, having the right to become a *baalẹ* or village elder where the opportunity exists. He/she can also aspire to the kingly throne, if they are from a royal lineage. Additionally, this study argues that the idea that some children are *ọmọ-àlẹ*(bastards) and are thereby considered as social pariahs or outcasts has no impact of their personhood, because as Bowne argued, and as we saw in the analysis of the Yorùbá conception of a person above, a human being is both a spiritual and material being, to the extent that many of the physical constituents of a person also have spiritual connotations.

From the foregoing, therefore we can deduce that the Yorùbá value system is one that places much importance on the worth of the person, just as in Bowne’s theory of personalism, and Kant’s Categorical Imperative that situate the person at the centre of ethical considerations. This submission is underscored by the Yorùbá sayings that *ènìyàn laso mi*, literally translated as “persons are my clothes” and *ènìyàn bo ni lara ju aso lo*, “persons cover you more than any covering.” The implication of these statements is that

³⁹⁶ Oladipo, O. 1992. Predestination in Yorùbá thought:

³⁹⁷ Mooney, M. A. 2012. What is Personalism?

the Yorùbá revere the human person higher than material elements, this is in consonance with Bowne's idea of intrinsic worth, which advocates the supreme significance of the person as key to the discernment of human wellbeing.³⁹⁸ For Yorùbá people, just like the personalists, the human person is a spiritual and physical being, who not only has dignity as a person, but also an irreplaceability.

4.11 Conclusion

This chapter is on Bowne's personalism, which lauds the notion of intrinsic worth of the person, and *èniyàn* in Yorùbá culture. The chapter focused on a brief history of Bowne, and **his impact on personalism in Boston**. It examined the principles of personalism in general and did a comparison between Personalism, individualism and collectivism. The chapter traced the historical development of personalism; it examined Bowne's notion of personalism. It also investigated Immanuel Kant's submissions: his quest at formulating a standard for evaluating human conduct vis-à-vis his categorical imperative. The chapter considered the idea of marriage in Africa, and more specifically in the Yorùbá culture, and how the people resolve the problem of infertility in marriage.

³⁹⁸ Buford, T. 2006. Persons in the tradition Boston personalism.

CHAPTER FIVE
METAPHYSICAL AND ETHICAL ISSUES IN YORÙBÁ PRACTICE OF
ABÁNIBÍMỌ

5.0 Introduction

The present chapter centres on the metaphysical and ethical issues in Yorùbá practice of *abánibímọ*. In this chapter, we are motivated to do a conceptual analysis of and highlight the subject matter of metaphysics and ethics, and Yorùbá aspect in particular. We shall examine the source and foundation of Yorùbá ethics and metaphysics; it is equally important to examine Yorùbá practice against the core ethical principle in order to justify the morality of the practice of *abánibímọ*. The metaphysical and ethical questions we are concerned with in this chapter are: Is a child that is the product of *abánibímọ* accepted as a full member of the society, or is he seen as *ọmọ-àlẹ̀* (bastard), a social pariah or an outcast? Does he or she have rights to ritual oblations, that is, can the child offer sacrifices to the gods or the preternatural forces that rule in the cosmic order? Can he be initiated into the cult of full citizens? These are issues that revolve around the notion of the ontological status of the product of the *abánibímọ* practice. And ethically, we are concerned with finding out whether the child enjoys the same rights and privileges as other children in the community. Does he have the right of inheritance? Can he become a village elder or *baalẹ̀*? Will he be entitled to the kingship stool if he is from a royal family? Can a woman who has not experienced the inconveniences of pregnancy or go through the rigours of childbirth be identified as a mother? Can a woman be the mother of a child with whom she has no blood connection? Who should decide on the use of *abánibímọ* between the couple? On the issue of human love, is it possible for a man to share his love among many women? How does one morally or legally categorise the child? In critical issues of inheritance, chieftaincy and ascension to the kingship stool, what rights does the child born through *abánibímọ* have? The chapter is interested in examining the core principles of ethics in relation to the *abánibímọ* practice.

5.1 What is metaphysics?

Metaphysics, as a field of study, is that aspect of philosophy that examines the nature of ultimate reality. It has been defined as the study of ultimate principles of reality. It is the study of “being qua being” or the transcendence of beings to the Being.³⁹⁹ The Encyclopaedia Britannica describes metaphysics as the field of philosophy that its objective is to determine the actual nature, meaning, structure, and principles of whatever is in so far it exists.⁴⁰⁰ Traditionally, the term metaphysics originates from ancient Greece, *Meta* “after/over” or “beyond” and *Physics*.⁴⁰¹ The term originates from an editor of Aristotle’s writings, Andronicus of Rhodes in about 70AD. Aristotle himself had called these aspect of his writings “First Philosophy”. But after compiling Aristotle’s works which deal with external phenomena, which Aristotle himself designated as “Physics” ,Andronicus came upon the ones concerning the super-sensible world, and these were the ones he called metaphysics (after the physics).⁴⁰²

5.1.1 Subject matter of metaphysics

In his “First Philosophy”, Aristotle discussed causality as the relationship between cause and effect, character of being, potentiality and actuality, being of God, and other related problems. Traditionally, the subject matter of metaphysics is categorised into the following theses: (i) “being as such”; (ii) the first cause of things, and (iii) that which does not change.⁴⁰³ However, from the Seventeenth century through the contemporary period, many topics and problems that Aristotle and the Mediaeval philosophers would have classified as physics, problems such as the relation of mind and body or freedom of the will or personal identity were reassigned to the discipline of metaphysics, and these

³⁹⁹ Onyibor, MIS. 2013. African philosophy. Oladipo, O. and Adedeji, G. M. A. Philosophy, Logic and issues in science and technology: An Introduction. Ibadan: Hope Publications. 52.

⁴⁰⁰ Wilshire, B. W., Grayling, A. C. Walsh, W. A. Metaphysics. *The Encyclopaedia Britannica*.

⁴⁰¹ Inwagen, P. and Sullivan, M. 2018. Metaphysics. *The Stanford Encyclopedia of Philosophy*. Ed. E. N. Zalta.

⁴⁰² See Akinola, A. 1999.

⁴⁰³ Inwagen, P. and Sullivan, M. 2018. Metaphysics.

subjects form the content of metaphysics.⁴⁰⁴ In view of the nature of their subject matter, philosophers have used different approaches to understand the world beyond the senses. Some of the methods include: reason and logic, intuition, while others employ experience or sense perception.

5.2 Ethics

Ethics, etymologically, derives from a Greek root word “ethos” meaning character or custom. Ethics is a body of knowledge dealing with principles or standards of human conduct.⁴⁰⁵ Ethics or moral philosophy is defined as the field of study which embroils ordering, shielding, and recommending notions of right and wrong behaviour.⁴⁰⁶ Ethical theories are generally divided into three general subject areas, namely: meta-ethics, prescriptive or normative ethics, and applied ethics.

5.2.1 Metaethics

Metaethics is defined as the study of the origin and meaning of ethical terms. Metaethics is that aspect of moral philosophy which scrutinises how ethical principles are derived, and what they mean. Some of the questions raised under this aspect of ethics are: Are ethical principles mere group inventions? Do they involve more than expressions of our personal feelings? Response to these questions focus on the issues of universal truth, the will of God, the role of rationality in moral judgement, and the meaning of ethical concepts.⁴⁰⁷

5.2.2 Normative ethics

Normative ethics embroils arriving at moral standards that regulate right and wrong actions. In other words, normative ethics encompasses the quest for an ultimate test of proper behaviour.⁴⁰⁸ A classical instance of prescriptive ethics is the Golden Rule that

⁴⁰⁴ See Inwagen, P. and Sullivan, M. 2018. Metaphysics, and Wilshire, B. W., Grayling, A. C. Walsh, W. A. Metaphysics. *The Encyclopaedia Britannica*.

⁴⁰⁵ Akintola, A. 1999. Yoruba ethics and metaphysics.

⁴⁰⁶ Fieser, J. Ethics. *Internet Encyclopedia of Philosophy*. Retrieved March. 7, 2019 from www.iep.utm.edu.

⁴⁰⁷ Fieser, J. Ethics. *Internet Encyclopedia of Philosophy*.

⁴⁰⁸ Fieser, J. Ethics. *Internet Encyclopedia of Philosophy*.

prescribes that we do to others what we would want them to do to us. It is morally unacceptable for me to do to others what I do not want anyone to do to me. It would be morally wrong for me to tell a lie, victimise, assault, and kill others, if I do not want others to do such to me. Normative ethical theories concentrate on established basic ideologies, on a set of respectable behavioural gestures.⁴⁰⁹

5.2.3 Applied Ethics

This is a subdivision of ethics that entails the analysis of specific, contentious ethical problems, such as the problem abortion, animal rights, and euthanasia. This aspect of ethics can be further sub-divided into medical ethics or bioethics, business ethics, environmental ethics, and sexual ethics. An issue is considered an applied ethical issue, if it possesses any of these qualities: One, the issue must be debateable, that is, there must be noteworthy groups of people, arguing for or against the problem. An example of such controversial issue is the issue of same-sex marriage. Many important groups of people argue for, and against same-sex marriage.⁴¹⁰ Two, for a problem to be an applied ethics subject it must evidently be a moral issue.

5.3 Metaphysics in Africa

As metaphysics is interested in the question of reality or the property of reality, African metaphysics can then be defined as the thinking on reality which is predominantly African. According to Jim Unah, African metaphysics is the “study of African man’s thinking about what constitutes reality”.⁴¹¹ The presupposition here in essence is that the African, just like his counterpart in every continent of the globe, asks questions about the ultimate reality, and the answers which he gives to these questions constitute African metaphysics.⁴¹² However, the African does not raise fundamental Western metaphysical questions such as “why is there something, rather than nothing”. The reason for this is that the African knows that given the multifarious nature of human experience, it does not make sense to speak of nothing the way Western metaphysicians speak of nothing.

⁴⁰⁹ Akintola, A. 1999. Yoruba ethics and metaphysics

⁴¹⁰ Akintola, A. 1999. Yoruba ethics and metaphysics

⁴¹¹ Unah, J. *African philosophy. Trends and projections in six essays*. Lagos: Foresight Press.

⁴¹² See Unah, J. 2002. African philosophy; Onyibor, MIS. 2013. African philosophy.

Instead of asking why there is something, in the place of nothing, the African advances an overall process which permeates every possible experience.⁴¹³

The metaphysical question that the African asks is: Who/what makes it possible for things to be? The African identifies this thing that makes it possible for every other thing to be as the “vital force, or spirit” to use the term of Temples. According to C. S. Momoh, the vital force or spirit is core in the African conception of reality, and it aptly designates the ‘Being’ of every nature or that which inheres in all things.⁴¹⁴ For the Yorùbá of Nigeria, this Being who is responsible for the being of every other being is *Olódùmarè*.

5.4 Ethics or morality in Africa

The similarity of ethics and morality in the West and non-Western societies, is a function of the importance it has on the social and interpersonal behaviour of human beings. This is necessary for the modification of interest among individuals, and accomplishing the well-being of all in the community.⁴¹⁵ In every human society, notions of right or wrong are determined by insights of what makes for the good life for individuals, on the one hand, and the general good of society on the other. Deviations in moral standards between Western and non-Western societies are as a result of the disparities in cultural traditions, environmental, sociological, and other existential differences.⁴¹⁶ Furthermore, for Bewaji, one is able to confidently assert that the foundation of morality and ethics in African societies is the detection of a balance of individual and communal well-being. Commonly it is said that African cultures exalt the virtue of community, that moral obligations are primarily social rather than individual, and that communal factors often take precedence over individual rights or interests.

According to J. A. I. Bewaji, this impression occurs because of a lack of proper investigation, and appreciation of the foundation of morality in Africa. Although these assumptions are meant as disparaging interpretations on the moral space in which

⁴¹³ Onyibor, MIS. 2013. African philosophy

⁴¹⁴ Onyibor, MIS. 2013. African philosophy

⁴¹⁵ Bewaji, J. A. I. 2004. Ethics and morality in Yoruba culture. *A companion to African philosophy*. K. Wiredu Ed. Blackwell Publishing Ltd.

⁴¹⁶ Bewaji, J. A. I. 2004. Ethics and morality in Yoruba culture.

Africans animate, they are normally constructed on improper understanding of the philosophies that fashion the moral and social fabric of African societies.⁴¹⁷ The idea that each person is a representative of himself or herself, as well as of his or her family is an indication that an individual has to consider not only how a course of action contemplated by him will affect him personally, but also how it will affect his family, either directly or in terms of the way that they would be perceived in the society. For example, as one pursues one's own goals, he or she is expected not to taint any tradition of excellence of conduct established by one's lineage.⁴¹⁸

For Adebowale Akintola, the content of Yoruba ethics is derived from the code of conduct/behaviour that was articulated by God himself to govern the activities of the world and inter-creature group relationship among divinities and human beings. This fundamental code of conduct or law constitutes the foundation of all ethics in the world, be it Oriental, Western, African, Yorùbá and so on. It is from this code also that all legal systems of all ages are derived – the codes of Draco and Solon in ancient Greece, the Mosaic Law or the Ten Commandments, the code of Hammurabi, the Roman Law, down to the contemporary day laws, all emanated from *Olódùmarè*. This fundamental code of conduct is usually referred to as 'Natural laws' or 'the Laws of nature'.⁴¹⁹

5.5 The source or foundation of Yorùbá ethics and metaphysics

In resolving the ontological and ethical issues raised above on the practice of *abánibímọ*, we shall interrogate Yorùbá conceptions of reality and value system, working copiously from the *Ifá* corpus, which is an embodiment of thought on Yorùbá metaphysics and value system, and other literatures on the explanation of some of the 430, 080 verses of *Ifá* which are imperative for this study. The *Ifá* corpus has a universal appeal to all mankind in general, and it covers all aspects of human existence – man's origin, his creative background, connection between man and God, man and the creative universe, man and the divinities, and the interpersonal relations among men. The *Odùs* in *Ifá* are 256, and they are derived from 16 original *Odù*. Each of the *Odù*, lightly recognised

⁴¹⁷ Bewaji, J. A. I. 2004. Ethics and morality in Yoruba culture.

⁴¹⁸ Bewaji, J. A. I. 2004. Ethics and morality in Yoruba culture.

⁴¹⁹ Akintola, A. 1999. Yoruba ethics and metaphysics. 98-99.

differently as verses of *Ifa'* "divination poetry" or "categories of *Ifa'* divination," has a signature medium. The medium could be chain, palm nuts, kola nuts, and so on.⁴²⁰

5.5.1 The original Odu` and their patterns

I	II	II	I	I	II
I	II	I	II	I	II
I	II	I	II	II	I
I	II	II	I	II	I
(1) Ogbe	(2) Oyeku	(3) Iwori	(4) Odi	(5) Irosun	(6) Owonrin
I	II	I	II	II	II
II	II	I	I	I	II
II	II	I	I	II	I
II	I	II	I	II	II
(7) Obara	(8) Okanran	(9) Ogunda	(10) Osa	(11) Ika	(12) Otuurupon
I	I	I	II		
II	I	II	I		
I	II	I	II		
I	I	II	I		
(13) Otua	(14) Irete	(15) Ose	(16) Ofun ⁴²¹		

The *Ifá* corpus, therefore, as a religious cum philosophical treatise of the history of the Yorùbá people, will enrich this study better than any foreign, religious or philosophical writing, because Yorùbá and Western as well as other categories of explanation of existence and moral conduct differ.⁴²² Also, the study shall make use of Yorùbá proverbs, folktales and other pithy sayings in order to resolve the apparent issues in *abánibímó*. The question that needs to be addressed is: What is *Ifá*? *Ifá* is a complex element among the Yoruba. It is a system of divination, and it also serves as a form of worship accepted by its devotees. It is an anthology of presentations, which include praise singing, incantations, and recitations engaged by a *babaláwo*.⁴²³

⁴²⁰ Taiwo, O. 2004. *Ifa': An account of a divination system*.

⁴²¹ Taiwo, O. 2004. *Ifa': an account of a divination system*.

⁴²² Akintola, A. 1999. *Yoruba ethics and metaphysics*. Ogbomosho: Valour publishing ventures. 12, 38.

⁴²³ Taiwo, O. 2004. *Ifa': an account of a divination system*.

Ifá is the unique source of Yorùbá ethics and metaphysics. From time immemorial, the mystery of existence has perplexed human beings, and they have made different attempts to answer basic questions such as: is there an actual link between God and man? What is the reality of this link between God and man? What is the relationship between god and the divinities? What is the reality between the heavenly and earthly realities? What is the relationship between man and the divinities? Who and where is God? Yoruba metaphysics concentrates mainly on these basic issues, and it is through the philosophy of *Òrúnmìlà*, otherwise called *Ifá* that answers are found to these basic questions, and thereby unravel the basic conundrum of human existence.⁴²⁴

The philosophy of *Òrúnmìlà*, the Yorùbá deity of wisdom, *Ifá*, is the comprehensive source from which Yorùbá thought system is derived, and finds its fullest expression. According to Akinbowale Akintola:

It is not disputable, as far as Yorùbá thought-system is concerned, to say or admit that the wisdom of or philosophy of *Òrúnmìlà*, the Yorùbá deity of wisdom, is an all-embracing fountain from which Yorùbá thought-system derives ... the codification of which expressions is otherwise known as Ifa corpus. Therefore, Ifa is the natural and logical starting point for any meaningful study which aims at identifying, interpreting, analyzing and evaluating these expressions which constitute Yorùbá philosophical thought. It is also true to say, Ifa is the living foundation of Yorùbá culture.⁴²⁵

Ifá is referred to as the philosophy of *Òrúnmìlà*, because of the belief that it was divinely revealed to *Òrúnmìlà*. As an organisation of ancient fundamental knowledge concerning life, it was derived from *Òrúnmìlà*. *Òrúnmìlà* is one of the divinities created by *Olódùmarè*; as a divinity, *Òrúnmìlà* dwells in the heavenly abode with *Eḷèda* (the Creator). Out of all the divinities, *Òrúnmìlà* alone, was the creator's own witness when the creation of all other organic and inorganic substances was done. In Yorùbá mythology, *Òrúnmìlà* is usually spoken of as *èlèrì ìpìn* (witness of choice of destiny); the *Odu Eji Ogbe* says of him:

Òrúnmìlà, èlèrì ìpìn

Òrúnmìlà witness of destiny

⁴²⁴Akintola, A. 1999. *Yoruba ethics and metaphysics*.

⁴²⁵Akintola, A. 1999. *Yoruba ethics and metaphysics*. 1

<i>Ibìkejì Olódùmarè</i>	Second in command to <i>Olódùmarè</i>
<i>À-jé-jù-oògùn</i>	Thou art more potent than medicine
<i>Òbìrítí, A-p'òjò-kú-dà</i>	Thou centrifugal force capable of averting ordained time of death
<i>Olúwa mi A-tó-íí-bá-j'ayé</i>	Thou art the lord for morning adoration
<i>Òrò a-bi-ikú-jù- s'ígbó</i>	Thou are the word capable of destroying death
<i>Olúwa mi À-jí-kí</i>	Thou art the lord for morning adoration
<i>Ògégé a-gbá ayégún</i>	Thou are the equilibrium force that holds the earth squarely in place
<i>Òdùdù tí du ori émérè</i>	The saviour of the disincarnate spirit
<i>Atún ori tí kò sunwòn se</i>	The force that can recast bad destiny
<i>A-mò-di àikú</i>	He who knows you become of immortal
<i>Q-l'òwa ayé rè</i>	Thou art the giver of the good life
<i>Agírí ilé Ilógbòn</i>	The strong one of the truly incomprehensible!
<i>Olúwa mi à-mò-ì-mò-tán</i>	My lord incomprehensible
<i>Ài-mò-ò-tán kò se</i>	Alas, we are miserable for not knowing you truly
<i>À bá mò-ò tán I ba ẹ̀ púpò!</i> ⁴²⁶	Oh, if only we could know you perfectly, all would have been well with us!

5.6 Yorùbá Value System

Yorùbá value structure is an admixture of two Western moral archetypes: deontology and consequentialism, which has been described as African humanism.⁴²⁷ The Yorùbá traditional value system that constitutes the social, and moral ethos on which the community is founded had human welfare and a vision of societal order at

⁴²⁶Akintola, A. 1999. Yoruba ethics and metaphysics. 2.

⁴²⁷See Balogun, B. J. and Oladipupo, S. L.2013. *Ole Jija*: Rethinking theft in the Yoruba ethical system. *Inkanyiso, Journal Humanity & Social Science* 5:1;Azenabor, G. 2008. The Golden Rule Principle in an African Ethics and Kant's Categorical Imperative: A Comparative Study on the Foundation of Morality 1. *Wisdom and Philosophy*4:2. 51-62.

heart.⁴²⁸ African humanistic ethics is based on the time-honoured Ideal Rule that expressly posits “you do unto others what you would want them to do unto you” rendered in Yorùbá as “*ika to ba to si imu la nfi ro*”. The rule is classified as not just the spring of social conscience, but a rule that every rational mind would desire to become a collective moral law.⁴²⁹

The Yorùbá value system is consequential on the ground that it accepts that actions must be considered before they are put into practice. The Yorùbá consequentialism is, nonetheless, different from Western consequentialism in the sense that Yorùbá consequentialism is not constructed with the assertion of “the end always justifying the means”, whereas this is the touchstone of Western consequentialism. In Yorùbá notion of consequentialism, no evil, however well anticipated, can bring about a good end.⁴³⁰ Therefore, Yorùbá conception of the consequence of actions emanates from the devotion to the Golden Rule principle that is explicitly articulated in the proverb, *k’a to be’gin’igbo, k’a f’oro ro ara eni wo* (put yourself in the shoes of the victim before you do anything untoward to others). Other proverbs enhancing the Yorùbá consequential view goes thus:

<i>Fi òràn ro ‘ra rẹ wò</i>	Put yourself in the position of the receiver of your action.
<i>Ló difá fún aláṣọkan nínú oyé</i>	Ifa said to a wretched man with just a single apparel to weather the scourge of harmattan.
<i>Bí a bá gé ‘gi ní ‘gbó</i>	Whenever a person cuts a tree in the forest,
<i>Ká fò ràn ro ara ẹn iwò</i>	Let him consider what it would feel like if it were himself. ⁴³¹

⁴²⁸Ndianefoo, I. 2015. Corruption in Nigeria as a negation of Kant’s categorical imperative.

⁴²⁹ See Balogun, B. J. and Oladipupo, S. L.2013. *Ole Jija: Rethinking theft in the Yoruba ethical system*; Ndianefoo, I. 2015. Corruption in Nigeria as a negation of Kant’s categorical imperative.

⁴³⁰Balogun, J. Babalola. 2013. The Consequentialist Foundations of Traditional Yorùbá Ethics: an Exposition, in Thought and Practice. *Journal of Philosophical Association of Kenya (PAK)* 5:2. 103-121.

⁴³¹Orangun, A. 1998. *Destiny: the unmanifested being, a critical exposition*. Ibadan: African Odyssey Publisher. 155.

This is underscored by another common saying among the Yorùbá that:

<i>Bí ó ti ò dun ọmọeku,</i>	As it is painful to the little rat,
<i>Béè naa lo ti dun ọmọeyẹ</i>	So it is painful to the little bird also,
<i>Bo bareyẹ ma sọkoleyẹ</i>	If you see a bird do not stone it. ⁴³²

5.6.1 Yorùbá Value System and the *Abánibímọ* Practice

Having examined Yorùbá value system, it becomes imperative then to ask the question: Does the Yorùbá practice of *abánibímọ* fits into the value system? Hence, the necessity to examine the *abánibímọ* practice within the consequentialist and deontological framework. In other words, what is intended in this section is to enunciate whether the Yorùbá practice of *abánibímọ* violates the principle that we treat people with dignity, since surrogacy, a similar reproductive practice, has been criticised on the ground that it contravenes the Kantian categorical imperative.

Among many of the criticisms of Western surrogacy is that it is tantamount to baby-selling, a practice harmful not only to the children of the surrogates, but to every child whose sense of security is destabilised by the practise. It has equally been criticised on the basis that it is harmful to the class called women that it embroils "commodification" of persons, relationships, and it violates the Kantian truism that people should never be treated merely as means to an end, but always as ends in themselves.⁴³³ Therefore, it is imperative that we examine the practice of *abánibímọ* within the deontological space to see whether *abánibímọ* violates or resonances the maxim that one treats human kind, in our self, or that of others, as an end not only as a means.

The surrogate in the Yorùbá arrangement is part of the family; she is also a co-wife and co-mother, whose rights, relationship, and duties toward the child is never extinguished. She has the pleasure of seeing her child on a daily basis in the same compound with her co-wives. Apparently, the Yorùbá idea of surrogacy is quite different from the Western conception. In the West, the surrogate, after she is delivered of the baby, hands it over to the father. She gets her fee and relinquishes her maternal rights. She goes her way and her path and that of the child she gestates in her womb may never cross again in life.

⁴³²Orangun, A. 1998. *Destiny: The unmanifested being*.

⁴³³Wertheimer, A. 1992. Two Questions about Surrogacy and Exploitation. *Philosophy & Public Affairs* 21:3.

Also, the surrogate in Western surrogacy arrangement can engage in the business of child production for as many men as possible. This has made some feminist writers to describe Western surrogacy as nothing but “reproductive prostitution.”⁴³⁴ This is not the case with the *abánibímọ* in the Yorùbá norm of reproduction, because the woman is married into the family where she would act as *abánibímọ*. The cultural and legal validity of her marriage means that she cannot make procreation a money making venture just as she cannot go about giving children to different men, as the need arises, like her Western counterpart. Thus, we can clearly argue that the *abánibímọ* arrangement is more acceptable to the Yoruba than the Western idea of surrogacy.

5.7 Ontological Issues in the *Abánibímọ* Practice

The Yorùbá conception of reproduction is governed by the idea of the nature of a person, and the belief that human beings are connected to the community.⁴³⁵ Earlier studies, which are majorly Western in orientation concentrated on the licit dimension of surrogacy, but failed to take into explanation the ontological and ethical status of the child, who is the product of surrogate arrangement. This study, therefore, develops an account of surrogacy from the Yorùbá perspective that addresses the issue of the ontological, and moral prominence of the child, and the place of the mother in the *abánibímọ* arrangement. Therefore the questions: Is a child that is a product of *abánibímọ* accepted as a full member of the society, or is he seen as *ọmọ-àlẹ̀* (bastard), a social pariah or an outcast? Does he or she have rights to ritual oblations, that is, can the child offer sacrifices to the gods or the preternatural forces that rule in the cosmic order? Can he be initiated into the cult of full citizens? These are issues that revolve around the notion of the ontological status of the product of the *abánibímọ* practice.

5.7.1 Personhood of the child

⁴³⁴ See Dworkin, A. 1983. *Right-wing women*. New York: Pedigree Books. 181-2; Ince, S. 1994. Inside the surrogate industry. 387-394.

⁴³⁵ See Oyeshile, O. A. 2002. Towards an African concept of a person: person in Yoruba, Akan and Igbo Thoughts in *ORITA: Ibadan Journal of Religious Studies*. XXXIV. 104. Abimbola, K. 2007. Spirituality and applied ethics: an African perspective. *Philosophy & social change: discourse on values in Africa*. T. Ebijuwa. Ed. Ibadan: Hope publications. 85-120.

In the Yoruba culture, *èniyàn* (person) is the most important creation of the Supreme Being (Olódùmare)⁴³⁶ This is because the person not only receives his essence from Olódùmare, but also because his life source is gotten from Him, Olódùmare breathes the breath of life into man, and sealed man destiny in the prenatal world. The implication of this is that the ontological status of the person in Yoruba culture starts from his/her prenatal existence. That is why man is intricately related to *Olódùmare*, and he can relate with other categories of being, such as the spirits, plants and animals.⁴³⁷ In Yoruba surrogate practice, known as *abánibímọ*, the product of the arrangement, the child, is considered a full member of community into which he or she is born. The child also enjoys all the rights and privileges that accrue to other children in the community, such as the right to be initiated into the full cult of citizens, and the right to offer ritual oblations to the ancestors or the preternatural forces that rule over the cosmic order.

5.7.2 Issue of Rights: Inheritance

Does the child who is the product of *abánibímọ* has the right of inheritance? Can he become a village elder or *baalẹ*? Will he be entitled to the kingship stool if he is from a royal family? In other words, does the child enjoys the same rights and privileges as other children in the community?

In the Yoruba culture, having children is fundamental to lineage structure of heritage. In most communities, the eldest son, irrespective of the position of his mother, is allotted some articles that others cannot have, for instance, the house that the deceased father lived before his death. Usually, the dead father's belongings is shared in line to the number of the hearth holds in his compound, it is further disseminated amongst the children in each hearth hold. A hearth hold refers to the further subdivision of the household in a polygamous setting. Each hearth hold is the social unit of a mother, and her children or dependents, in an otherwise patri-centred household. The hearthhold is the rudimentary component of manufacturing, ingestion and socialisation.⁴³⁸ Traditionally, among Yorùbá people, children, and not spouses inherit property, (this is a major component of their ethics of child care). A child who is the product of *abánibímọ* enjoys

⁴³⁶ Awolalu and Dopamu, 1979. West African traditional religion.

⁴³⁷ See Awolalu and Dopamu 1979. West African traditional religion, Akintola. A. 1999. Yoruba ethics and metaphysics.

⁴³⁸ Pearce, T. 1999. She will not be listened to in Public: perceptions among the Yoruba of infertility and childlessness. *Reproductive health matters* 7:13.

the rights of inheritance and he can become a village elder or *baale*. He also has the right to the kingship stool if he is from a royal family.

5.7.3 Motherhood: Metaphysical and Ethical Issues

Unlike the Western practice of surrogacy where the mother is paid a fee after delivery and she thereafter relinquishes her maternal rights and relationship with the child and the family, the *abánibimọ* arrangement recognises the positive role the surrogate mother plays, not only in the life of the child but in the institution of surrogateship. But then, questions arising on the issue of motherhood are: Can a woman who has not experienced the inconveniences of pregnancy or go through the rigours of childbirth be identified as a mother? Can a woman be the mother of a child with whom she has no blood connection? In responding to these questions an analysis of the concepts of *Ònbí* and *Ònwò* shall be explored.

5.7.3.1 Concept of *Ònbí* and *Ònwò* among the Yoruba

Human thinking or rationality is impossible without the use of concepts. Concepts are words or general terms which enable us to group things that share the some critical characteristics together, in other words, we can say that the analysis of concepts give meaning to our existence in life. Commenting on the nature of concepts Olusegun Oladipo asserts that:

The meanings of these concepts, particularly the most general ones like knowledge, reality, mind, obligation, justice, democracy and so on, are not always clear. And experience has shown that the dictionary is not always a good guide to these meanings, particularly in those cases where common usages are inadequate as indications of the implicit distinctions they harbour. It is against this background that conceptual analysis becomes a major philosophical activity.⁴³⁹

It is with the above in mind that it is important to analyse the concepts of *Ònbí* and *Ònwò*, in other to be able to respond to the question whether a woman who has not experienced the inconveniences of pregnancy or go through the rigours of childbirth be

⁴³⁹Oladipo, O. 2011. Philosophy as a rational inquiry. *Philosophy, Logic and issues in science and technology: An Introduction*. Oladipo, O. and Adedeji, GMA Ed. Ibadan: Hope Publications. 25-26.

identified as a mother, or a woman be the mother of a child with whom she has no blood connection.

Ònbí, the concept is derived from the phrase *eni ti o bi omo* (the person who gave birth to a child). The concept refers to a woman who goes through the process of the inconveniences of pregnancy, and the rigours of childbirth. The concept *Ònwò* is derived from the phrase *eni ti o wo omo*, which means the person who nurtures or nurse a child, a care giver or wet nurse as the case may be. It is important to note that the woman who experienced the inconveniences of pregnancy, and rigours of childbirth can be both the *Ònbí* and *Ònwò*. She is the mother and the care-giver at the same time.

However, there are situations when the dual functions of the mother are separated. One of such case is when a woman has had a difficult childbirth, and she is too weak to take care of her child, in such a case the child can be given to another woman (*Ònwò*) to take care of it, such care giver may be a close relation of the mother of the child, i.e. the *Ònbí*, and she may be an older woman in the compound. Again, due to the *Ònbí's* death at childbirth, the child is usually taken care of by some other woman.

Apart from the above, when a woman who has undergone the difficulties of pregnancy, and rigours of childbirth is carefree in her duties toward her child, such a woman may be referred to as just an *ònbí*, and not an *ònwò*. The Yorùbá people will say such a one is not *abiamo* (an *abiamo* is a person who gives birth, and lives with the consciousness of the responsibility inherent in giving birth to a child) that is, she is not motherly, she does not possess the attributes of a “virtuous” mother, she is just a female given the “grace” to have children. *Abiamo* represents motherhood, an *abiamo* is someone who possess motherly spirit. Mothers in Yorùbá culture are considered the essential building blocks of social relations, identities and society. At the same time, they are perceived as symbolising familial ties, unconditional love and loyalty.⁴⁴⁰ In Yorùbá culture a man who displays motherly virtues of care, love and absolute concern for his children is equally referred to as *abiamo*,

⁴⁴⁰Oyewumi, O. 2003. Abiyamo: Theorising African motherhood. *JENDA: A Journal of Culture and African Women Studies*. 4. Retrieved Mar. 24, 2015, from www.jendajournal.com.

Considering the analysis of the concepts of *Ònbí* and *Ònwò* above, and situations that bring a dichotomy between the *ònbí* and *ónwó*, we can conveniently say that in the Yorùbá culture, a woman who has not experienced the inconveniences of pregnancy and the rigours of child birth can be called a mother once she possesses the motherly nurturing virtues of love, care, gentleness and so on. Moreover, in existential experience we have seen cases where children are more attached to their nurturing or social mothers, than to

their biological mothers. This phenomenon is aptly captured by the Yorùbá proverbs that: *agbó'mo jó l'omó 'mojú*, meaning that it is the person that nurtures and cares for a child that the child will recognise as its mother.

5.8 Core Ethical Principles and *Abánibímọ* Practice

Moral principles are basic philosophical standpoints, which directly or indirectly leads to an ethical standard. Moral principles are foundational ideas that make an ethical standard truthful. Core moral principles in philosophy are: Human dignity, beneficence, non-maleficence, and justice.

Dignity of Humanity, or respect for persons: human beings retain a distinct value intrinsic to them as *Homo sapiens*, the recognition of the special worth make them to be accorded respect, and enjoy sanctity of life.⁴⁴¹ According to Centre for Bioethics and Human Dignity, reverence for the self-worth of person is an intrinsic feature of every human being because they are created by God. For the Centre, all human persons nonetheless the age, skill, status, gender, and ethnicity should be treated with respect.⁴⁴² The bout against global poverty, non-discrimination against others, cruelty, the condemnation of injustice and all other inhumane treatments are grounded on the notion of human dignity. *Abánibímọ* practice in Yoruba culture protects the dignity of everyone concerned. The child's dignity, and that of the other parties involved is protected since they are accorded respect by the virtue of being created by God.

⁴⁴¹ Centre for Bioethics and Human Dignity. Trinity International University

⁴⁴²The Centre for Bioethics and Human Dignity.

The principle of **beneficence** holds that people should aim to do good at all times, that is, to promote the interest of others.⁴⁴³ The *abánibímọ* arrangement fulfils this ethical principle because it promotes the interest of all entities and the community at large, in the sense that procreating is a sign of continuity of the family or lineage, and an assurance of attainment of ancestorhood for the older citizens of the community at death.

The principle of **non-maleficence** entails that human beings do no harm to others.⁴⁴⁴ Harm as stated by this principle could be in any form, it could be physical, social, emotional or psychologically. *Abánibímọ* practice promotes the principle of non-maleficence in the life of the child who is the product in the sense that he/she is not only accepted as a full member of the community into which he or she is born, but also enjoys all the rights and privileges due other children in the community. Also, the mother does not suffer the emotional harm that surrogates in Western surrogacy suffer, because she has relationship with her child. The *abánibímọ* arrangement as a practice also seeks to accomplish good for others in that its purpose is to help the infertile to have children.

The fourth principle which is **justice** holds that people should act fairly, when the interest of different individuals and groups are in conflict. At every point in time, there must be unbiased allocation of resources.⁴⁴⁵ The principle of fairness manifests in the relationship among individuals involved in *abánibímọ* practice. The older infertile woman is treated fairly because in spite of her inability to procreate, arrangement is made for her to become a mother via the practice. The surrogate is fairly treated in that she is a part of the family. She is also a co-wife and co-mother, whose rights, relationship and duties toward the child is never extinguished, as it occurs in western surrogacy arrangement.

Another critical issue in the *abánibímọ* practice is the issue of love. The question is whether the man will be able to love the two women (the *abánibímọ* and the infertile older woman); since love is an important element in the marriage institution. Since some *Odu Ifá* ascribe much problems to the multiplicity of wives by men. Both *Obara Meji*

⁴⁴³ Chadwick, R. F. 2016. Bioethics. *Encyclopaedia Britannica*.

⁴⁴⁴ R. F. Chadwick, 2016. Bioethics.

⁴⁴⁵ Chadwick, R. F. 2016. Bioethics.

and *Oyeku Meji* portray polygamy as an indulgence by men which usually engenders jealousy, acrimony and unpleasantness. The two *Odus* clearly state that monogamy is truly the better, easier and more pleasant option than polygamy.⁴⁴⁶

Obara Meji asserted:

<i>Ikan ʒoʒo póró lobínrin dùn mọ</i>	Just a wife is enough
<i>L'ówó ọkọ.</i>	For a man.
<i>B'ó bá di méji</i>	If they are two
<i>A d'òfófó;</i>	It breeds gossip
<i>Bí ó bá di méta</i>	If they are three
<i>A d'àjààgbilà;</i>	It breeds fighting
<i>Èkarún ni túlee-túlé</i>	The fifth one, and the house is scattered
<i>Èkefaá ni ifá ọkọ òun</i>	The sixth will claim that the husband
<i>Kò mọ rere ʒe</i>	Is a never –do- well
<i>Èkeje ni ifá ọkọ òun</i>	The seventh one will claim that the husband
<i>L'ó ti kó èyí ʒẹ̀ òun lówó through</i>	Is responsible for what she is passing through
<i>Tí òun fi d'eni t'ó dà báyii.</i>	That she is now the way she is.

OyekuMeji ascribes a much longer list of the unpleasantness of marrying many wives as follows:

<i>Ikanʒoʒo póró lobínrin dùn mọ l'ówó ọkọ.</i>	A wife is enough for a man
<i>B' nwón bá di méji</i>	If they are two
<i>Nwon a d'òjòwú;</i>	It breeds jealousy
<i>B' won bá di méta</i>	If they are three
<i>Nwon a d'èta ntú'lé</i>	It breeds separation in the home
<i>Bí nwon bá di mérin,</i>	If they are four
<i>Nwona di Íwọ l'ó rín mi ni mo rín ọ</i>	They become “you first oppressed me, and I oppress you back”
<i>Bí nwon bá di márùn ún,</i>	If they are five

⁴⁴⁶Akintola, A. 1999. Yoruba ethics and metaphysics. 180-181.

<i>Nwon a di lágbájà</i>	They point accusing fingers saying
<i>Ni ó run ọkọ wa tán l'óhun sùsùsù</i>	That person completely destroyed our husband
<i>Bí won bá di méfà,</i>	If they are six
<i>Nwon a d'ájé</i>	They enter covens
<i>Bí won bá di méjọ</i>	If they are eight
<i>Nwon di iyá alátàrí bàmbà</i>	They say that big headed woman
<i>L'ó ti kó irú èyí sẹ ọkọ wa l'ówó</i>	Is responsible for the predicament the husband is passing through
<i>Bí won bá di mèsàán</i>	If they are nine
<i>Nwon a di Ìyálè wa ò n' ísé kan</i>	They say the senior wife does not have a job
<i>Kò l'ábò kan</i>	Or investment
<i>B'ò bá ti jí</i>	When she rise from the bed
<i>Aşọ ọkọ wa ní máá sán kiri</i>	She ties our husband's cloth around
<i>Bí won bá di méwàá</i>	If they are ten
<i>Nwon a di ilé l'ọkọ wa jókoó</i>	They become "our husband is at home all day"
<i>Ni nwon ñwá ọkọ waa wá</i>	They came looking for our husband.

As it is pointed out in the Ifa verses above, there are problems associated with polygamy, but as said earlier, and reiterate here, a number of factors make *abánibímọ* different from polygamy. First, *abánibímọ* is contractual in nature, because the young woman married into the family is coming in with the pre-knowledge that she is coming to help to remedy a situation - infertility, so her coming into the family is a sort of contract, and this she understands before the marriage is consummated. Second, in many cases of *abánibímọ*, the older infertile woman is usually aware of the intention to marry another woman into the family, she may even be the champion of the arrangement, unlike in the strict polygamy where the wife in the house may, for years not know that her husband has acquired another woman as wife. Thirdly, the first issue the younger woman gives birth to is taken charge of by the older infertile woman, the nurture of the child is exclusively the preserve of the older woman. Importantly too, the character of the infertile woman is considered. The Yorùbá put much premium on character *iwá*; the people would not in

any wise go through the trouble to assist a woman without character in getting a child. Instead, such a woman would be sent out of the household or left to experience emotional neglect from her husband who would rather marry another woman.

Additionally, the stipulation of the Yorùbá idea of love does not rule out the possibility of loving as many people as conceivable. The Yorùbá term for love is *Ife*, it is one of the primary virtues sanctioned by *Olódùmare*, the Supreme Being, to govern and regulate the complexities of the inter-personal relationships in the world. The other two being truth and harmony. Love as a metaphysical and ethical concept is the spontaneous, conscious and selfless feeling of benevolence, affection and devotions towards God and towards individual creatures of God.⁴⁴⁷ As an ethical concept, love entails such feelings as affection and devotion from individual human creatures towards one another. Love is that virtue which is to be mutually practiced by individual human beings in their relationships. In the *Ifá* corpus, love is expressed as the avoidance of wickedness to neighbours, and it is synonymous to kindness, selflessness, mercifulness and benevolence. A minor *odu*, Ofun-Rosun portrays what love in action is:

<i>Láti ojò ti mo ti dé 'lé ayé</i>	Since I came into the world
<i>Ng kò ní kín-ní-kín-ní omọ-nì-kejì mi nínu ri</i>	I have had no ill-feelings toward anyone
<i>Bí mo ti rí ni mo fẹ́ kí enìkejì mi rí</i>	I wish others to be like myself
<i>Bí mo ti wà ni mo fẹ́ kí enìkejì mi wà</i>	I wish others to be in good state as I am
<i>K'ó l'ówó, kó l'áya, kó l'ókò, kó bí'mọ</i>	I wish for others to have money, wife, husband, children
<i>K'ó s'ànfààni l'áyé rẹ</i>	I wish for others to do well in life
<i>Awonnáá l'ó d'ifá fún Àfẹ̀rẹ̀mòjò</i>	cast divination for <i>Àfẹ̀rẹ̀mòjò</i>
<i>Tí n lọ rẹ̀e bá wọ̀n kúnlẹ̀ ejọ̀ l'áàfìn</i> ⁴⁴⁸	That is going to the palace for the resolution of conflict.

5.9 Conclusion

⁴⁴⁷Akintola, A. 1999. Yoruba ethics and metaphysics. 2.

⁴⁴⁸Akintola, A. 1999. Yoruba ethics and metaphysics. 113.

The emphasis of this chapter is on the question of the metaphysical, and ethical issues in the *abánibímọ* arrangement. It clarified the key concepts of interest, metaphysics and ethics. The subject matter of both concepts was elucidated; it examined the questions of inquiry in Yorùbá metaphysics and ethics, and the source and foundation of Yorùbá ethics and metaphysics. Importantly, this chapter examined the ontological and ethical issues in relation to the youngster, who is the product of the *abánibímọ* practice, and the mother. Issues such as the being of the child and his/her right to inheritance and in the community of human beings and the ethical and social norms which redound to his or her wellbeing. The focus of the next chapter is the relationship between familyhood and social order. The technological development and complexities involved in the Western reproductive methods has left one with no choice than to accept the argument that in this century, humans are no longer the centre of attention, and complex machines are regarded as more important than man. However, there is a need to revisit the contributions of family to societal order

CHAPTER SIX

FAMILYHOOD AND SOCIAL ORDER AMONG THE YORÙBÁ

6.0 Introduction

The preceding chapter of this study examined the metaphysical and ethical questions involved in the practice of *abánibímọ* among the Yorùbá. Chapter One of this study was a critical appraisal of the idea of surrogacy. Chapter Two analysed surrogacy and the practice of *abánibímọ* in Yorùbá culture. Although the two practices are forms of motherhood, there are glaring differences in the practices. The differences were articulated, and on this note we concluded that the Yorùbá practice of *abánibímọ* best protect human values and well-being. Chapter Three examined Borden Parker Bowne's theory of personalism, which is premised on the notion of intrinsic worth of persons, and *èniyàn*, Yorùbá idea of a person. This concluding segment is dedicated to an examination of the idea of familyhood and social order among the Yorùbá in relation to the *abánibímọ* practice.

6.1 The family

Family is believed to be the smallest component of human society, it is the principal locus of training, and instruction in values for individuals. It is in the family that children are first taught the importance of social interaction and relationship with other members of the society. The family provides support and nurturing for its member. The ideals of socialisation, cooperation and association find their meaning in the family.⁴⁴⁹ The child's

⁴⁴⁹Hammond, R. J. 2010. *Sociology of the Family*. Smashwords Publishers.

first exposure to the world occurs in the family. Social order is also an ideal whose origin can be traced to the family.

Carol Levine, offering a very broad definition of the concept family, describes it as group of persons that are by blood, espousal, marriage, and declared commitment to share deep individual connections, and are conjointly eligible to receive, and have obligations to provide support of different kinds, to the extent possible, especially in times of need.⁴⁵⁰ In anthropological understanding, the household as the smallest element of a society defines the well-being of that society, ideally a family comprises a man and a woman whose relationship is constructed on marriage, and children whose relationship to their parents, and other siblings is on blood ties. The distinguishing features of family are: **Universality**- the family is a universal entity in the sense that there is no society where there are no families. **Emotional function**: Members of the family offer love, care and protection to one another, they assume sacrifices for the welfare of members. Family members are emotionally bound to one another. **Social control**, members of the family are educated to observe social norms, customs, interrelationships and interactions, in the process of socialisation. They are guided by social conventions and legal regulations.⁴⁵¹

6.2 Criteria for family construction

With the new technologies in reproductive technology, people now have a shift in their understanding of familyhood. Familyhood is now a phenomenon that encompasses many people that are unrelated by blood or marriage. The reason for this, as reported in Chapter One, is the fact that it is now a possibility for couples to transact for reproductive services, and for a woman to give birth to children whose genes are unrelated to hers. And from Levine's definition of the family above, there is a clear indication that there are other criteria for constructing what a family is, apart from the traditional conception that relationship by blood, marriage and adoption makes a family. Each of these criteria shall be examined briefly, before an exposition of the African construction of the family, with particular focus on the Yoruba conception.

⁴⁵⁰ Levine, C. 1990. Aids and Changing Concepts of Family, *The Milbank Quarterly* 68, Supplement 1. 37. Quoted in Macklin, R. 2007. Artificial means of reproduction and our understanding of the family.

⁴⁵¹ Hammond, R. J. 2010. *Sociology of the family*.

6.2.1 The biological criterion

According to the biological criterion, family refers to individuals who are genetically related to one another. Their relatedness could be described with the use of a family tree. It has been argued that as important, and as interesting the biological criterion of the family is, it does not incorporate all that is essentially meant by family, and it does not reflect comprehensive cultural custom, and kinship system which delineate family ties.⁴⁵²

6.2.2 The legal criterion

According to Ruth Macklin, other determinants of the concept family are the law, custom as well as subjective intention. Law as a determinant of family involves licit guidelines prevailing adoption, foster placement, artificial insemination, guardianship, and the removal of children from homes where they are abused or neglected.⁴⁵³ Judicial Scholars explain with meticulousness and details the categories, and provision of this type family. For example, in adoptions, a couple that is biologically unconnected to a child is seen as its legal parents. Thus, a fresh family is produced by law. The natural parentage of the child does not change, but by power of law, the adopting parents are regarded as the child's family.⁴⁵⁴

6.2.3 Custom as a determinant of family

In understanding custom as determining factor for family, examples are taken from cultural anthropological studies where affinity systems and incest prohibitions spoken by folk ways and morals diverge fundamentally from one society to the other, and only few generalisations are possible. Commenting on this, Ruth Benedict avers that there is no people of the world who repute all women as likely mates, as it is often said this is in an effort to avert inbreeding. For Maclin, this is just a supposition, for in many parts of the world cousins do marry, often through divination it is learnt that cousins are predestined

⁴⁵² Macklin, R. 2007. Artificial means of reproduction and our understanding of the family. *Ethics in Practice: Blackwell philosophy anthologies*. 3rd Ed. L. Hugh. Ed. Oxford: Blackwell Publishing. 233.

⁴⁵³ Macklin, R. 2007. Artificial means of reproduction. 234.

⁴⁵⁴ Macklin, R. 2007. Artificial means of reproduction.

spouses.⁴⁵⁵ In contrast to Benedict, Melville Herskovits records that some incest prohibitions are:

Extended ... social fiction (that) include vast numbers of individuals who have no traceable ancestors in common ... Instead of distinguishing lineal from collateral kin as we do in the distinction between father, and uncle, brother and cousin ... Certain tribes of eastern Australia use an extreme form of this so-called classificatory kinship system. Those whom they call brothers and sisters are all those of their generation with whom they recognise any relationship.⁴⁵⁶

6.2.4 Subjective intention

Personal intention as a determinant of law is the most varied and unstructured family type. It embraces variability of ways that individuals separately contemplate themselves as a family, even when the arrangement is not recognised by law or custom. Macklin gave a number of examples of actual folks, and their situations. The case of a homosexual couple who decided to take the matrimonial vows, and later applied for foster parenting of children with Acquired Immune Deficiency Syndrome (AIDS), whose natural parents died or abandoned them. Two children were put in the care of the homosexual couple, they are a now family. Another variant of this is the case is a monogamous lesbian partners, who resolved to raise a child. Through use of assisted reproduction one of them was fertilised, she conceived, delivered a baby, and the three of them became a family, with one of the women biologically related to the child.⁴⁵⁷

6.3 The family in African context

The family inhabits an important realm in the social construction of African traditional society. It is within the family that enforcement of folkways and mores begin. The family is a cohesive group with identical feelings. The eldest man is the person who stands as the overall head; he is duly assisted by his brothers, sisters, children and cousins. Functions are delegated to the other members of the family by him.⁴⁵⁸ Individual

⁴⁵⁵ Benedict, R. 1934. *Patterns of culture*. New York: Mentor books. 29.

⁴⁵⁶ Herskovits, M. J. 1955. *Cultural anthropology*. New York: Alfred A. Knopf. 171.

⁴⁵⁷ Macklin, R. 2007. Artificial means of reproduction. 236.

⁴⁵⁸ Odetola, T. O and Ademola, A. 1985. *Sociology: an introductory African text*. Ile-ife: Macmillan Publishers. 115-116.

members of the family receive recognition not only through membership, but also by performing their duties as at when due, and meeting their obligations. Socialisation of the individual is a vital function played by the family, it is in there that basic personality, attitudes, values, and moral ideas are formed. In Africa, and among the Yorùbá people, the socialisation of the child is not only the task of the parents alone, kinsmen living with the child's parents also participate as socialising agents.⁴⁵⁹

6.3.1 The structure of the family in Africa

Most African traditional family is patriarchal in nature. The head of a family is the father, he plays the major role of providing the basic needs – shelter, clothing and food - of the family. Major decisions in the family are made by him. He serves as the “cane” of the family because the discipline of the children mainly rests on him; the children often fear the father more than the mother. The mother on her part is saddled with the duty of taking care of the home front, that is, the welfare of the children and the house. She is the nurturer or caregiver, she most times serves as the bridge between the children and their father. She prepares the meals and takes care of other household chores. She is in charge of training the children and also engages them in household chores as they grow up.⁴⁶⁰ The children are also socialised for proper growth and development. This is done at two levels, the first level covers the period when the child is taught all that is expected of him to function adequately. Parents also train their children to be involved in all forms of house chores, at the same time socialising them into their different gender. In today's family however, primary socialisation is done for all children across board.

6.4 The Yorùbá family

The Yorùbá word for family is *ẹbi*. The family in Yorùbá culture composes of relationships constructed on both consanguinity (blood relations) and conjugality (marriage).⁴⁶¹ Also, the term articulates a link between individuals who recognise ancestry through a common male forebear.⁴⁶² The two forms of families are also referred

⁴⁵⁹ T. O. Odetola, and Ademola, A. 1985. *Sociology: an introductory African text*.

⁴⁶⁰ Ojo, R. C. 2010. *Against desire and pleasure*.

⁴⁶¹ B. Lanre-Abass. 2008. *Surrogate motherhood*.

⁴⁶² See Schwab, W. B. 1958. The terminology of kinship and marriage among the Yoruba. *Journal of the International African Institute* 28:4. 302. Adedokun, L. 1990. *Women*,

to as the orientation family, and the family of procreation, respectively.⁴⁶³ The parental family in which one is born and grows up is called the orientation family. This family fortifies one with our bearings (necessary manners, attitudes, comportment, airs), and helps in the socialisation of the individual. Eventually, by marrying and having children of their own, most people form a second family which we call family of procreation.⁴⁶⁴ Thus, at one time or the other, each person belongs to at least one family. In the traditional Yorùbá society, the relationship between the orientation, and family of procreation used to be very close; because previously, marriage in the Yorùbá society was much more an affair of the families of the intending couple, than the affairs of the individuals involved, as highlighted earlier in this study. But in the contemporary society, the relationship between the orientation and family of procreation varies to the level of understanding among the individuals who constitute the two.

The construction of Yorùbá family system is the lineage structure, this often refers to close relatives. The two most important kinship categories are those of the father and the mother, for they are the ones responsible for bringing into existence successive generations. Also, father and mother admit and accept responsibility for rearing, educating, and launching the vocations of as many people as possible in the age group of their children.⁴⁶⁵ The lineage is commonly called *idile*; it is usually a stringent unilineal descent group that encompasses people, men and women that can trace their parentage from a known common male ancestor.⁴⁶⁶ The Yorùbá patrilineage is a corporate, localised unit, distinct from all other groups by shared and mutual privileges, and duties.

colonialism and change: Research into tasks and social behaviour to marriage. *Women and social change in Africa*. L. Olorode. Ed. Lagos: Unity Publishing and Research Ltd. 66-80. Aina, O. A. 1998. Women, culture and society. *Nigerian women in society and development*. S. Amadu and A. Odebiyi. Eds. Ibadan: Dokun Publishing House.

⁴⁶³ Oke, E. A., Oloruntimehin, O. and Akinola, B. Eds. 1996. *Introduction to social institutions*. Ibadan: Akinlabi Fayinminu Ventures.

⁴⁶⁴ Oloruntimehin, O. Oke, E. A., and Akinola, B. Eds. 1996. *Introduction to social institutions*.

⁴⁶⁵ Lanre-Abass, B. 2008. Surrogate motherhood.

⁴⁶⁶ Schwab, W. B. 1958. The terminology of kinship and marriage among the Yoruba.

Participation in a family is the primary determining factor of social, economic, and political relations.⁴⁶⁷

The *idile* is a section of the genealogical structure, where participation is hierarchically established into arranged groups; distinguished from one another by the apex figure in each group, and position in the organisational hierarchy. Corresponding with the organisational pyramid is a variance distribution of rights and privileges, so that each segment is differentiated from the others by criteria as well.⁴⁶⁸ Under the family were lineage divisions, extended families and households, residential groupings were ideally large and lineage segments resided in patrilocal compounds (*Agbo Ile*). Household components within these compounds were either monogamous or polygamous. In polygamous homes, there was yet another subdivision within each household, the hearth hold. The hearth hold was the social unit of a mother and her children and dependents in an otherwise patri-centred household. The hearth hold was the basic unit of production, consumption and socialisation.⁴⁶⁹

An integer of ancestries, among whom there is no precise genealogical linkage, but acknowledged definitive male connection comprise a wider group that may be termed a clan. Reciprocal rights, duties, and privileges describe the relations between members of a clan. Aside the rule of exogamy (the custom of marrying outside ones community or clan) that relates evenly around all people who accept any ancestral relationship, rights, duties, and privileges may vary, and the exercise is dependent upon the opening of actual social contacts.

Likewise, there are significant associations with persons related through females, the most important of these is with the patrilineage of one's mother. The bonds of communal obligations and rights which bind a person to his mother's patrilineage differ more in degree than in kind, from those binding him to his father's patrilineage that are more sturdily stressed. The mother's lineage stands as subordinate or covert rights and duties

⁴⁶⁷ Odetola, T. O. and Ademola, A. 1985. *Sociology: an introductory African text*.

⁴⁶⁸ Schwab, W. B. 1958. The terminology of kinship and marriage among the Yoruba.

⁴⁶⁹ Schwab, W. B. 1958. The terminology of kinship and marriage among the Yoruba.

that may be evoked, if the occasion demands. An important component in any kinship system is the range upon which kinship relationships are recognised and functional.⁴⁷⁰

According to J. Edwards, 'kinship' evokes the relational, rather than the institutional aspect of people's interactions as is contained in the concept of 'family'. What is at issue is less about the kind of unit that a family may form than the fact that kinship constitutes a matrix of relationships. So when they act as kinspersons, persons are acting with others in mind. One cannot be a mother unless there is also a child; one cannot be an aunt or uncle by oneself⁴⁷¹

6.5 *Àjòbí* and *Àjogbé* as Primordial Forms of Relationship in Yoruba Traditional Society

The ancient form of *ilúwàdà ènìyàn*, that is, human society, according to Akikowo, was - *àjòbí* and *àjogbé* – the English equivalent of which is, consanguinity and co-residentship. In anthropological understanding, consanguinity is perceived as direct descent and guaranteed connections built upon blood and birth. While co-residentship is defined as the act of sharing same or attached shelter, whether or not the co-residents are related by blood. *Alàjòbí* refers to sustenance of all kind of lineal and guaranteed relationships, and the derivative concept *alajogbe* refers to the sustenance of individuals or groups of individuals that are living together, under one roof or in connecting shelter or locality. From these definitions, it follows that *àjogbé* denotes a cluster of linked families or several groups of related families in a house, in a compound of residents, unit in a village, and town.⁴⁷² *Àjòbí* signifies members of the community of people related through birth, and blood, and live in the same compound, village, and town or independently in other regions of the world.

According to Akikowo, the *Orunmilaists* believe that every human being, irrespective of race, shade or conviction belongs to the same prehistoric *alajobi*, and therefore share the same *àjòbí* tie. This idea is expressed thus: *ìyá kan, bàbá kan ló bígbogbo wa* (one

⁴⁷⁰ Schwab, W. B. 1958. The terminology of kinship and marriage among the Yoruba.

⁴⁷¹ Edwards, J. et al. 2005. *Technology of procreation: kinship in the age of assisted conception*. 2nd edition. London and New York: Routledge. 14.

⁴⁷² Akikowo, A. 1980. *Ajobi and Ajogbe: variation on the theme of sociation*. An Inaugural Lecture delivered at the University of Ife on Tuesday, 10 June 1980. 10.

mother, one father gave birth to all of us – all human kind). This claim notwithstanding, the *Orunmilaist* group accepts the fact that individuals, group of persons, and at times a whole nation by *eero* (thought), *òrò* (word), *ise* (action), and *ìhùwàsí* (behaviour) do contravene, deny, and break asunder the bond of *àjobí* relationships. The Yorùbá will express this as: *wón gbé igi dá alájobí* (using a log to divide the cord of consanguinity).⁴⁷³

6.6 Breakdown of the ties of *alajobi*

Regardless of the appeal that the cord of consanguinity be preserved, in traditional and contemporary Yorùbá society, the bonds of *alajobi* get mitigated to the point of seeming non-existence. As Akikowo asserts that the history of the African peoples contain the conditions which have caused *alajobi* bonds to be irrevocably damaged. Among these was the connection of indigenous markets to metropolitan markets of Europe that led for the first time to the procurement of potable tools of money during the 18th century. Suddenly, societal disruptions led to bodily separation of blood relations, this brewed and compelled people to depend on totally unfamiliar persons for assistance and provisions.⁴⁷⁴ And what occurs is what made Marx and Engels assert in the *Manifesto of the Communist Party* that it is the activities of contemporary industry that make all family bonds among the proletariats to be torn apart, and their children are malformed to become simple articles of commerce.

6.6.1 Effect of Modernity on the traditional idea and structure of the family

Through commerce, light weight paper money and metal coins exchange, it became easily possible to obtain wealth by one's individual initiative, and efforts, with little or no dependence upon blood relations. Those who are successful among blood relations acquired more money, bought new things, and could afford to marry the most attractive or leading young woman in the community. The less successful were gingered into action of competition or envy that culminated in familial rivalry, and cracks in the bond of *ajobi*.

⁴⁷³ Akikowo, A. 1980. *Ajobi and Ajogbe*.

⁴⁷⁴ Akikowo, A. 1980. *Ajobi and Ajogbe*. 19.

Another attenuating factor to the bonds of *alajobi* is slavery and seizure and forceful sale of a relative, fellow villager or townsmen which became the culminating point of unchecked sibling rivalry among members of an *ajobi* group.

Uncontrolled longing for more money led to obtuse kidnapping of children who were sold into slavery. Alex Harvey in his book, *Roots*, gives a very detailed description of how Africans who strayed from the comfort and safety of their homes and villages were captured by Arab slave dealers, who were aided by people from nearby villages or one's own village.⁴⁷⁵ This practice of kidnapping and selling of children of others and one's own continues at an alarming spate in contemporary Nigeria. Young girls and boys are being lured out of their homes and the reach of their parents, with the promise of securing a better future for them outside the country into trafficking for prostitution/sex slavery or their organs sold to people in need of organ transplant.⁴⁷⁶

The picture above is contrary to the injunction of a verse of *Odu Ogbe-Wori*, which indicates that consanguinity compels loyalty and keeping of faith with one another. The verse goes thus:

<i>Nlẹ, o ke, o kun un ni iki Ijesa</i>	As the Ijẹsa people are with one tongue
<i>O ku owo iki Oyo</i> tongue	The Oyo people also with one tongue
<i>Maja l'ara Ketu u ki'ra won</i>	And the Ketu people too with one tongue
<i>A dia f'olomọ</i> <i>Olomọ</i>	This was <i>Ogbe-Wori's</i> allocution to
<i>Ti n re 'gbo Egba</i>	When he was starting off from his home to the Egbas forest
<i>Ti yoo jẹ win-din win-din bi'mọ</i>	In search of the forest herb, <i>windin-windin</i> with which he would improve his fertility and potency
<i>Awon omọ Olomọ t'o po win-din win-din bayi</i>	When afterward <i>Olomọ</i> had many children

⁴⁷⁵ Akikowo, A. 1980. *Ajobi and Ajogbe*. 20.

⁴⁷⁶ Wife of a former Vice President of Nigeria, Mrs. Titi Abubaker, initiated a Non-Governmental Organisation, *Women Trafficking and Child Labour Eradication (WOTCLEF)* in 1999. And equally initiated a private bill that led to the establishment of National Agency for Prohibition of Trafficking Persons (NAPTIP).

Idamu Olomọ ko tan

(Won) waa n se ara won bi Qsan an see s'orun

Ni Olomọ bu puru s'ekun

Olomọ wa to Orisa lo

O le oran ara re

Orunmila ni ko s'etutu

Orogbo, obi, ati epo

Olomọ pese gbogbo etutu wonyi tan

O waa ko gbogbo awon etutu wonyi

Ati gbogbo awon omọ re lo sodo Orunmila

Orunmila waa fun awon omo wonyi loḳḳoḳan

Ni eku, eja, eyẹ ati gbogbo nkan etutu yoku

O ni ki ḳḳoḳan maa fi enu re

gbee gbogbo nkan wonyi je

bi won ti n jeḳ orin awo lo bo s' ifa lenu

Ni Orunmila n korin fun won

To si n fun won l'ofin pe:

His worries were never over

For all these children did not appreciate any common bond. Nor loyalty and truth to one another. They all were wicked, did all sort of mischief to one another. Also destroying one another

The unhappy father wept

And consulted *Orunmila*

For solution to his sad experience and predicament

Whereupon *Orunmila* advised him to offer propitiatory sacrifice with rat, fish, bird, meat

Also bitter kola, kola nuts, palm oil, and all drinkables.

All the sacrificial items and *Olomọ's* children

Were then taken before *Orunmila*

One after the other, *Orunmila* gave each of them

To eat of the sacrificial ingredients

one after the other

One after the other, like a sacramental feast,

And laying it down as injunction of life for each one never to be perfidious

And to always keep faith with one another ...

And as each of *Olomọ's* children took the sacramental feast,

Orunmila sang out the final injunction and curse:

K'omọ-iya o ma da omọ-iya

Brothers must keep faith with brothers,

K'oreẹ o ma da ore

Friends must keep faith with friends

K'alajobi ma d'ajobi

And blood relations must keep faith with themselves ...⁴⁷⁷

As each of *Olomọ*'s children took the sacramental feast, they were enjoined not to break faith with one another, or either others in consanguinity, and that if treachery, disloyalty, betrayal or any of such behaviour is indulged in, "mother earth" will apply divine sanction upon the perfidious.

Immediately the social processes of rivalry and struggle over the path to success was generally entrenched amidst *alajobis*, a new custom of societal bond called friendship materialised. This was not established upon blood relationship, but on correspondence of *iwa* (character or ones expression of his actuality). Friends could live in other's' home, take part in the life of the household, except in the rituals of the household. The bodily structure of the household changed to provide accommodations for the increased populace, by adding lodging components as a new ideal was reached, a household became a fold of such added units. In the contemporary society not everyone that live in the same household constitute *ajobi*, since people in a household may include friends, family and indemnity relations, alien residents, and migrant workers. These social elements together form the *ajogbe* (co-residentship) with a distinctive set of *eewo* (taboos), forms of interactions, persistence and discontinuities.⁴⁷⁸

6.7 Social order

The concept 'order' could be used to describe a situation in which there is unity among a group, or a situation in which a society is functioning properly. It could be a unity arising from a proper arrangement of a number of objects. Also, it is a fact of observation that there are unified systems of relationship or order within the universe. The order that exists in the universe is as a result of the harmony observed among the different beings that make up the universe. All beings demonstrate order in their activities because all

⁴⁷⁷ Akintola, A. 1999. *Yoruba ethics and metaphysics*. 150-151.

⁴⁷⁸ Akikowo, A. 1980. *Ajobi and Ajogbe*. 20.

acts for a purpose and a common goal.⁴⁷⁹ In this sense, society is the unity of order of human persons, who are united in purpose and act in common. This union is formed or entered into by the intellect and will of persons for the purpose of bringing about certain advantageous conditions that could not be achieved by them singularly.⁴⁸⁰ Since the relationship is of persons, society is unique; a multiplicity of men united for common but definite purpose and action. It is expedient to know that whenever men form a society, they stand in relation to, and enter into relation with one another. The societal order, like all order is a unity in multiplicity. According to Roets, this unity of purpose and action is not an external unity between numerically distinct parts, but an internal unity of intellect and will of persons. Hence, many men united by intellect and will in unity of purpose and action, thinking and willing a common end, make for a society.⁴⁸¹

If we recognise the fact that human action is meaningful, that is, human beings do things because of the meaning those actions or activities have for them, then we must expect that a synchronisation of actions of the members of a society will be primarily through sharing of meanings. The question arising then is: Is it the sharedness of meaning in general which is of crucial importance in producing whatever degree of coordination found in a society? Or are there specific shared meanings that produce ordering of social activities, since there could be a vast number of meanings, such as ideas, beliefs, values and feelings, current in a society, yet these are shared to different degrees?

Considering the sociological viewpoint, there exists an explicit kind of shared meaning which produces social coordination or order in a community: this specific shared meaning is the social rules, more importantly, moral rules. Sociologists further assert that only moral rules could produce the degree of social ordering found in society. In their thinking, there exists a causal connection or relationship between moral rules and social

⁴⁷⁹ See Roets, P. J. 1959. *Principles of social order*. Milwaukee Wincosin: Marquette University Press. 6; Douglas, J. 1971. *American social order; social rules in a pluralistic society*. New York: Collier-Macmillan Ltd. 2; Von Habsburg, O. 1959. *The social order tomorrow*. Maryland: the Newman Press. 15.

⁴⁸⁰ Roets, P. J. 1959. *Principles of social order*.

⁴⁸¹ Roets, P. J. 1959. *Principles of social order*. 3.

order. By parity of reasoning therefore, causal link also exists between immoral behaviour and social disorder too.⁴⁸²

6.8 Societal order among the Yorùbá

The patterns of relationships among Africans, to a large extent, are extended and deep. That is why the terms mother, father, sister, brother, family or motherhood, to a remarkable degree, are definitive for the African far more than they mean for an average European.⁴⁸³ The African sees the individual as both a material and immaterial entity and also as a being in the society. Even in modern African cities, there exists prime groups constructed on clan, ethnicity or religious connection, showing that confidence in the idea of community, which was a norm among traditional Africans, is pervasive in contemporary days.

As Mbiti notes, the traditional African person would not, and cannot live independently, but communally, each person owes his or her existence to others in the community, including those of past generations (belief in ancestors), and those of the present generation. Whatsoever befalls the individual is believed to affect every member of the cluster, and whatsoever befalls the group affects the individual as well. This persuasion and sense of community is further underscored by Mbiti when he renders the Cartesian “Cogito, ergo sum” thus “I am because we are, and since we are, therefore I am”.⁴⁸⁴ The idea of connectivity is underscored by Yorùbá saying that “*Bí ará ‘le enikan ba n je kòkòrò tí kò da, tí a ko bà lé wì fún u, hẹ̀rẹ̀ huru rẹ̀ kòní je kari ‘lé gbẹ̀*” meaning that, “if your neighbour is up to a misdemeanour and you did not warn him/her, when the consequence of the action comes, all shall bear it”. This does not imply that there were no squabbles in the traditional society, but that people had ways of resolving their differences amicably. Therefore, the next section examines conflict resolution among the Yorùbá people.

6.9 Conflict resolution among the Yorùbá

⁴⁸² Douglas. J. 1971. American social order; social rules in a pluralistic society.

⁴⁸³ Ejizu, C. L. (nd) African traditional religions and the promotion of community living in Africa.

⁴⁸⁴ Mbiti, J. S 1969. *African religions and philosophy* London: Heinemann. 108-109.

Conflict is a severe disagreement between at least two parties, which may develop when demands offshoots cannot be resolved by available resources, at the same time. There is what we called self-conflict. This happens when we begin to have different ideas over personal issues that we deem necessary for consideration. Also, in offices, conflict arises over the task we need to complete first and, or other official assignment we need to accomplish before something else is considered. It is, therefore, safe to say that anything that takes away our peace either momentarily or for a long time is considered self-conflict.

According to Augsburger, conflict could be a period of predicament that compels one to recognise clearly that there are multiplicity of realities in the world, and together people must negotiate a common reality that will bring to each situation either differing frequencies or contrasting stories, and thereby create a particular shared story with a role for each and for all.⁴⁸⁵ For Fisher et al, conflict is an element of life, it is inevitable, and often creative.⁴⁸⁶ Conflict can be conceptualised to mean that which concern opposing notions, and actions of different entities that could result in antagonistic state, because people have diverse set of beliefs, come from different backgrounds, and hold contrasting opinions, ideas and views about life.⁴⁸⁷

In Africa, conflicts range from anger, split, misapprehension, family skirmishes, and market brawls, communal insurrections, assaults, and war. Also, it could include chieftaincy and boundary struggles.⁴⁸⁸ A menace that is fast eroding the peace of some African nations, especially Nigeria is the farmers-herders conflict. It has rendered many homeless and is a factor aggravating the spate of poverty in the county. Although, Georg Simmel pointed out the social significance of conflict when he asserts that:

⁴⁸⁵ Augsburger, D. W. 1992. *Conflict mediation across cultures*. Louisville, Kentucky: John Knox Press.

⁴⁸⁶ Fisher, S. et al 2000. *Working with conflicts: Skills & Strategies for Action*. London: Zed Books Ltd.

⁴⁸⁷ Oke, O. P. 2019. Conflict resolution strategies in classical antiquity and Yoruba Society. *Global Journal of Human-Social Science: Arts & Humanities – Psychology* 19:2.1.0. 18.

⁴⁸² Ajayi, A. T. and Buhari, L. O. 2014. Methods of conflict resolution in African traditional society. *African Research review: an International Multidisciplinary Journal, Ethiopia* 8:2.33.

... Sociological significance of conflict has in principle never been disputed. Conflict is admitted to cause or modify interest groups, organizations ... it may sound paradoxical in the common view if one asks whether irrespective of any phenomenon that result from conflict or that accompany it. Conflict is itself a form of sociation. At first glance, this sounds like a rhetorical question. If every interaction among -men is sociation, conflict ... must certainly be considered association. And in fact, dissociating factors - hate, envy, need, desire - are the causes of conflict; it breaks out because of them.⁴⁸⁹

In the Yorùbá culture, when a negative situation like crisis arises, some members of an *ajobi* group must, even if fruitless, try to rebuild the ties of consanguinity, each society has its own processes of restoration. Among some it may be by mere calling of one another as soul sister or soul brother, by the uttering of the phrase, “remember *alajobi*” or I beg you in the name of *alajobi*. At other times, it may necessarily involve:

Mediation: this method of conflict resolution was a critical tool in Yorùbá traditional society. The people involved in mediation usually attempted to broker peace among the contending persons, groups or communities, and made sure that accord reigns in the society, and at every level of mediation. The method involved non-violent intervention of the mediator(s), the mediators were only interested in transmission of peaceful co-existence in the society.⁴⁹⁰ Elders (*agba*) were respected and honest mediators in Africa, because of accrued experience, wisdom, and personality. That is why Bamikole asserts that:

Agba (elders) are respected individuals identified by age and other qualities, which mark them out in their families, communities ... and the world. ... An agba (elder) ... must be a fearless person (*alakikanju*); s/he must be knowledgeable and wise ... must be someone who gives room for criticisms (*ologbon, oloye, afimo ti elomiran se*); s/he must be tolerant (*alamumora*); s/he must be upright in all ways (*olotito, olododo*); s/he must not be selfish (*anikanjopon*)⁴⁹¹

⁴⁸⁹ G. Simmel. 1955. *Conflict and the Web of Group Affiliation*. Free Press, 13. Quoted in Akikowo, A. 1980. *Ajobi and Ajogbe*. 10.

⁴⁹⁰ See Ajayi, A. T. and Buhari, L. O. 2014. Methods of conflict resolution in African traditional society. Olaoba, O. B. (n.d.). *The Town Crier and Yoruba Palace Administrator through the Ages*. Ibadan: John Archers Ltd.

⁴⁹¹ Bamikole, L. O. 2008. Agba (Elder) as Arbitrator: A Yoruba Socio-Political Model for Conflict Resolution. Paper presented at The Afolabi Olabimtan Memorial Biennial

The roles these elders played include: Coercing, making recommendations, assessing, and transmitting of submissions on behalf of the parties, emphasising pertinent norm and rule, predicting the state of affairs if an agreement is not reached, and at other times repetition of the bargain already attained.⁴⁹²

Judgement: In traditional Yorubá society, settlement involved bringing all parties in a dispute in the conflict to a meeting, the venue of such meetings was usually compartments of family heads, quarter heads, and palace court, as the case may be. A vital tool in the adjudicatory processes in traditional parlance was dialogue.⁴⁹³

Negotiation: The crux of negotiation is to unite interests of conflicting parties, when the clash involves a member and his society emphasis is always on reorientation and reinstatement of the misbehaving member back to his or her place in society. The reclamation of a nonconforming fellow is regarded as rebuilding of accord and integrity of the community, an assertion of the value of consensus and social cohesion, so that the management of the conflict favours both parties concerned. Admission of guilt for wrong doings to others and the whole community was a characteristic of arbitration, admissions of guilt is directed through elders, compound heads, and high ranking chiefs in the community.⁴⁹⁴

Reconciliation: In the traditional sphere, this aspect of conflict resolution was the most significant, it was the final point of adjudication. After the people involved in dispute are

International Conference held at College of Humanities, Tai Solarin University of Education, Ijebu-Ode, 22nd-25th September, 2008.

⁴⁹²See Isurmona V.A. Ed. 2005. *Problems of peace-making and peace keeping. Perspective on Peace and Conflict in Africa*, Ibadan: John Archers Publishers. Quoted in Ajayi, A. T. and Buhari L. O. 2014. Methods of conflict resolution in African traditional society. Fayemi, A. K. 2009. Agba (elders) as arbiter: A Yoruba socio-political model for conflict resolution. A review of Lawrence O. Bamikole. *Journal of Law and Conflict Resolution* 1:3.59-67.

⁴⁹³ See Olaoba, O.B. 2005. Ancestral Focus and the process of conflict resolution in Traditional African societies: Albert, A. O. Ed. *In Perspectives on Peace and Conflict in Africa in Essays in Honour of General (Dr) Abdul Salam A, Abubakar*. Ibadan: John Archers Ltd. Quoted in Ajayi, A. T. and Buhari, L. O. 2014. Methods of conflict resolution in African traditional Society.

⁴⁹⁴ Williams, Z. I. Ed. 2000. Traditional cures for modern conflict. *African Conflict Medicine*. Lynne Reiner Publisher Inc. 22-23. Quoted in Ajayi, A. T. and Buhari L. O. 2014. Methods of conflict resolution in African traditional society.

convinced to resolve their disagreement, peace is restored. Rebuilding of peace and accord was always moored on the principle of give-a-little, get-a-little, that is, disputing parties were asked for concessions. Usually, a banquet was organised to endorse the willingness of the disagreeing parties to attainment of the point of compromise.⁴⁹⁵

The purpose of conflict resolution in traditional Yorùbá society was not to render judgment, as in the law courts, but to reconcile the conflicting parties and restore normalcy to the society. A figure power (an *agba* in the case of the Yorùbá) stand in the gap between the conflicting parties.⁴⁹⁶ Resolve, transformation, and management of conflict may produce win-win situations. Truth was a covenant logo that disputants or parties in conflict must not miss in Yorùbá culture.⁴⁹⁷

However, in present-day society many people do not cherish truth as a virtue that must be upheld at any cost. Rather, what seems to be the case is a situation where the persistence of the strongest is now threatening the social order in every society. With particular reference to Nigeria, and in the light of the discussion in the chapter, part of our admonition would be that the people of Nigeria embrace peace and harmony. These are the means to ensuring social order and solidarity, this is also enjoined by the major *Odu Ifa Ogunda Meji* which runs thus:

Akanmọlẹtiibáa a-b'origáro-gáro	Akanmọlẹtiibáa a-b'origáro-gáro
O d'ifá fúnAkòko, Amèrè, Fọwómókúù	Cast divination for Akòko, Amèrè, Fọwómókúù
Ti nwon ní bọ wá s'ókoḡḡ	Coming into the forest for hunting expedition
A ní kí wón fí ìmọ ẹ ọkan	They were asked to be in unity of purpose and solidarity
Kí nkanbà lè dàra	That things may go well for them
Nwón de okoḡḡ	On getting to the forest
Nwon ri erin	They saw an elephant

⁴⁹⁵ Olaoba, O.B. 2005. Ancestral Focus and the process of conflict resolution in Traditional African societies.

⁴⁹⁶Williams, Z.I. Ed. 2000. Traditional cures for modern conflict.

⁴⁹⁷Williams, Z. I. Ed. 2000. Traditional cures for modern conflict.

Akòkotoáá ní ọfa;	Akoko threw his arrow at the elephant
Amèrè taá ní okùn-ọrun	Amere struck with his bow-string
Erin ní lóní tirè	The elephant walks away unharmed
Oró tí Fọwómókún mú dání	The poison with Fọwómókún
Nwónpaá pò mó ọfaAkòko	They mix it with Akoko's arrow head
Nwón tún waa paapọ mọ	Combined it together
Orun ti Amere	Amere's bow-string
Nwón pa wónpọ tan	Combining the three
Nwon ta a si erin	They shoot at the elephant
Erin wo	The elephant fell
Nwón ni eyin ko mọ pe	They say; Do you not know that?
Ofa ti Akoko	Akoko's arrow
Orun ti Amere	Amere bow-string
Oro kẹremjegben	Poison of Keremjeben
Iyẹn ti Fọwómokuu	That is, that of Fọwómokuu
Njẹ ki ẹ fi imo ẹ ọkan	Be in unity and solidarity
Ki ẹ too pa ẹran	Before you kill an animal
Bi imo ba je ọkan	If you are in unity and solidarity
Adiranku a pa ẹran	Adiranku will kill an animal ⁴⁹⁸

Furthermore, when the Yorùbá say *Ile la ti n ko eso rode* (charity begins at home), they seek to convey more than this literal meaning of the phrase. The phrase also means that family is the place where people contribute to societal order, where individuals first become responsible and live well. The Yorùbá see the family as the important nucleic of the society that determines how people turn out, due to trainings received from home, especially the moral and vocational trainings. Communal and family ties assist the individual to contribute to societal order. It is within the family that individuals are trained to become responsible members of the society. Perhaps this explains why the

⁴⁹⁸Akintola, A. 1999. *Yoruba ethics and metaphysics*.

Yorùbá see the family as the important nucleic of the society, that is, the nub or centre of any stable society, and that is the reason why the family is the agency of *abánibímọ* arrangement, and not a stranger, whose path might never crosses with that of the child who is the product of the arrangement, or that of the family.

To reiterate a point made earlier in thesis, the role of the family cannot be overemphasised in any discussion involving the *abanibimo* practice in Yoruba society. Childlessness is perceived as a threat to the continuity of a family, hence members of a clan or family would usually go to a great extent in helping one another to remedy the challenge of infertility. As enunciated in chapter three, before they could pick a woman to serve as *abánibímọ*, the pedigree of the individual would be first ascertained, and such a person must be an *omoluabi*, that is, a woman of good manners and virtuous character. It is such a woman that promotes good social relations in the community.

6.10 Conclusion

In this chapter, an analysis of familyhood and social order has been attempted. The contemporary criteria for family construction was examined. The chapter equally considered the family in the traditional society vis-à-vis Yorùbá traditional society. Also, the idea of social order was elucidated with particular interest in Yorùbá society in was. The notions of *ajọbi* and *ajogbe* were examined. The effects of modernity on the traditional idea, and structure of the family among the Yorùbá people was discussed. The approaches of conflict resolution in traditional Yorùbá society were considered, with the hope that if these methods are sustained in the contemporary society, life will be more meaningful and the spate of evil in the society will be abated. The role of the family in inculcating values that redound to human wellbeing and social order were articulated.

GENERAL CONCLUSION

The argument in the thesis is that the *abánibímọ* arrangement is more acceptable to the Yorùbá than the Western notion of surrogate arrangement. This is based on the fact that the Yorùbá idea of person, to a large extent is different from the western idea of the person. Although, infertility is considered a problem in every society, it is a major problem among Africans, whether men or women. For women in particular, the belief is that the essence of living and the height of womanhood is the attainment of motherhood. In Africa as a whole, motherhood contributes to a woman's 'being' or social worth. Among the Yorùbá, a woman that is childless is denoted as *agàn* (barren). In Africa generally, fertility is seen as a mark of being whole or complete such that a woman who is infertile or barren becomes an object of pity.

The study has attempted an extensive analysis of the idea of surrogacy in the history of Western medicine. As earlier pointed out, there is no general acceptance of the idea of surrogacy for the fact that whereas some writers denounced surrogacy as the ultimate form of medicalization, commodification, and technological colonization of the female body, and as a form of prostitution and slavery resulting from the economic and patriarchal exploitation of women, others embrace it. It is accepted by some scholars because of the autonomy it gives to women and the joy it gives to couples who would have loved to have children of their own. As such there are debates on the issue of surrogacy.

The study has also examined Bowne's personalism, which extols the notion of intrinsic worth of the person, and *èniyàn* in Yorùbá culture. The study focused on a brief history of Bowne, and the impact of his personalism in Boston. It examined the principles of personalism in general, and a comparison between Personalism, individualism and collectivism. It traced the historical development of personalism; it examined Bowne's notion of personalism. The analysis of the Yorùbá conception of the person focused on the metaphysical and structural composition of man in Yorùbá philosophy of existence, the place of man in the Yorùbá ontological structure, and how he (man) was created. The idea of predestination and human freewill was also examined, and given the existential situation of the Yorùbá, the study supports the idea that predestination and the idea of freedom are complementary. It has been shown that the Yorùbá concept of a person, and

personal identity go beyond the mind-body dualism found in Western understanding of the person.

This study is in agreement with the conclusion of some African scholars that Western surrogacy differs from the Yorùbá form of it. However, our finding is that there is a form of surrogacy that conforms to the Yorùbá culture of parenthood, and familyhood. It is that form of surrogacy that this study interrogates. The study focused on surrogacy and the *abánibímọ* practice in Yorùbá culture, two different forms of motherhood in different social climates. The term motherhood was conceptualised as well as surrogacy. The study considered Yorùbá perspective on infertility; the nature of surrogacy in Africa. It examined the reasons for adopting the *abánibímọ* practice among the Yorùbá.

In this study we investigated the differences and similarities between western surrogacy and *abánibímọ* arrangement among the Yoruba. One striking similarity is the fact that the two practices were instituted to help to resolve the problem of infertility, in two different epistemic climates. The comparison between surrogacy in the West and *abánibímọ* practice in Yorùbá showed that *abánibímọ* is a better option for the Yorùbá in view of their understanding of reality, and the place of man in it. This study investigated the differences and similarities between western surrogacy and *abánibímọ* arrangement among the Yoruba.

The study also emphasised the metaphysical and ethical questions in the *abánibímọ* arrangement. It clarified the key concepts of interest, metaphysics and ethics. The subject matter of both concepts was elucidated; it examined the questions of inquiry in Yorùbá metaphysics and ethics, and the source and foundation of Yorùbá ethics and metaphysics. Importantly, the study examined the ontological and ethical issues in relation to the youngster, who is the product of the *abánibímọ* practice, and the mother. Issues such as the being of the child, and his or her right to inheritance, and in the community of human beings and the ethical and social norms which redound to his or her wellbeing.

The study has also examined the relationship between familyhood and social order. It revealed that the ideals of socialisation, cooperation and association find their meaning in the family. Social order is also an ideal whose origin can be traced to the family, but from experience we know that most families, especially in Nigeria, have become dysfunctional, fragmented and disunited, and this is responsible for the current onslaught

of disorderliness observed in today's society. The study maintains that the disorderliness witnessed arises from the failure of families to inculcate in children the values of love, affinity and mutuality. The study posits that the traditional Yoruba family furnishes us with positive values that can help facilitate the re-ordering of not just the modern family but the society as well. Families need to work together in unity to promote the well-being of members. More importantly, household heads or elders must return to the sacred duty of training children in the family to become responsible citizens of the larger community. The young people in the society must be instructed on the need to imbibe the values of solidarity, truthfulness and law-abidingness, because these are values that build up society. Without gainsaying the truth, the Nigerian society is presently at a high voltage and tending towards social disintegration and fragmentation; the failure in families is what has led the country to this *passé*. Therefore, family groups need to recreate the good values of old as a way to curtailing the tide of evil hovering the country. The family, as we mentioned earlier, is the locus of peace and order in the community.

It is of note to state that couples in the contemporary society now toe the path of western surrogacy, in order to prevent the hassles or rivalry that could ensue if the *abánibímọ* arrangement turned sour, as it is the case in some situations.

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