LEGAL REGULATION OF CHIEFTAINCY DISPUTES IN YORUBALAND 1939—1960

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ABSTRACT

One of the major challenges faced by the colonial administration in Nigeria was chieftaincy issues, which created social disorder. While the changing status of chieftaincy institution during this period had attracted much attention from scholars, the legal regulation of chieftaincy matters and disputes have not been adequately addressed. This study, therefore, examined the causes of persistent chieftaincy disputes between 1939 and 1960, and assessed the extent to which the various ordinances and laws were able to resolve contestations, with a view to determining the purposes for which they were made.

The study adopted the historical research design. In-depth interviews were conducted with purposively selected 42 chiefs from Yoruba towns of Ijebu-Ode, Ilesa, Akure, Ijebu-Igbo, Owo, Oyo, and Abeokuta where chieftaincy disputes were prevalent during the study period. Six chiefs each were interviewed from these towns, while 15 others were lawyers. Also, materials which included colonial office records, provincial files, intelligence reports, court records and reports of commission of enquiries were collected from the National Archives, Ibadan. Data were historically analysed to explain the development that took place on legal regulations of chieftaincy disputes in Yorubaland.

Prior to 1939, chieftaincy litigation in the courts constituted an embarrassment to the government, hence the promulgation of an ordinance to regulate chieftaincy affairs. Between 1939 and 1940, there was an increase in the rate of chieftaincy disputes in Yorubaland. The causes of chieftaincy disputes were in four categories; namely, traditional, economic, political and social factors. In Ilesa, matters relating to chieftaincy and taxation led to a riot in 1941. The government arrested all the suspects; they were tried, convicted and sentenced to various imprisonment terms. Also, in Ijebu-Ode, the *Gbelegbuwa* chieftaincy dispute culminated into a civil disturbance which resulted in an attempt to assassinate the *Awujale*-elect in 1944. The suspected assassin was arrested, charged to court and eventually convicted and sentenced to a ten year imprisonment term. In 1942, the *Sorundi* chieftaincy dispute in Ilesa came up as a result of economic and social factors. A key chief was accused of being made the *Sorundi* wrongly and for alienating chieftaincy land. The *Owa Ajimoko* II confirmed the authenticity of his choice, but warned him to stop further alienation of chieftaincy land. In 1952, the *Olomu* chieftaincy dispute was caused by a combination of traditional and political factors involving the Adekiyeri and the Ramuja chieftaincy families. The *Awujale* set up a commission of enquiry to resolve the dispute and come up with a rightful candidate. This was done but the contender from the *Adekiyeri* family continued to foment trouble. The *Olomu* chieftaincy dispute was resolved with the use of Chieftaincy Declaration. The promulgation of the Western Region Local Government Law in 1952 further emasculated the chiefs, thus subordinating them as agents of colonial administration until 1960. The use of chieftaincy Declaration was formalised with the promulgation of the Chief's Law in 1955. Despite the positive intervention of the colonial law, chieftaincy disputes continued to occur in different dimensions in Yorubaland during the colonial period.

The British colonial administration was able to resolve the problem of social disorder associated with chieftaincy matters between 1939 and 1960 through the instrumentalities of the law, the courts, commission of enquires and Chieftaincy Declaration but they could not stop persistent chieftaincy disputes during this period. The British colonial administration was largely successful in restoring social order through legal regulation of chieftaincy disputes.

Key words: Legal regulation, Chieftaincy disputes, Ordinance, Court, Yorubaland.
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DEDICATION

To

The Lord God Almighty, the Alpha and Omega, the King of Kings,

the giver of Life, and all good things.

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Lawrence Kolawole Alo,
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CERTIFICATION

I certify that this work was carried out by **ALO, Lawrence Kolawole** in the Department of History, University of Ibadan, Nigeria.

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LIST OF ABBREVIATION

A. D. C. O.	-	Appointment & Deposition of Chiefs Ordinance
A. D. O.	-	Assistant Divisional Officer
A. G.	-	Action Group
A. N. A.	-	Abeokuta Native Authority
A. T. P.	-	Association of Tax Payers
C. S. O.	-	Chief Secretary‘s Office
D. C. R. O.	-	Deposed Chief Removal Ordinance
D. O.	-	District Officer
D.A	-	Divisional Adviser
E. U. G.	-	Egba United Government
I. D. N. A.	-	Ijesa Divisional Native Authority
I.D.NA.C	-	Ijesa Divisional Native Authority Council
I.N.A	-	Ilesa Native Authority
I.R.S.	-	Ijesa Native Authority
IB. N. A.	-	Ibadan Native Authority
IJ. N. A.	-	Ijebu Native Authority
IL. N. A.	-	Ilesa Native Authority
N. A.	-	Native Authority
N. A. C.	-	Native Authority Council
N. A. I.	-	National Archives Ibadan
N. A. O.	-	Native Authority Ordinance
N. C. B. W. A.	-	National Congress of British West Africa
N. P. C.	-	Northern People’s Congress
N.C.N.C	-	National Council of Nigerian Citizens
O. N. A.	-	Osogbo Native Authority
OW. N. A	-	Owo Native Authority
OY. N. A.	-	Oyo Native Authority
P & T	-	Post and Telegraph
W.A.C.A	-	West African Court of Appeal

CHAPTER ONE

BACKGROUND TO THE STUDY

1.1 Introduction

Chieftaincy dispute has been a major problem in Nigeria. Various scholars have argued over the basis of the relevance of the chieftaincy institution. Several disputes had led to series of unrest and social disorder in Yorubaland from the earliest times. During the colonial period, chieftaincy disputes took a different dimension. The post-colonial period is not spared from the series of such problems, as we shall see in the course of this study.

The establishment of British administration introduced a new system of governance in Yorubaland.[1] It did not eliminate the old basis of power and authority; rather it modified and utilised it. The traditional aristocracy was preserved despite the political transformation that colonial rule created. It demonstrated an unmistakable capacity for adaptation in its operation, both with the new colonial administration and with the nascent elite that was created or nurtured by the substance of the colonial presence.[2] In essence, chieftaincy seems to be the most enduring traditional institution to have survived the different stages of socio-political changes. The imposition of colonial rule and its legitimisation through the various forms of instruments such as Orders-in-Council and Ordinances meant mainly, the loss of sovereignty.

In Yorubaland, the chieftaincy institution originates from its political culture which is derived from the family system. However, because of the size and complexity of Yorubaland, chieftaincy has not followed a single pattern. Rather, several systems are identifiable over a period, covering the geographical spread of Yorubaland. Although, the chieftaincy institution seems common throughout Yorubaland, their tradition, suggest a common origin and a single system before dispersal and diversity of features. But after the dispersal, various Yorùbá

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[1] J. A. Atanda, *The New Ọ̀yọ́ Empire: Indirect Rule and Change in Western Nigeria, 1894-1934,* London, Longman Group Ltd., 1977.

[2] O. Vaughan, *Nigerian Chiefs: Traditional Power in Modern Politics 1890s-1990s*. Rochester: University of Rochester Press, 2000.

states started to adopt different chieftaincy features peculiar to their environment. For example, the Ọ̀yọ́ Yorùbá model is clearly different from the Ìjẹ̀sà/Èkìtì model and the Ìjẹ̀bú and Ẹ̀gbá models. Despite the differences noticed, inter-group relations among these Yorùbá states made similarities possible. This is the result of socio-cultural borrowings, after several years of inter-relationship.

Chieftaincy in Yorubaland is dynamic, as in other parts of Africa. Chieftaincy is an institution for identifying and consecrating traditional rulers in a class society. A chieftaincy title is associated with a title holder in a native community. It encompasses a paramount ruler of a kingdom, (i.e. the *Ọba*) along with his council of chiefs (the *ìjòyè*). In pre-colonial traditional society, leadership and chieftaincy were synonymous, but there are differences in today's society. Sacred kingship is, among the Yorùbá, an ancient institution.[3] The most significant symbol of recognition of a King is his crown.[4] This is why he is referred to as *Ọba Aládé*. The use of the crown (*ade*) is, in the understanding of the Yoruba, a strictly and exclusively royal prerogative. The fact that the beaded crown (*ade*) symbolizes the essence of royalty, the Yoruba approach and attitude to it are rigorously regulated by taboos which apply to behaviour in the king's presence. It is the practice that crowns (*ade*) must be ritually consecrated before use. The king (*oba*) himself was forbidden to look at the interior of it. In Yorubaland, 'royal symbols vary from one monarchical culture to another.'[5] Even in Europe, particularly in England, Netherlands and pre-1789 France, royalty was marked by the sovereign's exclusive use of the crown and the scepter.[6] European monarchies were dynastic, with the throne usually being passed on to the eldest son or nearest male descendant. In

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[3] P. C. Lloyd, ''Sacred Kingship and Government among the Yorùbá'', in *Journal of the International African Institute*, Vol. xxx No. 3, 1960. pp. 221- 237.

[4] I. A. Akinjogbin, 'The Ọ̀yọ́ Empire in the 18th Century' in *Journal of the Historical Society of Nigeria*, December, 1966, p.451 See also Munoz, L. J. 'Principle of Representation in Traditional Yorùbá Kingdom' *Journal of the Historical Society of Nigeria*, vol. IX, No. 1 1977, p. 21

[5] A. I. Asiwaju, 'Political Motivation and Oral Historical Tradition in Africa: The Case of Yorùbá Crowns, 1900-1960'. In *Africa: Journal of the International African Institute*, Vol.46, No. 2 (1976), pp. 113-127

[6] A. I. Asiwaju, 'Political Motivation and Oral Historical Tradition in Africa…

ancient times, it was believed that kings or monarchies had divine rights. It was also believed that they were the representatives of God and that they derived their right to rule directly from God. These beliefs were derived from the theocracies of the East. Among the Yorùbá, kingship is also dynastic and the right to the throne could be passed on to the eldest son or the eldest male descendant.

However, in Yorubaland the crown (*adé*), which is a specially designed, beaded head-wear, was the most universally acceptable mark of royalty and the outstanding insignia of office. The crown, in Yorubaland is of different types. The first, which is the simpler form, appears as casual wear for the *Ọba.* The second most significant type presents a more artistic design and is characterized by closely arranged long strings of beads suspended all round the open edge.[7] When it is worn, it covers the face, resting over the shoulders and reaching far down the chest of the king. When the *Ọba* is crowned, his status is equal to that of the deities (*Òrìṣà*). The crown and the scepter portrayed the *Ọba* as *Aláṣẹ Èkèjì Òrìṣà*. This transformation in status goes a long way to validate his legitimacy and authority. In essence, this makes the *Ọba* more of an institution than a human being. It must also be said that the crown itself had a sacred power. This is why, to the Yorùbá, an unlawful person must not be made to wear the crown. An appendage to the crown (*adé*), when it is worn is the horse-tail (*Irukere*). Hence, the saying: *adé ori la fi n mo'ba, irukere lafi n mo'joye*. (meaning: it is the crown that makes the king known while the horse-tail indicates the personality of the chief).

It must immediately be said that there is a difference between a king, i. e. the *Ọba,* and a chief. Often times, there is a confusion of the term, chief. A paramount chief is usually a king (*Ọba*), while an ordinary chief is that member of a town council or an honorary chief, whose title is not hereditary. It has already been noted that the term "chief" was consciously

[7] A. I. Asiwaju, 'Political Motivation and Oral Historical Tradition in Africa…

adopted by the colonial administration because it never wanted to equate the British Monarch with any other potentate elsewhere, particularly in Africa.[8]

Several definitions have been suggested as to who a chief is. Chieftaincy connotes the position of dignity and honour occupied by a traditional ruler such as an *Ọba.* The definition of chieftaincy transcends the position of a paramount leader. This is because there are other ranks of chieftaincy other than that of an *Ọba*. The Interpretation Act cap 192, Laws of the Federation of Nigeria 1900, defines a chief as a person who, in accordance with the law in force in any part of Nigeria, is accorded the dignity of a chief by reference to the past or to a community established in the past. According to Arhin, a chief is a person elected or selected in accordance with customary usage and recognised by the government to wield authority and perform functions derived from tradition or assigned by the central government within a specified area.[9] A chief is that individual, who has, in accordance with the customary law, been nominated, elected and installed or enthroned as such. Also, a chief is a person who after being found to have fulfilled the necessary requirements of membership to either a royal family or house, he is also considered fit to occupy the chieftaincy in question by a council of chiefs or Kingmakers. Moreover, a chief is a person whose title is conferred by the paramount chief in appreciation of his service and contributions to the society. The honorary chiefs are not accountable to the people of the town but to the *Ọba* and the chief-in-council. But such individual must be acceptable to the people. The installation of the late Chief Moshood Abíólá, as the *Àrẹ ọ̀nà kankànfò* of Yorubaland is a case in point.[10] It is pertinent to point out here that there are some traditional Yorùbá titles that are not hereditary in nature. Such titles are open to eligible aboriginals of particular Yorùbá communities from any lineage. The *Lẹ́jọ̀kà* chieftaincy title in Iléṣà is an example of such. Again, chieftaincy is

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[8] A. I. Asiwaju, 'Political Motivation and Oral Historical Tradition in Africa…

[9] N. A. Brempong, ''Chieftaincy, an overview'', in *Chieftaincy in Ghana: Culture, Governance, and Development,* Legon, Accra, Ghana: Sub-Saharan Publishers, 2006. pp.27-30.

[10] His installation then as the *Àrẹ̀ọnàkankànfò* of Yorubaland attracted a lot of controversy. But in spite of opposition, he was still conferred with the title.

believed and legitimised as being established on the principle of tradition. During the pre-colonial period, the source of the authority of the chiefs varied from the right of conquest, membership of a particular ruling family, primogeniture etc. In each of these situations, their source of authority was an indigenous one. Chieftaincy constituted the axis for the exercise of executive, legislative and judicial powers. The Chieftaincy institution had been the embodiment of political power during this period. What seems to be an unfettered power of chiefs in traditional Yorùbá society had undergone considerable transformation as a result of formal colonial rule and the introduction of various instruments of control on chieftaincy affairs.

As a political institution, chieftaincy originated from three sources:[11] First, a person became a chief by virtue of being the leader of the group of first settlers. Historically, during the period of state formation, when migrations were rife and groups of people were in search of suitable places for settlement, they followed a particular leader for the possibility of finding a favourable place. As soon as a suitable place was found and the group was the first to occupy the area, the group leader automatically assumed the position of a chief. Second, a person became a chief and imposed his authority on the vanquished after several wars of supremacy. Third, a person could also become a chief through military prowess. A typical example of this was Ògèdengbé, the Ìjẹ̀sà warlord of the nineteenth century war fame. He did not only become an important chief in Ìjẹ̀sàland, he wielded considerable power during that period.

Military powers in traditional society was usually recognised and rewarded, as it was the case in pre-colonial Ibadan. Anyone who distinguished himself or herself in times of crises or wars or in perilous situations had his or her name and deeds immortalised. Such feats were often reflected in oral traditions in favour of such personalities. He or she could

[11] N. A. Fadipe, *The Sociology of the Yorùbá*, Ibadan: Ibadan University Press, 1978 p.35

also be rewarded with a chieftaincy title. When anyone assumed the position of chieftaincy through any of the avenues described above, such an individual transformed his or her family into a royal lineage. It was from such royal lineages that successive chiefs were selected. This way, the legitimacy of the chief is validated by a mythical charter, in the sense that a particular clan or lineage is recognised as possessing the prerogative to provide the ruler or chief, based on the validity of its claims to extraordinary achievements in the past.

A chief, as a founder and father of the people, performed military, religious, judicial, administrative, legislative, economic and cultural functions. The different roles he played in his various capacities, were directed towards achieving one goal, namely, that of the maintenance of law and order so that peace and progress would reign in the community.

A predominant activity of the chief in traditional society derives from his judicial functions. These include the need to bring reconciliation among, and between, men and the spiritual forces. This implies ultimately, that the chief's judicial role includes the settlement of disputes and prevention of crimes.[12] In pre-colonial traditional societies, crime was an act which offended the strong and definite dispositions of the collective consciousness, and was harmful to the deities. Apart from the judicial functions, the chief also performed administrative and legislative functions through his council. The opportunity of counsel was always available for the chief from his traditional council. As the chief was made to take an oath at his installation, it was believed that he would never act contrary to the oath taken and advice given him by the traditional council. Failure to conform to this oath constitutes grounds for his dethronement.

[12] O. Adewoye, *Judicial System in Southern Nigeria, 1854-1954: Law and Justice in a Dependency*, London: Longman Group Ltd, 1977. p. 7

1.2 Aims and Objectives of the study

This study is essentially focused on the nature of legal regulation of chieftaincy affairs in Yorubaland between 1939 and 1960. While the changing status of the chieftaincy institution during this period have attracted much attention from scholars, the legal regulation of chieftaincy matters and disputes have not been adequately addressed. Several literatures exist on the judicial system in colonial Nigeria. The works of Adewoye, *Judicial System in Southern Nigeria*[13] and Nwabueze, *The Machinery of Justice in Nigeria*[14] to mention but a few, are extant works done in this area of study. None of these works pay attention to any instrument of control or regulation of chieftaincy disputes particularly. In Adewoye's work, where ample references is made about the way the courts, at various levels and at different times, were used to resolve differences emanating from disputes of all forms, no mention is made of the Appointment and Deposition of Chiefs' Ordinance or any of the Ordinances used as instrument of chieftaincy control. In the course of this study, we shall attempt to show the reasons and the context within which it became necessary to promulgate laws and ordinances that were used to regulate chieftaincy appointment, selection, deposition and resolution of disputes.

The study considers significant chieftaincy disputes and examines how such disputes were resolved under the various legal instruments promulgated by the colonial administrations. Both the circumstances within which these legal instruments were promulgated and the social implications that they had on the Yorùbá society are examined. The work also explains the causes of persistent chieftaincy disputes and assesses the extent to which the various ordinances and laws were able to solve the problem of contestations. Again, the role of the court, particularly from the point of view of the initial preclusion of

[13] B. O. Nwabueze, *The Machinery of Justice in Nigeria*, London: 1963 p. 35 see also T. O. Elias, *Law and Social Change in Nigeria*, Ibadan Evans Brothers (Nigeria Publishers) Ltd. 1972.
[14] W. Oyemakinde, 'The chiefs Law and the Regulation of Traditional Chieftaincy in Yorubaland', Journal of the Historical Society of Nigeria, 9 1997

chieftaincy cases from the courts is analysed. In an attempt to present an objective assessment of the changes that attended chieftaincy matters and local administration during the period of de-colonisation, this work examines the Local Government Reform of 1952 vis-à-vis the implementation of that reform in respect of chieftaincy matters in Yorubaland. The result of this study is an important source material for historians interested in studying similar or related aspects of Yorùbá history.

1.3 Scope of the Study

The scope of this study covers between 1939 and 1960. The reason for the choice of these dates is that 1939 marked the period that the subject of chieftaincy disputes and the need to regulate it was first mentioned on the floor of the Western House of Chiefs. It marked the end of an era and the beginning of another; an era that the handling of chieftaincy matters became a serious issue not only to the chiefs and the people but also to the colonial administration. This is because chieftaincy institution was the bedrock upon which the Native Administration and the Native Authority systems were based in the implementation of the colonial system of indirect rule. It was in 1930 that the first ordinance to regulate matters relating to chieftaincy was first promulgated, but by the period 1939 there was a considerable increase of the rate of chieftaincy disputes. The year 1960 is also of historical significance. It was the year of political independence for Nigeria. Before this time, particularly in 1952, there was a Local Government Reform which considerably touched on chieftaincy matters. The process of the implementation of that reform is considered and examined vis-à-vis chieftaincy matters up to the time of the country's independence.

1.4 Literature Review

Very few literature exist on the subject of legal regulation of chieftaincy affairs in Yorubaland. Professor Wale Oyemakinde's article titled "The Chiefs' Law and the Regulation of Traditional Chieftaincy in Yorubaland" explains the salient provisions of the Chiefs' Law of 1957.[15] The work discusses the issue of succession in traditional Yorùbá society, providing insight into the traditional system of *Ìdi-Igi* as it applies to succession rather than inheritance.[16] Oyemakinde believes that since chieftaincy was regarded as a legacy like any other item of inheritance, its sharing pattern had to be through the same "*Ìdi igi* system". By the "*Ìdi-igi* system", he notes that the children of the deceased king would be grouped according to the circumstances of their maternity.[17]

In another of Oyemakinde's works,[18] he is of the view that British imperialism in Nigeria ushered in a new form of administration. He contends that though it did not remove the erstwhile basis of power and authority, it modified and utilised it. In this work, several culture areas were examined: Kano, representing Hausaland, as well as Ìlorin, Nupeland, Yorubaland, Edo, Calabar and Onitsha. Despite the differences in traditional political experiences, it was clear that the attitude of the colonial administration to traditional rulers oscillated from the bid to either prop up their authority and prestige or 'exile' them when their influence might jeopardise the success of British enterprise.[19] He discusses their various historical and traditional bases of the positions of rulers within the context of their different environments. Oyemakinde's work provides an understanding of the basis of power and authority of Nigerian traditional rulers. His works are, however, not directly related to this

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[15] W. Oyemakinde, 'The chiefs Law and the Regulation of Traditional Chieftaincy in Yorubaland'…

[16] W. Oyemakinde, 'The chiefs Law and the Regulation of Traditional Chieftaincy in Yorubaland'…

[17] W. Oyemakinde, ''The Derivation of Traditional Power and Authority in Nigeria'' in *African Notes*, vol. VIII No. 2, 1981, pp 25-35.

[18] ''The Derivation of Traditional Power and Authority in Nigeria''…

[19] I. A. Asiwaju, ''The *Aláketu* of Kétu and the *Onimẹ̀kọ*: The Changing Status of the Two Yorùbá Rulers under French and British Rule'', in Michael Crowder and Obaro Ikime (eds) *West African Chiefs: Their Changing Status Under Colonial Rule and Independence*, Ile- Ife: University Press, 1970.

study but provides insight into the traditional political experience of the various Nigerian peoples.

In Asiwaju's article, titled "The *Alákétu* of Kétu and the *Onimẹ̀kọ*: The Changing Status of Two Yorùbá Rulers under French and British Rule", he presents a comparison of French and British use of chiefs in Africa[20] Though Asiwaju's comparison is done mainly on the position or status of the two rulers, it must be noted that they operated under different political cultures. Of particular significance in his study, is the trend of the changes that attended the status of these two rulers.

Both Mẹ̀kọ and Kétu were resettled in the 1880s after the wars between the Yorùbá and Dahomey. The establishment of colonial rule in these two towns brought about an ultimate reduction of the *Alákétu's* territory and authority, while the *Onímẹ̀kọ's* authority and prestige was increased particularly over a wider area of jurisdiction. The *Onímẹ̀kọ* practically rose from the position of a *Baálè* to that of an *Ọba* or ruler.

Asiwaju's article presents a structure of the administration of both towns. He shows that the *Onímẹ̀kọ* was almost always aware of his subordinate position to the *Alákétu* even when Mẹ̀kọ changed its allegiance from Kétu to New Ọ̀yọ́. The different colonial cultural environments within which these two towns were founded had tremendous effects on them.[21] Asiwaju's work also did not pay attention to the use of ordinances to regulate chieftaincy matters either in Mẹ̀kọ or Kétu. His concern was primarily on the changes that attended their positions.

In Atanda's, 'The Changing status of the *Aláàfin* of Ọ̀yọ́ under Colonial Rule and Independence', he provides an insight into the pre-colonial status of the *Aláàfin*.[22] He was able to show that the *Aláàfin* was an absolute King, though in theory. The excesses of the

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[20] I. A. Asiwaju, ''The *Alákétu* of Kétu and the *Onimẹ̀kọ''*... pp. 45-58

[21] J. A. Atanda, *The New Ọ̀yọ́ Empire: Indirect Rule and Change in Western Nigeria, 1894-1934,* London: London Group Ltd., 1977. p.35-49

[22] J. A. Atanda, *The New Ọ̀yọ́ Empire...*

Aláàfin were checked by the *Ọ̀yọ́mesi*. He believed that the colonial authorities felt that the *Aláàfin* was the most powerful potentate in Yorubaland whose position could be used to achieve the desired aim of administering the people "indirectly".[23] The process of elevating the *Aláàfin*, according to Atanda, started between 1883 and 1894. This continued till about 1898-99. By 1903, the *Aláàfin*'s authority had been extended beyond the limits of Ọ̀yọ́'s initial boundaries. The *Aláàfin* enjoyed an unprecedented power and prestige up to about 1931. Though Atanda extensively explains the fact that there was virtually no chief or *Aláàfin* who became one illegally, he points out the fact that succession to the throne of the *Aláàfin*, was interfered with by the colonial authorities.[24] He indicates that the British exploited the succession process in Ọ̀yọ́ which was not necessarily by primogeniture. For example, candidates contesting the stool were often more than two, even within the same ruling house. By 1945, when *Aláàfin* Adeniran Adeyemi II became the *Aláàfin*, what used to be the power and authority of the office of the *Aláàfin* had considerably reduced. Atanda concludes that *Aláàfin* Adeyemi II's intolerance of the colonial authorities and the rising elite of his days eventually culminated in his deposition.[25]

Nigerian Chiefs: Traditisonal Power in Modern Politics, 1890s – 1990s[26] is another work done in respect of chieftaincy in Yorubaland. This work explores the responses of traditional political structures to the problems of modernisation and governance that have engulfed the African continent. This study focuses on the interplay of chieftaincy politics, elite formation, communal identities and the struggle for state power in colonial and postcolonial Ibadanland.[27] In this work, Femi Vaughan examines the epoch between 1960 and 1966 as that of 'acrimonious competition' that had a very serious effect on chieftaincy

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[23] J. A. Atanda, *The New Ọ̀yọ́ Empire…*
[24] J. A. Atanda, *The New Ọ̀yọ́ Empire…*
[25] O. Vaughan, *Nigerian Chiefs: Traditional Power in Modern Politics 1890s-1990s*. Rochester: University of Rochester Press, 2000.
[26] O. Vaughan, *Nigerian Chiefs: Traditional Power in Modern Politics 1890s-1990s*
[27] O. Vaughan, *Nigerian Chiefs: Traditional Power in Modern Politics 1890s-1990s*

structures. He further elucidates that the kind of politics that the Action Group played; coupled with the other political groups in the west, was an essential pivot for intensifying communal clashes of ethno-regional interests. Vaughan tries to show that chieftaincy policy of Muritala/Obasanjo military regime as the policy of 'chieftaincy rationalisation'.[28] This he examines from two different angles. One, he observes the 1976 Guidelines for Local Government Reforms, and two, the 1978 Land Use Decree. Though the Local Government Reform introduced significant changes, the Land Use Decree went some way in eroding the rights of the chiefs in respect of land rights and alienation. Despite the fact that Vaughan's work deals considerably with the colonial administration's policies concerning chieftaincy matters, he inadvertently left out the issue of the promulgation of the Chief's Law which was an important instrument used by the colonial authorities to regulate chieftaincy succession, appointment and deposition.

In Ruth Watson's work, titled *Chieftaincy and Civic Culture in a Yorùbá City*[29] she investigates the institutionalisation of Ibadan chieftaincy during the early colonial period. Several aspects of the colonial administrative policies were also considered. Watson's work is however, silent on the colonial administration's promulgation of the Appointment and Deposition of Chiefs Ordinance and the Chiefs' Law. There is no doubt that her work examines incisively the chieftaincy system in Ibadan. It is important to note that chieftaincy succession in Ibadan is by rotation. This had considerably reduced the possibility of chieftaincy dispute(s) in Ibadan. Disputes were, and are, only still noticeable at the *Mogaji* level. This may be responsible for Watson's non discussion of significant issues as the chiefs' law.

[28] R. Watson, Civil Disorder is the Disease of Ibadan: Chieftaincy and Civic Culture in a Yorùbá City. USA: Ohio University Press, 2003.
[29] I. Sutton, ''Law, Chieftaincy and Conflict in Colonial Ghana: The Ada Case'', in *African Affairs*, Vol. 83, No. 330 (Jan. 1984) pp. 41-62.

Inez Sutton[30], in his work discusses the manner in which law was used by the colonial government in Ghana to resolve chieftaincy disputes and how in the process it created other avenues of disputes. He is of the view that problems were created with the judicial system introduced in Ghana. Hence, he asserts that the problems inherent in the development of a judicial system based on African customary law parallel the more general problems of the development of indirect rule. Again, the entire basis of indirect rule (including the courts) was of a decentralized system, which conflicted with the use for a centralised administration. The demarcation of jurisdiction between traditional and English law was very ambiguous and this created opportunities for an unending litigation. This consequently led to almost a 'paralysis in the workings of the state.'[31] Ghana had a different deal in respect of the management of Chieftaincy disputes, given the difference in socio-political and cultural environment.

Again, in *Chieftaincy and Politics in Ghana since 1982*,[32] Kwame Baofo-Arthur examines chieftaincy in Ghana in historical perspective, from 1982. He starts his study by taking a cursory look at chieftaincy in pre-colonial Ghana, and how it served as an instrument of reaction against colonial policies. Boafo-Arthur further examines the revolution that was ushered into the Ghanaian society in the 1980s. This revolution, he asserts, went as far as depriving the chiefs of their source of revenue by the call for nationalisation of the Salt Industries of Pambros and Vacuum Salt which the chief hitherto, held in trust for the people[33]. The chiefs, according to Boafo-Arthur, had amazing resilience. Their resilience was not arbitrary; they had the support of the youth behind them to sustain the institution of chieftaincy. However, the youth supported them because ''traditional authorities did not

[30] I. Sutton, ''Law, Chieftaincy and Conflict in Colonial Ghana''...
[31] K. Boafor-Arthur, ''Chieftaincy and Politics in Ghana Since 1982'', in *West Africa Review* (2001)
[32] K. Boafor-Arthur, ''Chieftaincy and Politics in Ghana Since 1982''…
[33] K. Boafor-Arthur, ''Chieftaincy and Politics in Ghana Since 1982''…

share in the prerogatives of the post-colonial state, they also did not suffer from the fall-out associated with state decay''.[34]

Boafor-Arthur's article also examines the changes in the role of chiefs in local administration and the changes that occasioned the provision of the 1992 constitution. Significantly, Article 276(1) and (2) of that constitution was examined, which says that, ''a chief shall not take part in active party politics'' and any chief who wishes to do so should abdicate the stool. He opines that chiefs have to be neutral so that they can call their subjects to order when there is trouble, (especially of a political nature).[35] Boafor-Arthur's work shows that post-colonial Ghana handled chieftaincy problem with the instrumentality of the constitution. Just like the experience in Nigeria, post-colonial Ghana witnessed a drastic erosion of chieftaincy power, authority and prestige. Despite Boafor-Arthur's effort at explaining the various problems and / or conflicts that erupted in post colonial Ghana, particularly in relation to chieftaincy, he did not discuss the use of any legal instrument for managing chieftaincy dispute in colonial Ghana.

In Olaoba's Ì*tají; History and Culture*,[36] he asserts that history is made to serve as an arbiter for dispute settlement. He cited the dispute that ensued at Ìtají after the death of *Ọba* Samuel Faderin Anjorin in October, 1943. According to him, two rival groups were to slog it out in a dispute: the *Ọ̀dọ̀fin* and the *Àró* groups. These two chiefs were said to be members of the *Iwarefamefa*. The contention was that the *Ọ̀dọ̀fin* picked Samuel Fakeyesi single-handedly. The *Àró* and the masses in Ìtají were in favour of James Fadipe Adeleye 'as the legitimate candidate who satisfied all conditions of eligibility.' The claim of the *Àró* and the masses was supported by the historical details presented by the Intelligence Report. Olaoba asserts that the intervention of the colonial administration did not deter the *Ọ̀dọ̀fin* from

[34] K. Boafor-Arthur, ''Chieftaincy and Politics in Ghana Since 1982''…
[35] O. B. Olaoba, *Ìtají: History and Culture*, Ibadan Archers Publishers, 1999, pp. 78-93.
[36] O. B. Olaoba, *Ìtají: History and Culture…*

pressing forward the claim of installing Samuel Fakiyesi.[37] It was clear in Olaoba's work that the solution to the dispute was not only the reference to the Intelligence Report but to an administrative committee, to look into the dispute. It was the recommendation of this committee that was accepted by the colonial administration. Hence, the dispute was put to rest. It is clear that by this time the Chiefs' Law of 1945 had been promulgated but there was no reference to the fact that that Law was invoked to regulate or manage that dispute at Ìtají. This case was a testimony to the fact that the ordinances and the laws that were promulgated in respect of resolving chieftaincy disputes were not always applicable to all chieftaincy disputes.

Isola Olomola discusses the problem of chieftaincy dispute in an engaging manner.[38] He presents such dispute as a dangerous game which is characterized by stiff competition among contenders, who often resort to the use of force: weapon and poison. To him, chieftaincy disputes break out every now and again, in most parts of Yorubaland. Olomola explains that the re-ordering that the British colonial administration put in place under the guise of the Native Authority system was partly responsible for the many disputes that came up. The adaptation of the colonial government, to him, did not put into cognizance the rudiment of the people's culture and tradition. This, he believes, generated tremendous socio-cultural mutations in Yorubaland. They believed that native law should be changed, if necessary, to pave way for a 'civilising' and emerging community. Olomola further suggests that the settlement of chieftaincy disputes in contemporary time calls for new strategies, coupled with a combination of reconciliation and intervention of the law enforcement agents and the courts. Olomola fails to examine any chieftaincy dispute to elicit the confusion created by colonial laws and ordinances that were promulgated to regulate it. Olomola's work

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[37] I. Olomola, ''Managing Chieftaincy Disputes in Yoruaáland: The Past and the Present'' in *Local Approaches to Conflict Transformation in Nigeria,* 2007, Ibadan: John Archers (Publishers) Ltd., pp.192-203.
[38] N. Oriji, ''The Role of chiefs in the Government of Nigeria'' In I. T. K Egonu (ed), *Readings in African Perspectives in World Culture,* Owerri: Vivians Publications, 1988. pp. 458-477.

presents a good insight into the study of chieftaincy disputes in Yorubaland, but fails to examine or consider the confusion created as a result of the promulgation of ordinances and laws, which were used to regulate chieftaincy matters.

In Orji's work, *The Roles of Chiefs and Governance in Nigeria* he discusses the roles, the significance of chiefs in the political, religious and socio-economic affairs of a Nigerian society.[39] He asserts that the chiefs were at the head of the political administration and possessed both secular and sacred power until the British began to colonise them.[40] The presence of the British on the shores of Nigeria brought about gradual changes in the roles that chiefs played. Though the feature they met was adapted, changes and 'innovations' put in place were to suit their purpose. Orji's work provides insight into the roles of the chiefs, particularly in colonial Nigeria. The work is a useful piece as it provides information on the significant position that the chiefs occupied in pre-colonial Nigeria. This enables us to appreciate the reason the colonial administration had to involve them in the administration of their people.

In *Chieftaincy and the Law*, Kusamotu incisively considers the chieftaincy institution and the law.[41] Apart from his definitions of significant terms in his study; he tries to show the features and functions of chieftaincy in Yorubaland. These functions, according to him, range from; collection of taxes, preservation of peace, community development and management and safe-guarding custom and tradition. Though Kusamotu provides useful explanations on the subject of chieftaincy declaration which came up as a result of the need to reduce chieftaincy contestation in South-Western Nigeria, he did not particularly see chieftaincy law and ordinances in colonial Nigeria as an instrument used to control chieftaincy in order to

[39] N. Oriji, ''The Role of chiefs in the Government of Nigeria''…
[40] G. Kusamotu, *Chieftaincy and Law, Ibadan*: Sulek-Temik Publishing Company, 2001.
[41] A. Adeniji, ''Òdógbolú Chieftaincy Dispute in Historical Perspective'', in Toyin Falola and Ann Genova (eds.), *Yorùbá Identity and Power Politics,* New York: University of Rochester Press, 2006, pp. 161-180.

create an enabling environment for the administration to exploit the resources of the entire Yorubaland as elsewhere in Nigeria.

In Adeniji's work,[42] 'Òdógbolú Chieftaincy Dispute in Historical Perspective'', he presents the unsavoury struggle for paramountcy among three quarter heads in Òdógbolú, an Ìjẹ̀bú town. The contest was between *Elésì* of Orùlé Efiyàn, the *Ọ̀rẹ́mádégún* of Orùlé Òdóláyanran and the *Mọ́làdá* of Orílé Ìlọ́dà. Abolade shows us that for reasons bordering on collective security at such a time of war and serious insecurity in Yorubaland, these three groups of Ìjẹ̀bú communities along with some other five (making about eight quarters in all),[43] they agreed to migrate and settle together at the present location of Òdógbolú. After several years of peaceful coexistence, there emerged an intense struggle for supremacy among their leaders. The reason for this contest over the leadership of Òdógbolú was the consequence of colonial presence in their midst. Prior to the introduction of the Native Administration system, there was a league of rulers in the Ìjẹ̀bú Province. This league included the *Awùjalẹ̀* of Ìjẹ̀bú-Òde, the *Àjàlọ́run* of Ìjẹ̀bú-Ife, the *Olówu* of Òwu Ìkijà, the *Dágbúrewá* of Ìdọwá, and the *Mọ́lọ̀dá* of Òdógbolú.[44] Each of the members of the league, except the *Dágbúrewá* of Ìdọwá, received a staff of office as a sign of recognition by the government. Later, when the Native Administration system was introduced, provision was made for all members of the league mentioned above to receive salary and allowance, but interestingly, the *Mọ́lọ̀dá* was left out. The arrangement made for his salary showed that he was not reckoned with as a ruler. Both he and *Elésì* received only sixteen pounds per annum[45]. To make matters worse, about a decade later, this arrangement was further amended. In 1927, Ọ̀rẹ́mádégún was surprisingly made the overall head of the confederate

[42] A. Adeniji, ''Òdógbolú Chieftaincy Dispute in Historical Perspective''
[43] A. Adeniji, ''Òdógbolú Chieftaincy Dispute in Historical Perspective''
[44] A. Adeniji, ''Òdógbolú Chieftaincy Dispute in Historical Perspective''
[45] A. Adeniji, ''Òdógbolú Chieftaincy Dispute in Historical Perspective''

quarters that became Òdógbolú town.[46] This step, taken by the colonial administration, stirred up a serious protest by the *Mọ́lọ̀dá.* His protest was supported by the *Elésì,* who himself felt that what was done was contrary to their culture and tradition. The dispute over the issue of the paramountcy of Òdógbolú lasted till 1984[47] when the dispute was finally resolved. Abolade's work is an example of the kind of confusion that was created by the colonial administration when tradition and custom of the people were not considered before putting up policies that will alter such tradition and culture. It must be said that colonial administration went some way in creating circumstances conducive for chieftaincy disputes.

Falola,[48] posits that *Ọbas* and chiefs were involved in the exercise of tax collection. The chiefs carried out this task with utmost zeal and devotion. This was perhaps because the rate of tax collected determined the range of salaries approved for them. This invariably motivated several boundary contestations. The recognition of chiefs for tax collection also made the chiefly position very desirable; hence, there was stiff competition whenever a vacancy existed. Participation in tax collection was seen by the chiefs as an opportunity for involvement in administration. This invariably fostered their prestige. Falola did not consider other significant factors that were responsible for chieftaincy disputes but his work is also useful in understanding the role of the chiefs in colonial Yorubaland or elsewhere.

Tunde Oduwobi's work on *Post-Independence Chieftaincy Politics in Ògbómọ̀ṣọ́*[49] is another effort at examining the subject of chieftaincy disputes particularly in post colonial Yorubaland. Oduwobi's effort is significant in that it considered the issue of the Chiefs Law. Apart from the fact that Oduwobi was examining the Chiefs law which was promulgated in 1955 and its attendant provisions in respect of Consenting and Prescribed authority, he did

[46] A. Adeniji, ''Òdógbolú Chieftaincy Dispute in Historical Perspective'', At this time, it was a Commission of Enquiry set up at the instance of the Governor of Ogun State, Col. Oladipo Diya.
[47] Toyin Falola and Ann Genova (eds.), *Yorùbá Identity and Power Politics,* New York: University of Rochester Press, 2006, pp. 161-180.
[48] T. Oduwobi, *Post-Independence Chieftaincy Politics in Ògbómọ̀ṣọ́*, Lagos: University of Lagos, Faculty of Arts Monograph Series, 2009. pp.1-69.
[49] T. Oduwobi, *Post-Independence Chieftaincy Politics in Ògbómọ̀ṣọ́*,pp. 12-13

not consider the circumstances that led to the promulgation of that law. This is very important because the prevailing situation which led to its promulgation will provide an understanding to the challenge of its implementation. The issue of the contention of the paramountcy of the *Sọ̀ún* of Ògbómọ̀ṣọ́ that was raised in Oduwobi's work did not show an understanding of the reason(s) why Chieftaincy Declaration was put in place.[50] Chieftaincy Declaration was a guide provided to assist in the process of selection during any succession exercise. The colonial administration introduced Chieftaincy Declaration in order to ameliorate the rate of chieftaincy contestation. This was why the colonial administration by-passed the consent of the *Sọ̀ún* after his refusal in 1956 to support the selection of Atóyèbí. Oduwobi shows that *Sọ̀ún*'s refusal was predicated on the fact that the Chieftaincy Declaration used for the selection of the *Onpetù* was an unregistered one. It was when the *Sọ̀ún* noticed that his position was to be rubbished that he consented in 1958.[51] Oduwobi's work is a testimony to the confusion that the Chieftaincy Ordinance and the Chief's Law created in colonial Yorubaland.

Chieftaincy Politics in Nigeria,[52] another of Olufemi Vaughan's work, examines Chieftaincy in post-colonial period. He opens his study by identifying the various competing 'cliques and influential personalities' for power and privilege. He also makes it clear that despite the fact that indigenous political leaders were aware of operating outside the confines of the modern political structure, they still continued to ''accommodate and confront government policies'' outside the precinct of modern structure.[53] Vaughan opines that party politics during the period of decolonization was predicated on ethnic and regional groupings. This, according to him, affected political party formation. This tendency transcended the decolonization period. Even during the Second Republic; political party formation followed

[50] Ibid, pp. 14-15
[51] T. Oduwobi, *Post-Independence Chieftaincy Politics in Ògbómọ̀ṣọ́*, Lagos: University of Lagos, Faculty of Arts Monograph Series, 2009. pp.1-69.
[52] Olufemi Vaughan, *Chieftaincy Politics in Nigeria,...* p. 49
[53] *Chieftaincy Politics in Nigeria* pp. 49-50

the same process. He did not stop at showing that strong communal sentiments reflect the lack of effective structures of civil society for mass mobilization in primordial publics. Again, he examines the manner with which the military took an advantage of this ethnic cum regional tendencies to seek patronage among the various cliques and influential personalities.[54] He therefore believes that a considerable degree of ambivalence directs the relationship between the traditional or communal leaders and the military. It is for this reason that the various reforms of the military can be seen from that perspective, particularly from 1975/1979. One significant aspect of Vaughan's study is the reference to the military reform of 1976 on Local Government.[55] It is true that he did not consider the Local Government Reform of 1952 and its consequence on chieftaincy institution in Yorubaland, but he made it clear that the military regime of Mohammed/ *Ọba*sanjo affected the sensibilities of traditional authorities during this period because of the many reforms that were promulgated.[56] The Local Govrnment Reform of 1976, the Land Use Decree of 1978 and the 1979 Constitution, all tended to take a lot away from traditional chiefs. Vaughan's work is very relevant to this study as he discusses the effect of party politics on chieftaincy issues. Though he did not examine any chieftaincy dispute during our period, he explains the consequence of military rule on chieftaincy affairs.

In Obeng Mireku's work on ''*…Male Primogeniture …and Chieftaincy Succession in South Africa*,[57] he tries to critically examine how the courts have attempted to harmonize primogeniture with gender equality, particularly in chieftaincy succession disputes. He observes that the rule of male primogeniture in South Africa is central to the customary law of intestate succession as it is in some parts of Africa, particularly in Yorubaland. His study

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[54] *Chieftaincy Politics in Nigeria* …Ibid, p. 53
[55] *Chieftaincy Politics in Nigeria*, p. 54
[56] O. Mireku, *Judicial Balancing of Parallel Values: Male Primogeniture, Gender Equality and Chieftaincy Succession in South Africa*, www.enelsyn.gr/papers/w14/ paper%20 Prof%200beng%20 accessed on 21 May, 2011.
[57] O. Mireku, *Judicial Balancing of Parallel Values…*

aims at analyzing the judgment of J. Swart in the recent case of *Nwamitwa* v. *Philia and Others.*[58] In his study, Mireku tries to show the effort of J. Swart at putting the case to rest. But he did not fail to also show that J. Swart had a very difficult case on his hand perhaps because his decision was not clearly dictated by statute or precedent.[59]

Mireku's work is an eye opener to the possibility of changes to customary law, particularly when that law or constitution of the country supports such progressive changes. It must be noted that the *Nwamitwa* judgment fails to recognize the statutory obligation imposed on traditional communities to transform and adapt customary law and customs so as to comply with the Bill of Rights, in particular by seeking to progressively advance gender representation in the succession to traditional leadership positions.

All of the literature reviewed above did not examine the regulation of chieftaincy institution and or disputes in Yorubaland. This work sets out to fill the gaps that exist in the various works reviewed. Most of the literature reviewed in this work did not have direct relationship with the present study but they all provide insight and useful information for the current study. This study examines significant chieftaincy disputes and considers how such disputes were managed under the various legal instruments promulgated by the colonial administrations. Of particular importance is the Appointment and Deposition of Chiefs Ordinance. As it has been explained earlier, both the circumstances within which these legal instruments were promulgated and the social implications that they had on the Yorùbá society are examined. The work also explains the causes of persistent chieftaincy disputes and assesses the extent to which the various ordinances and laws were able to resolve the problem of contestations.

[58] O. Mireku, *Judicial Balancing of Parallel Values...*
[59] O. Mireku, *Judicial Balancing of Parallel Values...*

1.5 Methodology

The study adopted a historical-analytical method. Data was garnered through in-depth oral interview, archival documents and secondary sources.

In-depth Oral Interview

Oral interview were conducted in order to obtain necessary information from key-informants, such as traditional chiefs, honourary chiefs, palace officials, traders, civil servants, teachers, farmers and lawyers. Both purposive and random samplings were employed. The first was conducted for the main informants- i.e. traditional chiefs, honourary chiefs, palace officials and lawywers. The second was conducted for traders, farmers, teachers, civil servants, and others who are experienced and versed on the subject of chieftaincy in their various communities. The population of the interviewees cut across the major selected Yoruba towns, such as Ijebu-Ode, Ilesa, Akure, Ijebu-Igbo, Owo, Oyo and Abeokuta. None of the interviewee is less than forty years old. This is to ensure that the interviewees are experienced repository of chieftaincy history of their various communities.

Archival Material

Archival documents were consulted from the National Archives, Ibadan. Attention was on official colonial papers which were mainly inform of reports of commission of enquiry, gazettes, minutes of official meetings, correspondences and newspapers.

Secondary Sources

In addition to primary sources, some existing literature: books, journal articles, monographs and other published materials, essays, dissertation and thesis,on the subject of study, or related to it, were consulted and used for the study. These were sourced from both public and private libraries such as the Kenneth Dike Library, University of Ibadan, Hezekahial Oluwasanmi Library, Obafemi Awolowo University, Ile-Ife, Olabisi Onabanjo

University Library, Ago-Iwoye and Ade Ajayi Library, Bodija, Ibadan. Information from these literature were used in buttressing, interpreting and analysing information from other sources. Data collected were subjected to qualitative content analysis.

In the next chapter, we shall examine the position of traditional rulers in the pre-colonial Yorùbá society. This will give us the opportunity to understand the background from where the position of colonial traditional rulers began to change. This will also afford us a proper appreciation of the reasons why chieftaincy contestations became a serious matter during our period.

CHAPTER TWO

TRADITIONAL CHIEFTAINCY SYSTEM IN YORUBALAND

UP TO 1930

2.1 Introduction

Yorubaland consists of many 'sub-groups, the major ones of which are the Ẹ̀gbá, Ẹ̀gbádo, Àwórì, Kétu, Ìjẹ̀sà, Òndó, Èkìtì, Ìgbómìnà, Ìjẹ̀bú, Òwu, Ọ̀yọ́ and Sábẹ.'[1] The area covered by the Yorùbá peoples and their dependencies at the end of the eighteenth century has been described as 'lying roughly between the mouth of the Niger and longitude 1^0E and between the sea coast and latitude 9^0N. Around latitude 5^0N, they spread westwards cutting across the whole of Dahomey and reaching into the east of Togo'.[2]

The group is one of the largest homogenous groups among Africans. They are people whose social, political, economic and judicial inclination had manifested and 'developed' before their contact with the Europeans. Their high level of political sophistication had compelled the British imperialist to build on the structures already on ground rather than effecting drastic alteration. Thus, the bulk of the pre-colonial institutions including traditional administration subsisted and grew up till the present moment.

This chapter sets out to examine the traditional chieftaincy system in Yorubaland. The aim is to highlight the judicial role of the chiefs in pre-colonial Yorùbá society *vis a vis* their general administrative functions. It is against this background that the changes that attended the chieftaincy system in Yorubaland during the colonial period can be appreciated.

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[1] J. F. A. Ajayi, ''Yorubaland in the Nineteenth Century'', in O. Ikime (ed) *Groundwork of Nigerian History*, Ibadan: Heinemann Educational Books (Nig) Ltd. 1980 p. 281.

[2] I. A. Akinjogbin, ''Towards a Historical Geography of Yorubaland'' (ed) I. A. Akinjogbin and Ekemode, in *Proceedings of the Conference on Yorùbá Civilization* Ife, 1976 p. 8.

2.2 Traditional Administration in Yorubaland

The town, known and referred to as the *Ìlú*, was the fundamental political unit on which administration was based. In traditional Yorùbá society, the dominant political system was monarchical. Traditional administration, simply put, means the indigenous political structure upon which order, tranquility, progress, growth and development are anchored. The Odùduwà mythology had no doubt been elaborately discussed and as such will receive little or no attention here.[3] However, it is worthwhile to state that it is believed that Odùduwà dynasty ensured a reorganization of the Yorùbá Kingdoms. The dynasty may have existed prior to the era of Odùduwà. The foundations of new ones came after him.[4] The recognition of Ile-Ife accounted for her pre-eminence among the empires and Kingdoms of the Yorùbá. It had a unique type of constitutional and historical growth, developing an elaborate chieftaincy system to look after the political, economic, social and religious growth and development of the town, while the *Ọ̀Òni* was saddled with the responsibility of validating 'the choice of new Kings' albeit for the various towns under it.[5]

In Yorubaland, the family is the watershed of political structures and administration. Though, one could not possibly ascertain a definite date to the emergence or evolution of the first family in Yorubaland, it has been argued that it could have been when "nomadic life was the norm, subsisting on hunting and fruit gathering which had to be coordinated or directed by someone."[6] Expansion within the family system would not be only in terms of number but also in terms of layers of generation. From here, the family unit become enlarged to the fold of extended family or lineage, till such a time that a community would have emerged.[7] The community or clanship that emerged would appear to be the thickest end of the homogenous

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[3] J. A. Atanda, An *Introduction to Yorùbá History*, Ibadan: I. U. P. 1980. p.13.
[4] R. Smith, *Kingdoms of the Yorùbá,* London: Menthuen, 1969, Chap 11.
[5] R. Smith, *Kingdoms of the Yorùbá*
[6] P. Brown, "Patterns of Authority in West Africa". *Africa* XXI, 4. 1951. pp. 262-266.
[7] P. Brown, "Patterns of Authority in West Africa"…

population peeled together by blood tie or kinship, beyond which population tended to become genetically heterogeneous. [8]

As peaceful, harmonious and healthy co-existence are essential to building a virile, stable and developed community, which of course the family, clans or lineage could not provide, it became congenitally important that a higher form of authority evolved to achieve such. Thus, the aggregation or expansion of villages took place in such a way that lineage/clans and village autonomies were subordinated to the overall authority of the state.[9] This invariably resulted in the organisation of centralised states among the Yorùbá.

By the end of the 16th century, the Yorùbá had achieved similar, broad, unanimous and well organised political organisational structures. Usually, there existed a capital town, a number of subordinate towns, villages, markets and farmlands[10] , with each having an *Ọba* as the head. He was known and referred to as the *Ọba Aládé* (Crowned King). His *adè (*crown) was of serious significance. This was because it was a major insignia of his office. The institution of *Ọba* or kingship was a sacred institution in Yorubaland. The *Ọba* was regarded as the "fountain of power".[11] He exercised executive, judicial and legislative powers. The *Ọba* was saddled with the execution of such decisions as it may please the town. The *Ọba*'s word was law and his order must be obeyed. Apart from the a*dé,* his *ọ̀pá-áṣẹ* or *ọ̀pá-ìlèkè* (scepter of authority) was typical of his power and authority. Wherever his ọ̀*pá-áṣẹ* was presented the power of the *Ọba* was represented.

According to Robin Law, the existence of towns in Yorubaland seems to be correlated with the existence of kings making it very difficult to determine the precise character of the

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[8] P. Brown, "Patterns of Authority in West Africa"…
[9] T. Falola and D. Ògúntomisin, *The Military in Nineteenth Century Yorùbá Politics,* Ife: University of Ife Press Ltd, 1984, pp. 11-17.
[10] Ibid, See also I. A. Akinjogbin, ''Towards a Historical Geography of Yorubaland'' (ed) I. A. Akinjogbin and Ekemode, in *Proceedings of the Conference on Yorùbá Civilization* Ife, 1976. p.11-17.
[11] R. C. C. Law, "The Ọ̀yọ́ Empire: The History of a Yorùbá State, Principally in the Period 1600-1836". Ph.D Thesis, University of Birmingham, 1971, pp. 420-446.

connection between urbanism and kingship.[12] This was against the background that towns could have emerged around the palaces of pre-existing sacred Kings. He further argued that "it is perhaps more likely that the institution of kingships evolved in response to the problems of administering heterogeneous urban communities,"[13] therefore, predicating the establishment of Kingship on urbanisation.

The fundamental unit of Yorùbá political organisation was the town, with each autonomous community having its own hereditary ruler, which may conjure the term 'city-states'. The rulers of these 'city-states' recognised the overall authority of the *Ọba* or King of the capital city. Thus, the king's powers traversed both the town and the adjoining towns, which were usually tributaries. Although, these tributaries could also call their kings, *Ọba*, they nonetheless lacked the political clout and power as the central *Ọba*. For instance, when Ọ̀yọ́ was an imperial ruler, it had subordinate towns whose rulers wore crowns, and whom they called *Ọba*, but were not recognised as equal in status to the *Aláàfin*. Despite the fact that some of them wore crowns, their inferior status manifested in the way they were not allowed to have eunuchs in their service. There, however, secured a divergence with some towns such as the Ẹ̀gbá whose rulers were not 'downgraded' in this way, and had acknowledged right to wear crown.[14]

In Yorubaland, the centralised system was the dominant feature with the *Ọba*, the symbol of authority personifying the state, with everything done in his name but not necessarily by him.[15] The original base of such ruler was usually either the lineage or the extended family, which ultimately became distinguished and prominent and preeminent not just on the basis of the authority of the *Ọba* but because in most cases such were the first to

[12] R. C. C. Law, "The Ọ̀yọ́ Empire:…
[13] R. C. C. Law, "The Ọ̀yọ́ Empire:…
[14] R. Smith, *Kingdoms of the Yorùbá*, London: Memthuen, 1969, pp. 87-97. See O. B. Olaoba, ''Yorùbá Kings in Concert: The Tradition of Seclusion and its Violation,'' in G. O. Oguntomisin and S. A. Ajayi (ed) *Readings in Nigerian History and Culture*, Ibadan: Hope Publications, 2002. p. 87.
[15] T. Falola and D. Ògúntomisin, The Military in Nineteenth Century Yorùbá Politics ….pp. 42-48.

settle, either through peaceful means or conquest of groups hitherto occupying the place. The *Ọba,* once selected and accepted, became the father of all and likely the head of the family. He was seen as the representative of the ancestors, spokesman of the group enjoying the support of the gods and using religious sanctions to back up his authority. Smith concludes that "he became a divine King as it were".[16] The reverence accorded the *Ọba* was universal among all the Yorùbá towns. From the smallest Yorùbá town to the largest, which was exemplified by the Ọ̀yọ́ Empire, the *Ọbaship* institution served as the nucleus of political, judicial and religious institutions, and was universally regarded as such. The prominence of *Oba*s can, therefore, not be underestimated.

The *Ọba*, however, did not possess power without any form of control and restrictions. According to Falola and Oguntomisin, the *Ọba* theoretically had absolute power. He was, to the people, both an earthly king and companion of the gods.[17] He possessed, at least in theory, the power of life and death over his people but in practice, he was more or less a constitutional monarch since he was bound to consult his council or council of Chiefs at regular, often daily, meetings. The chiefs' council was to act as a check on the excessive use of power by the *Ọba*. The councils, though conjured different appellations and names in different parts of Yorubaland, were composed of the most senior chiefs who the *Ọba* dared not ignore.[18] He was mandated to consult and clarify issues before arriving at a definite decision.

Apart from the major influence of the chiefs, the *Ọba* was usually put in check through the use of rituals and religious restrictions. During the long process inherently involved in the coronation ceremony, an *Ọba* performed two primary functions. The first was to seek the acceptance of the gods through the Ifá oracle. Besides, while in seclusion for

[16] T. Falola and D. Ògúntomisin, The Military in Nineteenth Century Yorùbá Politics ….pp. 42-48., see also R. Smith, *Kingdoms of the Yorùbá*, London: Methuen, 1969, pp. 87-97.
[17] T. Falola and D. Ògúntomisin, The Military in Nineteenth Century Yorùbá Politics ….pp. 42-48.
[18] T. Falola and D. Ògúntomisin, The Military in Nineteenth Century Yorùbá Politics ….pp. 42-48.

usually three months, the *Ọba* would be indoctrinated about the dos and don'ts of the land. In some cases, the *Ọba*-elect would be flogged and made to wear rag. The essence was just to test his power of restraint and endurance. It was also to make him experience hardship, so that in his exalted position as an *Ọba*, he would appreciate the experience of the poor and the common man.[19]

Also, one of the concerns of the paramount chief, the *Ọba,* was the defence of the territory and the citizens. It was the duty of the *Ọba* to protect the interests of the people and the state. Although it was the duty of every able-bodied man to defend his town against external aggression, ultimately the onus of defence rested squarely on the shoulders of the *Ọba* and his chiefs. Wars engaged in during this period were diverse. It could be punitive, retaliatory or predatory in mode. The *Ọba* could not just engage in a war arbitrarily. It was engaged in when all possibilities of settlement by diplomatic means were exhausted.

In Ọ̀yọ́, the *Ọ̀yọ́mesi* could and did pass vote of no confidence on several *Aláàfin*.[20] The *Ọ̀yọ́mesi's* position in the administration was very significant because occupants of such positions fight wars during war periods. This practice was promoted by Àjàgbó, one of the Aláàfins, who instituted the system of sending four expeditions at the same time. One was under *Baṣọ̀run*, another under *Àgbààkin*, the third under the *Kankanfò* and the fourth under the *Aṣípa*. Despite their significant responsibilities in Ọ̀yọ́ society, members were subject to the *Aláàfin* and in the event of disagreement, the *Aláàfin* was supposed to have the last word. This contributed immensely to their influence and prestige. In times of peace, it was responsible for the administration of the non-royal section of the Ọ̀yọ́ population. The members had both religious and political powers to sanction an erring *Aláàfin*, who upon the passage of a vote of no confidence, must commit suicide. It must be said that real power and

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[19] T. Falola and D. Ògúntomisin, The Military in Nineteenth Century Yorùbá Politics ….pp. 42-48.

[20] J. A. Atanda, *The New Ọ̀yọ́ Empire: Indirect Rule and Change in Western Nigeria, 1894-1934*. London: Longman, 1973 pp.45-49.

influence fell to the *Ọ̀yọ́mesi* who were the civil leaders then. Between the mid-seventeenth and the mid-eighteenth centuries, *Aláàfin* Ọ̀dárawú, Jayin, Aríyìbí and Òjígí were among the *Aláàfin* that had their excesses curtailed by the passing of votes of no confidence.[21]

In towns lacking the religious cum-cultural sanctions, the pervaded manner of passing a vote of no confidence was through general insurrection against the *Ọba*.[22] It was not structured like the Ọ̀yọ́, in which the *Ògbóni* or *Ọṣúgbó*, as the case may be, had no standing to ask the *Ọba* to commit suicide or vacate the throne. The people or the society was the last option through which a tyrannical *Ọba* could be deposed. The process, which was usually started by the chiefs through boycotting of the palace, cessation of homage paid to the *Ọba*, and withdrawing of their respect for the execution of the *Ọba*'s directives, usually culminated in a formal proclamation of the *Ọba*'s deposition.[23]

Evidence of insurrection in Saki, revealed that the chiefs would boycott the *Ọba*'s palace when the *Ọba* had become unpopular. They proceeded to the *Ogídìgbó* market (Central market) where they called the *Ọba* by his personal name (to show a sign of disrespect for him) making the following pronouncements:

Ológun kọ̀ọ́, Àsábarí kọ̀ ọ́
Àganrán ilé kọ̀ọ́, àgánrán oko kọ̀ ọ́,
Àjàmbàwọ̀n kọ̀ ọ́, Adarí Ẹ̀ṣọ́ kọ̀ ọ́
Nitorínà bí ó bá jé pé o ójà ni
Bí o sì lo ni, se kan nibè [24]

Meaning:
Ologun rejects you
Asabari rejects you
The entire town rejects you
You either fight or quit the throne

[21] T, Falola and D. Ògúntomisin, The Military in Nineteenth Century Yorùbá Politics …..p.7
[22] S. O. Biobaku, *The Ẹ̀gbá and their Neighbours* Oxford, 1957, pp. 8-12.
[23] S. O. Biobaku, *The Ẹ̀gbá and their Neighbours…*
[24] R. Smith, *Kingdoms of the Yorùbá,* London: Methuen, 1969, pp. 87-97.

Among the Yorùbá, though kingship institution was about the most superior, it however, had the *Olóyè* (i.e. the Chiefs) who assisted and acted in many cases as the seal of official actions. As the *Ọba* ship institution was prominent, so also was the chieftaincy institution, such that people strived to be made a chief. They, in most cases, paid a lot and had to distinguish themselves before they could be appointed. The chiefs were essentially to support the *Ọba* in the administration of the town, and there were several of them to advise accordingly on certain official matters. The sitting arrangement at the palace was such that was divided into two, both at the right hand side of the King and the left hand side. The justification one could make in this is that it perhaps represented the manner of appointment; for, usually those whose chieftaincies were hereditary in nature usually sat at the right hand side of the king, while those who earned their chieftaincies had to sit on his left hand side. The leaders of these two ranks usually constituted the Supreme Council of States.

In Ilé-Ifẹ̀, the religious chiefs that played prominent roles in the divination, installation and coronation of the king were usually called, the *Awo* cult. The process of the coronation ceremony was held in secrecy. It is this ceremony that unites the *Ọba* with the gods, *Òrìsà*. The *Ọòni* is secluded for several days. The *Ọòni* of Ifè is usually sanctified during this ceremony, through the slaughtering of a ram by chief *Ọbalùfọ̀n.* The *Awo* cult represented the religious cult of the town in any religious matters. In Ọ̀yọ́, the interplay of relations could be seen in the regular meetings usually held by civil and religious chiefs over the affairs of the town. As there could not be clear demarcation in the line of duties, the dynamics of civil relations and religious affairs, highly held in a great awe by the people, usually necessitated such meetings to harmonise views and decisions. The powerful institution of the Chiefs, which comprised civil, religious and economic chiefs, included as well, some prominent citizens who had no titles but had become influential. The institution

conjured different appellations such as the *Imọlẹ̀, Ọ̀ṣùgbó* or *Ògbóni* in different parts of Yorubaland.

In Ọ̀yọ́, the *Ọ̀yọ́mèsì*, which comprised chiefs with high pedigree of political power, was a very powerful institution that had influence that reverberated throughout the kingdom. The members were usually not of royal blood, as most of the titles belonged to particular lineages and succession to them was decided by the choice of members of such lineages. In most cases, the *Aláàfin* would not likely accede to anybody that may upturn his decision or go against his wishes. The composition of the *Ọ̀yọ́mèsì* was such that the seven most important non-royal chiefs were the members of the highly powerful body. These were in order of ranks, the *Baṣọ̀run*, *Àgbàakin*, *Ṣàmù*, *Alápini*, *Lágunà*, *Akínikú* and *Aṣípa*. Of these, the *Baṣọ̀run* was the second in command to the *Aláàfin*. Members of the *Ọ̀yọ́mèsì* served as the non-royal chiefs of the town,[25] as well as controllers of the religious cults. The *Àgbàakin* was in charge of the cult of *Oranmiyan,* the founder of Ọ̀yọ́, *Alápini* was the head of the *Egungun* cult of *Òrìṣà oko*, the god of farming, (usually the *Òrìṣà oko* was venerated to enhance agricultural productivity). The *Aṣípa* was the chief in charge of *Ògún*, the god of war, iron and hunting.

The *Baṣọ̀run* equally served as the commander-in-Chief or war Generalissimo while the *Ṣàmù* was among the *Abọ́bakú,* required by tradition, to commit suicide when the *Aláàfin* died. The essence of this was the inherent belief that as a king, he must enjoy the respect and dignity accorded him while alive, in the life beyond. Generally, the *Ọ̀yọ́mèsì* advised the king and also had the final voice in determining the succession to the throne. Apart from the *Ọ̀yọ́mèsì*, there were numerous other titles of lesser rank. The *Ọ̀yọ́mèsì* advised the *Aláàfin* on the making of internal and external policies of the state. Laws, rules and regulations were made by the *Aláàfin* in consultation with the *Ọ̀yọ́mèsì*. The *Eso* consisted of seventy junior

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[25] R. Smith, *Kingdoms of the Yorùbá,…*

war chiefs who acted as subordinate commanders of the army. Unlike most Ọ̀yọ́ titles, these were not attached to particular lineages, but conferred individually on merit. The implication of this is that the institution recognised achievement and celebrated such. This would no doubt, have inspired others to embark on greater and benevolent deeds to develop their society. The chieftaincy institution and the Council of Chief, such as the *Ọ̀yọ́mèsì* were, however, not restricted to the Ọ̀yọ́ Kingdom.

In the case of Ìjẹ̀bú, the *Awùjalẹ̀* was at the head of a hierarchy of state officials. The executive power of state was reposed in the *Ìlámùrẹ̀n,* which was composed of first-rank chiefs with whom the *Awùjalẹ̀* sat in concert. Very prominent among the *Ìlámùrẹ̀n*, were three principal chiefs: the *Olísà*, the *Ọ̀gbẹ́nì-Ọjà* and the *Egbo.* Among the Ìjẹ̀bú, the highest level of authority in executive and judicial matters was the *Òṣùgbó.* The Awùjalẹ̀ himself sat with the *Òṣùgbó* as an ordinary member, while the *Olisa* led its affairs and the *Apena* assisted the *Olisa.* The *Awùjalẹ̀* was not a titular *Oba* as in the case of the *Aláàfin* of Ọ̀yọ́. The *Awùjalẹ̀* appointed non-hereditary chiefs such as the *Ọ̀gbẹ́nì-Ọjà*.

Among the Ẹ̀gbá, the *Ògbóni,* like the Ìjẹ̀bú's *Òṣùgbó,* were dominant in the political system to such an extent that they exercised great influence on the *Aláké* (the Ọba). The Ò*gbóni* comprised of statesmen, who distinguished themselves in their chosen endeavours. According to Biobaku, the *Ògbóni* institution was brought from Ile-Ife and developed to such an extent that it had become the most characteristic Ẹ̀gbá institution.[26] The *Ògbóni* enacted laws, judged cases, elected, discussed and advised the king in all matters affecting the government. The *Ògbóni* were the custodians of the Ẹ̀gbá tradition, while the King was the symbol and the image of the institution. They deliberated on and interpreted the traditions and custom of the town, most of the time, to the satisfaction of the king. According to Robert Smith, the *Ògbóni* played an intermediary role between the *Aláké* and his subjects –

[26] S. O. Biobaku, *The Ẹ̀gbá and their Neighbours,* Oxford, 1957, pp. 8-12. Corroborated by John Okunlola, a retired teacher at Abẹ́òkúta on 9/7/ 2010.

preventing one from becoming too despotic and ensuring the proper subordination of the other.[27]

The *Olórogún* were responsible for defence and war, thus representing the armed forces of the Ẹ̀gbá. The influence and recognition of the *Olórogún* got enhanced during war, as the case was with the war with the Ìjẹ̀bú and the Dahomey, and more pronounced especially if they won the war. The *Pàràkòyí*, the third arm of the chieftaincy institution in Ẹ̀gbá, were renowned for trade and commerce, and economic matters generally. Their main business was to enhance economic and trade relations, settling disputes arising in the course of trading, and seeing to the economic development of the town and the group. The essential feature of this division of labour and portfolios reflected the modern concepts of three tiers of government; the Federal, State and Local Governments. Unlike Ọ̀yọ́, where the *Ọba*'s court was the final court of appeal, the *Ògbóni*, just like the *Osúgbó* in Ìjẹ̀bú, was the highest court of appeal. It was the only institution to pronounce capital punishment and effect such.[28]

Apart from the powerful institutions highlighted above, there existed servants in the palace and they were called *Ìlárì* in Ọ̀yọ́, *Odì* in Ìjẹ̀bú and *Emẹ̀sẹ̀* in Ifẹ̀, Èkìtì and Ìjẹ̀sà.[29] They were mostly of slave origin. They were usually what could be referred to as ministers without portfolios, as they could be asked to do anything, which they must not refuse. They acted as town criers or message interpreters, carried diplomatic messages between kingdoms and acted as royal escorts for important visitors.

Promotion from one level of chiefship to the other was strictly on merit. Chiefs were thus, for instance, representatives of the component lineages of the city and served, to some degree, as spokesmen of lineage's interest in the determination of 'national' or general policy. The *Olókùn Ẹsin* and *Àrókin* were usually the hereditary chieftaincy positions that

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[27]R. Smith, *Kingdoms of the Yorùbá,* London: Methuen, 1969, pp. 87-97

[28] R. Smith, *Kingdoms of the Yorùbá,*, Interview with Alhaji Kabiru Lawal, a retired civil servant at Ago-Iwoye on 6/10/ 2010.

[29] R. Smith, *Kingdoms of the Yorùbá,…*

upon vacancy, the *Aláàfin* could select from among descendants of former holders of the titles and install them.

In Yorubaland, gender was not a barrier to chieftaincy title. In most Yorùbá towns, the official and recognised chieftaincy titles with regards to the female gender were the *Ìyálóde*, *Ìyálọ̀jà*, or *Ìyálájé*. Usually the *Ìyálóde* was the head of all females in the town and was designed to discuss, canvass and represent them as at when necessary, while the *Ìyálọ̀jà* or *Iyalaje* was in charge of trade and other economic matters. She saw to the organisation of commerce and protected the economic interest of the state or the town. Another most important female chieftaincy title was the Iya *Ọba.* The importance of the *Iya Ọba* could be ascertained on the occasion when she was a regent due to the under-aged status of the *Ọba* as at the time of ascension. This practice still subsists till date. For example, in Erin-Ijesa, when the oba died, the eldest daughter of the Oba became the regent. The role of the legendry Efunsetan Aniwura as a female chief in pre-colonial Ibadan can not be over-emphasised. Iya Osun in Osogbo is another major female chief, who played a major role in the founding and settlement of Osogbo Also, the role and place of the Iya-Osun in Osogbo is very significant both in the administration of the town and in the worship of Osun goddess. On the whole, the influence of women in administration cannot be undermined. The king's mother and the *Olori* usually had such considerable influence on the king, and sometimes influenced his decisions on state affairs.

Slaves were another set or category of people that played important roles in the political administration of Yorùbá towns. They were usually responsible for the execution of such order as decided, on either by the *Ọba* or his chief(s). They were concerned with ensuring the success of both administrative task and religious ceremonies, carrying out errands in the process. There existed a clear distinction between the institutions of slavery and pawning (Ì*wọ̀fà*) which was highly practised among the Yorùbá. The pawning

institutions usually had a lot to do with economic matters. A person could voluntarily engage in pawning, using either himself or any of his relatives as collateral security to raise capital for a business endeavour or other non-economic related activities such as marriage and such other ceremonies. It could also be for the purpose of debt settling, with the understanding and agreement that it would be for a temporary period of time, and when the debtor had rendered the agreed services to the creditor, he would be let-off the hook. This differed largely from real slavery, which apparently manifested on a large and extensive scale.

The slaves featured prominently in hard labour or chores, especially on the farmlands as labourers, servants in households and as security officers to the chiefs. Some of them served in the palace. Investigation of crimes and apprehension and prosecution of criminals formed part of the palace slaves' responsibilities. They wielded considerable power and influence in the administrative and judicial system of their towns. These privileges were not accorded to domestic slaves.

The institution of slavery did not preclude slaves from possessing their own property and to cultivate their own lands. The children of slaves remained the property of their parents' masters, while both the child of a free man and a slave were free. A slave could be free if he could buy his freedom, presuming he had accumulated material wealth to buy his freedom. Slaves were got through three channels: debt recovery, crimes, or convicted fellows and the major source being prisoners of war. The war could be local or inter-villages or towns. Clapperton and Landers had tried to establish a linkage between formation or ascendancy of a regime and slaves.[30] They argued that the establishment of the regimes of Àfọ̀njá and the Fúlàní at Ìlọrin resulted into a revolt at Ọ̀yọ́.[31] It can be suggested that where there existed a large population of slaves, there could be revolt as witnessed during this period.

[30] H. Clapperton, Journal of a Second Expedition into the interior of Africa in the Bight of Benin to Soccatto, London, 1829 pp. 1-59.
[31] H. Clapperton, Journal of a Second Expedition into the interior of Africa

As the people were predominantly farmers; the political institutions based their revenue generation on proceeds from their agricultural practices. The domestic hands comprising the slaves and family members were relied upon, coupled with the '*Èsúsú*' (communal effort), and the age grades. The *Ọba* in Èkìtì, for example, made pronounced use of the age grade on his farms. Proceeds from the farms of political office holders earned them substantial income. It has been demonstrated that the other sources of income to the political class were in forms of gifts from members of the public, war booty shared after a major conquest; fines from any judicial proceedings and imposition of tolls and tariffs on trade and other economic adventures.[32] Tributes were paid by lesser or subordinate rulers through their patrons to the king. Even, when they were people richer than the *Ọba*, he was usually regarded as the richest and the wealthiest as everything seemed, to be, and actually were, under him.

There could not be clear-cut distinctions between the personally acquired wealth of the *Ọba* and the state treasury. The *Ọba* at any point in time used the collective or state treasury for all purposes. This was the general practice throughout the entire landscape of the Yorùbá. The *Ọba*, being the terrestrial head and spokesman of the people before the gods performed rituals, executed projects and ensured growth, development, stability and tranquility using the mechanism of state machinery, to fulfill such. At this juncture, having examined the traditional chieftaincy system in Yorubaland, it is necessary to consider the judicial role or function of chieftaincy in pre-colonial Yorubaland. This is important because judicial administration was an essential aspect of traditional administration in pre-colonial Yorubaland.

[32] H. Clapperton, Journal of a Second Expedition into the interior of Africa…

2.3 Pre-Colonial Judicial System in Yorubaland

Laws in pre-colonial Yorubaland were human, other than divine. Declarations of oracles or of similar nature through priests were not part of regular laws. In the execution of law, the onus was not limited to the *Ọba* and members of his councils, but was the duty of the various ranks of chiefs. The Chieftaincy institution in several traditional societies held with it a lot of judicial responsibilities. As a matter of fact, anyone who would be made a chief among the Yorùbá must be considered knowledgeable in laws, customs and traditions of his people. In judicial matters, in pre-colonial Yorubaland, justice was meted out summarily.[33] There was judicial machinery for hearing and deciding disputes and for dealing with serious offences. Before the era of colonial rule, the people had come to a stage where the administration of justice was passing gradually out of the hands of the individual and his immediate family. According to Fadipe, the Yorùbá were interested not only in retributive and reparatory justice but also in what may be referred to as peace-making justice.[34]

Arbitration was the main aim of peace making justice hence; its operation was in most cases in private hands except in cases where the security of the larger society was involved. Generally, judicial power was diffused. First, every household had its own court, called *Baálẹ̀'s* court.[35] The word *Baálẹ̀* means, family head and should not be confused with a village head, *Baálẹ̀*. It was a title held by the most senior member of the lineage, and unlike in the case of the *Ìjòyè* or chiefs, acquiring the position did not require the consent of the *Oba* or king. The *Baálẹ̀*'s court was an informal type of court, which charged no fees and imposed no fines. This is not to say that the *Baálẹ̀s* were not collecting perquisites or gifts at the end of the settlement of disputes among the quarter members. Second, each chief had his own court known as the *Ìgbéjọ́ Ìjòyè Àdúgbò.* It was at this court that cases and disputes around the

[33] R. Smith, *Kingdoms of the Yorùbá,* London: Methuen, 1969, pp. 87-97.
[34] NAI, Iba Prof. ¾, Intelligence Report on Ibadan, 1937 p. 60.
[35] N. A. Fadipe, *The Sociology of the Yorùbá*, Ibadan: Ibadan University Press, 1970 p. 209

quarter were heard and resolved. Compliance to the decisions of this court was enforced by younger quarter chiefs. Among the Ìjẹ̀sà, this was part of the responsibility of the *Ọmọdéọwá* chieftaincy. These two courts were strictly private and informal. Their function was mainly that of arbitration for peaceful co-existence. Disputes involving members of the same compound were transferred to the *Ìgbẹ́jọ́ Ìjòyè Àdúgbò or t*he quarter chief's court as an appeal case when such disputes became unduly problematic in the *Baálẹ̀*'s court or family head court. Aside from these, the *Ìgbẹ́jọ́ Ìjòyè Àdúgbò* conducted preliminary investigations into criminal cases which occurred in the quarter or *Àdúgbò*. Such cases that were beyond the responsibility of the quarter chief or *Ìjòyè Àdúgbò* were transferred, after preliminary investigations and hearing, to the Ọba's court.

The most important machinery for the adjudication of disputes in traditional Yorùbá society was the *Ọba's* court. (In a situation where the place concerned was a village, it usually was the *Baálé's* court). The members of the *Ọba's* court were the chiefs, with the *Ọba* himself presiding. The *Ọba* pronounced judgment on serious cases such as murder, robbery and dangerous assaut.[36] The *Ọba's* court also served as the appeal court and tried criminal cases. The fact that the lineage heads enjoyed privileges in pre-colonial Yorubaland is indicated by their involvement in hearing cases and resolving disputes. The administration of justice was based on custom and usages. Generally, in traditional Yorubaland, laws were often unwritten. It was more significantly the machinery for strengthening the cord that bound the society together. Again, there were special courts which had special jurisdictions in certain matters. The case of war chiefs' courts is an example. In Yorùbá societies where war chiefs had a corporate existence of their own, with regular meeting houses and meeting days, the war chiefs usually claimed special jurisdiction over their members.

[36] B. A Awe, ''The Rise of Ibadan as a Yorùbá Power in the 19th Century'', Oxford, D.Phil. Thesis, 1964. p. 117. See also T. Falola, *Politics and Economy in Ibadan, 1893-1945*, Lagos, Modelor, 1989 p. 3.

The traditional judicial process promoted justice to a considerable extent. The role of religion in traditional judicial system went some way in promoting not only conformity but also helped to enhance the sanctity of the law. Adewoye, asserts that 'law never stood alone' in the Yorùbá traditional society. Religion was used to foster the potency of the law. There was a strong belief in a number of deities, including the spirits of departed ancestors.[37] Prominent among these ancestor spirits in Yorubaland were the *Egúngún, Ifá, Ògún, Ọ̀ṣun, Òrìṣà-oko*, to mention just a few.[38] The system of belief mentioned above created fear in the mind of the people towards the elders and the rulers. Reverence, which religion created, could prevent the possibility of bold argument of cases before the elders or chiefs. The use of ordeals was another impediment to fair administration of justice. The belief was that if the individual concerned merely vomited, then he was proved innocent, but if he died, he was adjudged guilty. It should also be noted that the use of ordeal resulted in the death of the offender, hence preventing the possibility of the offender's restoration.

Despite the disadvantages of the use of ordeal, it helped in making the people to conform to the law and it reduced the propensity towards dishonesty in court. Whatever may be the usefulness of the practice of ordeals, it hindered fair administration of justice if viewed from the angle of modern jurisprudence. In Yorubaland, there were some mechanisms for ensuring the enforcement of judicial decisions. The pre-colonial judicial system relied not only on the public for the enforcement of its decisions, but the *Ògbóni* and the *Orò* cults also played significant roles in handling serious criminal offences and executing their own judgments.[39] It is important to examine the operation of the law in pre-colonial Yorubaland, the whether law was supreme or not. The modern legal system is said to be characterized by such concepts as impartiality, consistency, openness, predictability and stability. All citizens

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[37] NAI, Iba Prof. ¾, Intelligence Report on Ibadan, 1937 p. 60.

[38] O. Adewoye, *The Judicial System in Southern Nigeria 1854-1954: Law and Justice in a Dependency,* London: Longman Group Limited, 1977.p. 7

[39] O. Adewoye, *The Judicial System in Southern Nigeria 1854-1954:…*

in western societies, ideally, are equal before the law. The legal results of actions may be reasonably foreseen, while the legal procedure is known to follow certain patterns.[40]

In pre-colonial Yorubaland, the result of certain actions against the law of the land may be foreseen. Such actions included murder, witchcraft and dangerous assault. But then, this is not to portend that traditional judicial system in pre-colonial Yorubaland was impartial and consistent. However, this distinction between western and traditional legal systems may be more relative than absolute. This is perhaps because modern legal system can grant extra-ordinary powers to government during periods of emergency, which will result in the abrogation of normal judicial procedure.

One thing that is observable in traditional judicial system is the offering of bribe. This was given in different forms. Some gave in cash, while others gave in kind. This collection of bribe was seen and received as perquisites of office. The offering of bribe in traditional judicial system endured till the advent of the British and it became a problem which the colonial administration was poised to eradicate. It was partly for this reason that Governor Egerton in 1906 introduced the payment of stipends to chiefs who were court judges and members, rather than allow them to continue to receive 20 percent of awards in dowry cases.[41]

Again, status played a prominent role in the judicial process in traditional society, especially in places such as Abẹ́òkúta and Ibadan, where military chiefs were uncontrollable subjects that the paramount chiefs could not ignore. This was because they wielded a lot of influence. Ògèdèngbé, a prominent Ìjẹ̀sà military leader, was such a man, particularly after the Yorùbá wars. Judgment was often in favour of the military in cases that involved the

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[40] A. R. Ball, *Modern Politics and Government,* London: Macmillan Press Limited, 1971 p. 205

[41] C. H. Elgee, *The Evolution of Ibadan,* Lagos: Government Printer, 1917 p. 19.

military and civilian or the rich and the poor.[42] The importance that was placed on the flagrant stratification of the society promoted the activities of the patrons (*Bàbáogun* or *Babakékére*).

2.4 Introduction of Colonial Rule in Yorubaland

The institutions discussed above were soon to undergo serious modifications, and indeed some of them were actually supplanted by new institutions. A major factor in this development was the coming of the British. Ọ̀yọ́ where the *Aláàfin* was regarded as the most powerful was the first to feel the impact of the British. The colonial administration believed that it had not just the *'locus standi'*, but that its position in Yorubaland would approximately fit the practice of an 'Ideal' Indirect Rule. The Indirect Rule system meant giving supervisory role to British Officers, while the paramount chiefs were made to administer their own affairs. In the real sense of it, it was the British political officers that were in control of the administration. Indirect Rule had a dual effect on the chieftaincy institution. The British colonial officers had control over finance, external and internal trade, law and order, which invariably translated to reducing the role of the chiefs to ceremonial, cultural and social matters. Second, the colonial administration made use of legislations and regulations to enable the chiefs to exercise 'more authority' over their subjects than was the case before the advent of colonial rule. In 1898, the Governor of Lagos Colony, Major Henry E. Mc'Callum, and Resident Fuller began a policy of increasing the powers and authority of the *Aláàfin*. In places such as Ibadan and Ọ̀yọ́, there was the establishment of the Native Councils. The activities of these councils were regularized in other Yorùbá towns through the promulgation of the Native Councils Ordinance in 1901.[43] These councils performed administrative and legislative functions. These councils were created in other Yorùbá towns and their activities

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[42] J. D. Y. Peel, *Ìjẹ̀sà and Nigerians: The Incorporation of a Yorùbá Kingdom, 1890s-1970s.* Cambridge: Cambridge University Press, 1983. pp. 81-92.

[43] O. B. Olaoba, ''The Traditional Judicial Organization and Procedure in Èkìtì Palaces, PhD, Institute of African Studies, University of Ibadan, Ibadan. 1998

were regularised through the promulgation of the Native Councils Ordinance in 1901. This Ordinance tended to enhance the prestige and authority of the chiefs for administrative efficiency. By 1903, Governor MacGregor who took over from Mc'Callum continued this policy of 'boosting' the prestige of the *Aláàfin* when he formalised the extension of his powers beyond the limits 'ruled by him and his predecessors'. Captain Ross, who took over from Fuller, carried through this policy. He was able to do this successfully perhaps because he had an unbroken stay at Ọ̀yọ́.

Despite the colonial administration's desire to increase the power and prestige of traditional rulers, there were a number of colonial officers who were working at cross purposes to the administration's policy. At Iléṣà, *Ọwá* Ajímọkọ was not pleased with the Traveling Commissioner's 'rash' approach of administration. The Traveling Commissioner removed the meeting of the Ìjẹ̀sà council and the court from the *Ọwá*'s palace. The palace, in any Yorùbá town, is the theatre or stage of power and authority.[44] Removing the sitting of council and the court from the palace was a great challenge to the image of the *Ọwa* before his people. Captain Bower, the Resident at Ibadan, and Major Reeve-Tucker at Iléṣà, were notorious for the manner with which they administered their various stations. Sir W. MacGregor was apt in his report to the Secretary of State for the Colonies in London about these officers in the 1890s and 1900 respectively:[45]

> ………I cannot acquit Capt. Bower altogether of some rashness in conducting this enterprise… that of administration}…Major Reeve-Tucker must… remember that the *Ọwá* is entitled to much consideration as the ruling chief and I do not quite like the word ''order'' so often sent (by him) to the *Ọwa*. ''Advise would be the word I should use were I in the Commissioner's place. I therefore regret very much that he has not been successful to the extent (he did in Èkìtì territory) in Ìjẹ̀sà.

[44] NAI, CSO 12/119, 5384- Report on the State of Affairs at Iléṣà.
[45] NAI, Ije Prof 9/6 Dairy Ìjẹ̀bú-Òde, 15th October, 1903.

Major Reeve-Tucker continued his wrong approach to administration even when he got to Ìjẹ̀bú Division, in 1903. But he began to see the need to pep-up the authority of the *Awùjalẹ̀* before his subjects. In the same year, he made sure he punished the *Apena* of Ìjẹ̀bú-Òde for leading a revolt against the *Awùjalẹ̀* Adélékè. He was made to prostrate to the *Awùjalẹ̀* ''in the presence of the *Ọ̀ṣùgbó* and the people'' after he had been made to pay a heavy fine. Again, in the districts, where the *Ọ̀ṣùgbó* had taken power into their hands, Major Reeves-Tucker did not take it kindly with them. All of them were imprisoned for the usurpation of the power of their various paramount rulers. The conscious efforts of the administration in venturing to increase the prestige of traditional chiefs at this time cannot be unconnected with the desire to prepare the ground for the use of the chiefs for their own ends. Despite the effort of the Administrative Officer to boost the prestige of the *Awùjalẹ̀* and other paramount rulers in that area, Ìjẹ̀búland generally had a very rough experience with the colonial administration. This was perhaps the result of the ''inconsistencies … uncertainties and unpredictability of British policy towards the Ìjẹ̀bú'' at that time.[46]

The apparent inconsistencies that characterised the British policy in Ìjẹ̀bú area resulted in the flagrant demand for independence of Ìjẹ̀bú's suzerainty by several outlying districts, namely Ìjẹ̀bú-Igbó, Ìjẹ̀bú-Ifẹ̀, Ògèrè, ìpẹ́ru, Ìlarà, Ìkijà, Ìjẹ̀bú-Òwu, Ìdọwá, to mention just a few.[47] The situation became worse when Adeona Fusigboye became the *Awùjalẹ̀*. His authority was flagrantly flouted by the new Traveling Commissioner, Butterworth. The appointment of the *Baálẹ̀* of Òkeṣọ̀pin was approved without the *Awùjalẹ̀* Adeona's consideration of his candidacy and to cap it up, Ìjẹ̀bú-Igbó was given its own council in 1907 and it became independent of Ìjẹ̀bú-Òde.[48]

It must be mentioned that the situation was different at Abẹ́òkúta. The *Aláké* had a good deal because the British forged a cordial and peaceful relationship with the Ẹ̀gbá

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[46] NAI, Ije Prof 9/6 Dairy Ìjẹ̀bú-Òde, 15th October, 1903
[47] NAI, Ije Prof 9/6 Dairy Ìjẹ̀bú-Òde, 15th October, 1903
[48] NAI, Ije Prof 9/6 Dairy Ìjẹ̀bú-Òde, 15th October, 1903

authorities at Abẹ́òkúta. This was apparently manifest in the relationship between them and the missionaries. In 1901, the *Onitori* was installed without approval from the *Aláké*. The Itori people did not stop at that, they also demanded independence of the *Aláké*. [49]

The *Aláké* seized the opportunity of good relationship with the Government in Lagos and demanded for troops, in order to quell the civil disturbance that was created there. Promptly, the troops were drafted there and the *Onítori* was eventually deposed and the *Aláké*'s authority over Itori was re-established. Again, in 1903, the *Apena* at Kemta usurped the judicial power of the *Aláké* by hearing cases that were to go to the *Aláké*'s court. The *Aláké*, as usual called on Lagos for troops, which came to back-up the Ẹ̀gbá United Government (E. U. G.).[50]

Discontents among the people against the *Aláké* and the Secretary of the Ẹ̀gbá United Government was becoming too much. The colonial administration felt that something should be done to ameliorate the situation. The *Ìjẹmọ̀* disturbance became a pretext by which the Government made the *Aláké* to accept that Abẹ́òkúta needed the assistance of the British Government "to maintain law and order in the Ẹ̀gbá Kingdom and sign a new treaty'' which will cancel the treaty of 1893. The earlier part of the new treaty reads thus:

> The *Aláké* and his successors shall be the recognised Head of the Ẹ̀gbá people to carry on the Native Administration of Egbaland subject to the control of the Governor of the Colony and protectorate of Nigeria.[51]

It was clear that the new treaty was a ploy to formalise the control of Government on Egbaland.

In Ìjẹ̀bú-Òde, by 1927 a new *Awùjalẹ̀*, Adenuga had been installed. After a few years, the new *Awùjalẹ̀* had started to misbehave, despite the effort of the government to raise his

[49] CSO, 26 8/2, Intelligence Report on Abẹ́òkúta, pp. 11-12.
[50] CSO, 26 8/2, Intelligence Report on Abẹ́òkúta, pp. 11-12.
[51] CSO, 26 8/2, Intelligence Report on Abẹ́òkúta, pp. 11-12.

authority and prestige. The Resident felt very ''sorry for raising his power and prestige,''[52] because he was not ''making use of it well''.[53] It must be noted that the act by government to increase the power and prestige of the paramount chiefs was to afford them (the government) the opportunity of being able to control administration through the assistance of the native chiefs and council members. Several allegations were leveled against the *Awùjalẹ̀*. Among others, *Awùjalẹ̀* Adenuga was alleged to have collected 80 pounds from one Samson Oluwole of Ṣàgámù on behalf of one J. O. Macaulay of Òde-Rẹ́mọ, in order that he would make him the *Alaiye* of Òde-Rẹ́mọ in 1926.[54] But when one Dipeolu sent an amount that exceeded that of Macaulay, he decided to install Dipeolu as the *Alaiye.* Again, at Iperu, the *Alaperu* of Iperu was never a crowned chief. His father tried for several years but failed to obtain a crown. But *Awùjalẹ̀* Adenuga seized the opportunity of his position and sold to him, a crown in 1926.[55] The following year, streams of petition flowed to the government. The *Awùjalẹ̀* was summarily deposed after an enquiry. His deposition was effected by an order made under the Deposed Chiefs Removal Ordinance (D. C. R. O.). (Chap 78).

The deposition of the *Awùjalẹ̀* Adenuga became a serious matter such that lawyers could not stop the government from carrying out the deposition order:

> It was never thought that the ''all- powerful'' Lawyers, to whom so many hundreds of pounds had been paid, would be unable to avert such a decision and it has been a severe blow to their prestige.[56]

Awùjalẹ̀ Adenuga was not alone in the saga of embarrassment and disgrace occasioned by his deposition. The *Baálẹ̀* of Ìjẹ̀bú-Igbó was also dismissed for his "complicity

[52] CSO, 26 8/2, Intelligence Report on Abẹ́òkúta, pp. 11-12.
[53] NAI, Ije Prof 2, C.17/9 Deposition of the Awùjalẹ̀. 1926. p. 2
[54] NAI, Ije Prof 2, C.17/9 Deposition of the Awùjalẹ̀. 1926, p. 2
[55] NAI, Ije Prof 2, C.17/9 Deposition of the Awùjalẹ̀. 1926, p. 4
[56] NAI, Ije Prof 2, C.17/9 Deposition of the Awùjalẹ̀. 1926, p. 4 NAI, Ije Prof 2, C.17/9 Deposition of the Awùjalẹ̀. 1926. pp. 2-5

with the *Awùjalẹ̀*, his gross stupidity and absolute uselessness as a District Head and his entire lack of control over the corrupt Ìjẹ̀bú-Igbó Native Court and his people generally.''[57]

Colonial Yorubaland was characterised with series of political crises, perhaps because of different reactions to colonial rule. In Ọ̀wọ̀, the presence of the British did not immediately bring any serious mis-givings until a new *Ọwá* of Ọ̀wọ̀ was appointed.[58] When the *Aládégbegi* was appointed in 1913, crisis pervaded the entire Ọ̀wọ̀ area over the issue of his appointment.[59] The onus of the crisis was that *Aládégbegi* was chosen out of turn. It was alleged that he had not been properly presented as a candidate in accordance with native law and custom. At the head of the trouble was the head of the *Aládégbegi* royal family, Ọshorunisaiye.[60] Though the colonial administration supported the appointment of *Aládégbegi*, the chiefs of Iloro, whose duty it was to crown the *Ọwa*-elect, refused to carry out the installation ceremony, but the government still accepted him as the *Ọwá* of Ọ̀wọ̀.[61] As a result of the colonial administration's support for the *Ọwá*-elect, Ọshọ̀runíṣaiyè was arrested in 1915 because of continued trouble in Ọ̀wọ̀.

However, Ọshọ̀runíṣaiyè was deported to Ifọ́n. He was to stay there until the crisis subsided. His removal to Ifọ̀n actually paid off, because he was the ring-leader of the group that was in opposition. In February 1918, he was allowed to return to Ọ̀wọ̀.[62] For an upward of six years there was peace in Ọ̀wọ̀. By 1926, the *Ọwá* Aládégbégi himself began to misbehave while his people sent several petitions to the government about his many misdeeds. It was possible that his misbehaviour was the consequence of the increase in prestige and authority. Various charges such as witchcraft, poisoning, persecution and the

[57] NAI, Ije Prof 2, C.17/9 Deposition of the Awùjalẹ̀.p. 4
[58] NAI, Ije Prof 2, C.17/9 Deposition of the Awùjalẹ̀, p. 4
[59] It must be noted that the ruler at Ọ̀wọ̀ was initially known and referred to as the *Ọwá,* but today he is referred to as the *Ọlọ́wọ̀* of Ọ̀wọ̀.
[60] NAI, CSO 26/3, 29956 Intelligence Report on Ọ̀wọ̀ p.23
[61] NAI, CSO 26/3, 29956 Intelligence Report on Ọ̀wọ̀, p. 24
[62] NAI, CSO 26/3, 29956 Intelligence Report on Ọ̀wọ̀, p. 25

like were brought against him by the Ọ̀wọ̀ chiefs.[63] After an enquiry, which was conducted by the Acting Resident himself, it was decided that the *Ọwá* be removed to Akure '' in order to end a career of obstruction, misrule and persecution'' which had existed since his appointment in 1913.[64]

It seems as if the situation in Ìjẹ̀bú-Òde in 1926 was being replicated in Ọ̀wọ̀ but the situation in Ọ̀wọ̀ was not as terrible as that of Ìjẹ̀bú-Òde. The Lt. Governor visited Ọ̀wọ̀ in 1924 to see the situation personally. The Lt. Governor contemplated the removal of the *Ọwa* Aládégbegi from office but the Acting Governor felt the chiefs were to blame.[65] He believed that since the *Ọwa* had been sufficiently punished by four months exile in Akure, it was no longer necessary to remove him from office. The Acting Governor directed that he be re-instated. The *Ọwa* Aládégbegi was re-instated according to the directives of the Acting Governor on the 10th September, 1924 after warning and urging him to work in harmony with his chiefs.[66] There was a great calm for a period of three year.[67]

In 1927, the *Ọwá* endorsed the selection and installation of a new *Ọjomo*.[68] Trouble erupted because the generality of the people were not in support of the appointment of the new *Ọjomo*. The unsuccessful candidate, *Ọbamadeshara*, began to foment trouble. He was arrested and deported to Benin,[69] to provide an enabling environment for the *Ọwá*. This was in consonance with the colonial administration's policy of increasing the power and prestige of traditional rulers who were recognised by the administration. For example, a Paramount chief such as the *Olowo* or the *Alafin* was given powers to check the activities of minor chiefs in their province. In chapter three we shall see the consequence of the promulgation of the

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[63] NAI, CSO 26/3, 29956 Intelligence Report on Ọ̀wọ̀ p.26
[64] NAI, CSO 26/3, 29956 Intelligence Report on Ọ̀wọ̀ p.23
[65] NAI, CSO 26/3, 29956 Intelligence Report on Ọ̀wọ̀ p.23
[66] NAI, CSO 26/3, 29956 Intelligence Report on Ọ̀wọ̀ p. 28
[67] NAI, CSO 26/3, 29956 Intelligence Report on Ọ̀wọ̀ p. 28
[68] NAI, CSO 26/3, 29956 Intelligence Report on Ọ̀wọ̀ p. 28
[69] NAI, CSO 26/3, 29956 Intelligence Report on Ọ̀wọ̀ p. 28. Interview corroborated in an interview with Chief Omotayo Adekanhunsi, on 6/10/ 2012.

Appointment and Deposition of Chiefs Ordinance on the relationship between paramount chiefs and minor chiefs in several Yoruba towns.The Deposed Chief Removal Ordinance (D. C. R. O.) of 1929, for example, authorized the Governor to order that any deposed chief should, within a specified time, leave the area over which he exercised jurisdiction or influence. This ordinance merely gave the stamp of legality to what had become a common practice of the colonial government in its dealings with Chiefs who were considered to have misbehaved. By the provisions of the Deposed Chief Removal Ordinance, failure to obey an administrative order entailed a term of imprisonment and the subsequent deposition of the chief in question.

It must be mentioned at this juncture that at the wake of colonial rule the functions and powers of the chiefs experienced tremendous changes. As we have seen above, the chiefs were made accountable to the British colonial Officers. The establishment of various administrative institutions and introduction of legal reforms in 1933 helped in the process of reducing the powers and prestige of the chiefs. Despite the seeming reduction in power and prestige, however, the chieftaincy institution in Yorubaland seems to be the most enduring pre-colonial institution that survived the various stages of governance in Nigeria.[70]

The years after the 1930s were characterised by several chieftaincy disputes, many of which were brought to the courts. By 1939, the rate at which chieftaincy cases were taken to the court had created serious concern to the public and to the government itself. The government believed that the kind of problem chieftaincy disputes could cause was capable of creating political instability that could be inimical to commercial activities in the interior.[71] This informed the government's effort at introducing various ordinances to regulate chieftaincy matters during this period. This will be the essence of our discussion in the next chapter.

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[70] B. Bitiyong, ''The Chief'' in *Nigeria Since Independence: The First 25 Years,* vol 7, Ibadan: Heinemann Educational Books (Nig.) Ltd. 1989.

[71] O. Adewoye, *The Judicial System in Southern Nigeria 1854-1954: Law and Justice in a Dependency,* London: Longman Group Limited, 1977.p 107-135.

CHAPTER THREE

THE ORIGIN OF THE LEGAL REGULATION OF CHIEFTAINCY DISPUTES IN YORUBALAND, 1930 – 1945

3.1 Introduction

The Legal regulation of chieftaincy disputes started in Yorubaland in 1930. By legal regulation in the context of this discourse, we mean an official rule, law, or order stating what may or may not be done. Legal regulation is government order which has the force of law. It has the capacity to adjust, organise and control. It is against the background of this explanation that we will appreciate the desire of the Colonial government to regulate or control chieftaincy matters under a legal clout. It must be noted that law operates effectively within or under a judicial process.

The judicial process is a set of interrelated procedures and rules for decÌding disputes by authoritative personnel whose decisions are regularly obeyed.[1] Such disputes are to be decided based on agreed sets of procedures in consonance with laid down rules. The Judge, make authoritative statements of how the rules are applied. His statements have a prospective generalized effect on the behaviour of the people besides the immediate parties to dispute. Hence, the judicial process is both a means of resolving disputes between identified parties and a process for making public policies.

In many countries of the world, the law is an instrument of conservation and preservation of societal order and tranquility. It is widely thought of as a means of maintaining the *status quo*. In the United States, the law has come to be regarded as effective instrument of "social engineering" – to use a phrase developed by the American educator and Philosopher, Roscoe Pound.[2] Without law there is no order, and without order, men are lost not knowing where they go and or what they do. A system of ordered relationships is a

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[1] *Encyclopedia-Americana*- International Edition, Groiler, Danbury, Connecticut, 2003, Vol.17 p. 116
[2] *Ibid*, p. 116. See also *The New Encyclopaedia Britannica*, Britannica Inc., U.S.A. 2005.

primary condition of human life at every level. In essence, law is the firmament of order in society.[3] Law exits in at least three different senses, each of which is complex. First, there is law as a distinct and complex type of social institution. Second, there are laws, or rules of law, as distinct types of rules or other standards having particular type of pedigree. Third, there is law as a particular source of certain rights, duties, powers and other relations among people. This sense of the concept of law is in many ways built in legal principle and political attitudes, and it is important to understand law because it presupposes further principles of legitimacy and morality. The idea of a law or a rule of law as a particular kind of rule presupposes the idea of law as a social institution, because only rules enacted or developed within such an institution can be laws. It must be noted that the main aim of the law and its administration in Yorubaland before the advent of the British was peace-keeping and the maintenance of social stability. In colonial Nigeria, it has already been said that law was used as a tool for social control.[4]

The use of British law in colonial Nigeria started with treaty-making. In the real sense of the law, most of the treaties were not valid. The only means through which the British colonial government could relate with the traditional authorities in Yorubaland was law. It became necessary that an ordered administration be established in Yorubaland to prevent any obstruction to the exploitation of its economy. To the colonial government, the need to also ensure an 'effective' administration was predicated on the ability to exercise an undisputed power to resolve disputes and to punish whatever was regarded as violation of the expected pattern of behaviour. The regulation of socio-economic relations between the colonial government and the chiefly authorities called for the application of law. The concept of law

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[3] W. T. Fryer et.al, *Legal Method, Legal System, American Case Book Series*, West Publishing Co., 1967, p. 12
[4] O. Adewoye, *The Judicial System in Southern Nigeria, 1854-1954: Law and Justice in a Dependency,* London: Longman 1977 p. 7.

means state law which is seen as a normative and institutional system which is by and large distinguishable from other social phenomena.

This law was promulgated in colonial Nigeria as an Ordinance. An ordinance is a form of law or local law made by a municipality or other local authority. An ordinance is an act known in places such as England, particularly, in the mid-17th century period and in a number of British colonies, of which Nigeria was one. It is a regulation adopted by the 'executive' in a domain normally reserved for statute law. Adewoye believes that 'in the hands of the British colonial administration, law was a veritable tool stronger, in many ways, than the maxim gun'.[5] It is from this point of view that we can see law as a vital and veritable instrument for regulating the society. It is the aim of this chapter to examine the origin of the use of law as an instrument of social control, particularly in the area of chieftaincy and local administration in Yorubaland.

In colonial Nigeria, every activity of the British was almost always made to assume an action or operation that was carried out 'legally'.[6] It must be said that the treaty of friendship that was signed with major Yorùbá chiefs already ceded the entire Yorubaland to the British, except for the Ìjẹ̀bú who felt that the British were intruders in their territory. Their stiff resistance eventually resulted into a forceful bombardment of the entire Ìjẹ̀bú enclave in 1902.[7] Apart from the control which the British automatically had on the entire Yorubaland, they further sought to put up several other agreements and ordinances on which their activities could be based. A case in point is the judicial agreement of 1904 – 1908.[8] The details of this agreement have been discussed elsewhere. It is the significance of this agreement that is of relevance to us here.

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[5] O. Adewoye, *The Judicial System in Southern Nigeria, 1854-1954:*p. 6.
[6] O. Adewoye, *The Judicial System in Southern Nigeria, 1854-1954:*pp. 52-57
[7] NAI, CSO 06134, Vol III- The Akarigbo of Ìjẹ̀bú-Remo. Petitions, p.11
[8] NAI, CSO, 5/2, Vol. XIX, XX, XXI XXIV see also O. Adewoye, *Judicial System in Southern Nigeria, 1854-1954: Law and Justice in a Dependency. London, Longman 1977*. pp. 54-55. The subject of the Judicial Agreement has been discussed in details in O. Adewoye, "The Judicial Agreements in Yorubaland, 1904-1908", *Journal of African History*, xii, 4,1971, pp.621-628.

Sequel to the signing of the agreement on the 8th August, 1904, an Ordinance: Yorubaland Jurisdiction Ordinance was promulgated on the 7th September, 1904.[9] This ordinance tended to provide the basis for which the British could operate 'freely' in that area. Secondly, this agreement extended English law and English Judicial process into Yorubaland, with the Supreme Court holding assizes there.[10] An important provision in the agreements with Abẹ́òkúta, Ibadan and Ìjẹ̀bú-Òde, was the clause that stated that it was the desire of the administration to prevent barristers and solicitors from practicing in the courts in Yorubaland. It is important to note that the judicial agreement dealt a decisive blow to the power and authority of the traditional rulers in Yorubaland generally. The judicial agreement, unlike other treaties and agreements before 1904, earned the British colonial government the power and jurisdiction to deal with all indictable offences and disputes arising between the indigenes and British subjects. It should be recalled that in a traditional political system, judicial and political power was diffused. However, the judicial agreement undermined the judicial power of traditional rulers in Yorubaland. It was on the basis of this ordinance that the colonial government was able to introduce several other ordinances and laws for social control.[11] The colonial government officials believed that they had a responsibility to protect the people of Yorubaland, as elsewhere in Nigeria. These obligations were spelt out clearly:

> … Promote religion and education among the native inhabitants…To take care to protect them and their persons and in the free enjoyment of their possessions, and by all lawful means to prevent and restrain all violence and injustice which may in any manner be practiced or attempted against them.[12]

It is important to note that it was necessary that an 'ordered' administration be established in Yorubaland. The need to use law other than force could perhaps be to make

[9] O. Adewoye, *The Judicial System in Southern Nigeria, 1854-1954:*
[10] O. Adewoye, *The Judicial System in Southern Nigeria*…pp. 18- 20.
[11] Ibid, p. 20
[12] N AI, CSO, 5/8/4, Instructions dated 13 January 1888, clause 31. Also see NAI CSO 5/8/4, Instructions dated 28 February 1886, clause 36.

colonial rule endure and stable. Law, in the form of ordinances and proclamations which operated through the courts, was to become the basis of enhancing British authority. It was in a bid to further put chieftaincy matters under a somewhat legal control that the Appointment and Deposition of Chiefs Ordinance was put forward for promulgation. [13]

3.2 Origin of Legal Regulation of Chieftaincy Disputes

In many parts of Yorubaland during the period 1939 and 1960, whenever there was a vacant stool caused by the demise of the incumbent chief, stiff succession dispute arose.[14] The existence of stipulated succession procedures among the people could not checkmate the problem created. Such a development could partly be explained in terms of the increased power and influence that the chiefs gained at the wake of colonial rule. This tended to make claimants from rival royal or chiefly families to rise in stiff competition with other claimants to such vacant stools. The result was that several chieftaincy disputes were brought to the law courts for resolution.[15] The influx of chieftaincy cases to the law courts almost became an embarrassment to the sanctity of the traditional institution. This was so because several chieftaincy cases were published in some newspapers in the late 1930s and the early 1940s.[16] It was for this reason, that on 16th December, 1947, a motion was moved by the second member for the Ọ̀yọ́ Province, Chief J. R. Turton, *Rísawẹ̀* of Iléṣà, that government should consider the introduction of legislation or a law, to exclude all matters relating to the appointment, selection and deposition of chiefs from the jurisdiction of the Supreme and Magistrate's Courts.[17] Chief Turton was of the opinion that:

[13] NAI, CSO, 26, 17005, Vol. II – Appointment and Deposition of Chiefs Ordinance. pp. 32-35.
[14] Interview with Mr. J. O. Ògúnbona, 67 years old, on the 23 June 2008 at Ìjẹ̀bú-Òde.
[15] *Southern Nigerian Defender,* Editorial Opinion, ''Chieftaincy Bill Meets Opposition in Western House of Assembly. Debates Chieftaincy Bill. p.1
[16] J. A. Atanda, ''The Changing Role of the *Aláàfin"* in *West African Chiefs: Their Changing Role* London: Longman 1980. pp
[17] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland" in *West African Chiefs: Their Changing Role*, London: Longman, 1980. pp. 30-35

> …there was no reason why we should put ourselves in a predicament where the Supreme and Magistrate Courts must appoint our chiefs and *Ọba* for us or where through some technicalities in law, not easy to understand or appreciate, the will of the people through their *Ọba* may be set aside by the courts.[18]

It was for this reason that it was said that Chieftaincy disputes be debarred from the Supreme and Magistrate Courts on the ground that they were as intricately bound up with native laws and customs and such customs varied infinitely from place to place.

It should be noted that among the Yorùbá, there existed peculiar laws and customs that pertain to the appointment, selection and deposition of chiefs and they were in the best position to apply them to their utmost advantage. However, the interest of the colonial officers was usually on the candidate who would be subservient to the administration. Yorubaland is replete with several examples of situations where the colonial administration sponsored candidates to the throne, as against the preference of the people. A typical example was the installation of Ládígbòlú Adeyemi as the *Aláàfin* at Ọ̀yọ́.[19] Though, Atanda has argued that Ládígbòlú Adeyemi was a popular choice of the Kingmakers, it must be mentioned that it was Captain Ross who tipped the choice of Ládígbòlú Adeyemi. It can then be argued that the Kingmakers could not have blatantly opposed the nomination of Ládígbòlú Adeyemi who enjoyed the support of Captain Ross. None of the chiefs could risk the wrath of the Resident. More importantly, the colonial administration was unequivocal about their decision to interfere in the matters of chieftaincy succession, as it eventually did in Ìjẹ̀búland thus:

> His Excellency has clearly laid down that if there is no suitable person from a Government point of view, amongst those who claim the right to be considered as a

[18] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland", pp. 30-35
[19] N. A. I. CSO 26, 17005 Vol. I Appointment & Deposition of Chiefs Ordinance.

> candidate, government will not hesitate to make its own selection.[20]

The determination to enforce this stance of the colonial administration was made good in 1933. That was when Mr. D. R. Otubosin's (from the *Gbélégbúwà* royal family), nomination as the *Awùjalẹ̀*-elect was ratified and approved by the Governor against public opinion.[21] The suitability of a person for any chieftaincy position was almost always seen from the point of view of the Government and not that of the people whose will should be enforced. When an *Ọba* or head chief is appointed and installed in Yorubaland, he automatically becomes the embodiment of his people's will; his person is regarded as sacred, and he is looked up to as next in position and power to the Almighty God. This was far from being the situation during our period.

In an attempt to solve the problem of the influx of chieftaincy disputes to the law courts, the central legislative council proposed an ordinance in 1929, entitled an "Ordinance to provide for the Appointment and Deposition of Chiefs in the Colony and Head Chiefs in the protectorate".[22] The purpose of this ordinance was to enable the powers granted the Governor by the provision of the Appointment and Deposition of Chiefs Ordinance, 1930 (A. D. C. O.) to be exercised in respect of chiefs in the Protectorate. The object of this ordinance was rejected and opposed generally by the people because it tended to repose in the Governor, the power to impinge with impunity on the liberty of native chiefs. There were several 'petty chieftaincy titles' in Yorubaland during this period whose holders were normally members of a Native Authority Council (N. A. C.), though in some cases these 'so called' chiefs were 'hardly more than heads of family'. Considering this critically, it might not have been intended that appointment to these petty chieftaincies should be covered by the Appointment and Deposition of Chiefs Ordinance. One would have expected that

[20] N. A. I. CSO 26, 17005 Vol. I Appointment & Deposition of Chiefs Ordinance.,
[21] N. A. I. CSO 26, 17005 Vol. I Appointment & Deposition of Chiefs Ordinance.,
[22] N. A. I. CSO 26, 17005 Vol. I Appointment & Deposition of Chiefs Ordinance.,

Administrative Officers should have been allowed to recognise such chieftaincies, other than the Governor, to prevent the kind of unnecessary bottleneck that was presented. To buttress this claim, the Acting Administrator for the Colony was of the opinion that it was a waste of time for the appointment of every unimportant chief in Ẹ̀pẹ́ and Badagry Divisions to be submitted for the Governor's approval.

The confusion created by this ordinance necessitated two main questions put forward by the people to the Secretary of State for the Colony: One, the people desired to know whether the traditional right of a paramount chief to appoint, install or sanction the appointment of sub-chiefs in the area of his domain ceded to British Government in the last century was lost with that agreement. Two, if not, why was it, that steps taken by paramount chiefs to exercise such right was discouraged and officially looked on as intrusion? In what seemed an answer to these questions, the Secretary of State for the Colony was of the opinion that if the Head Chiefs of the native communities were 'expected to play their proper part in the development and government of Nigeria, it is essential that they should be recognised and fitted into a definite place in the scheme of orderly government'.[23] He believed this could best be done by the arrangements embodied in the ordinance, which, while recognising the right of each native community to select its chiefs according to its traditional law and custom, the Governor still should have the power to withhold approval and to depose any chief, where he deemed it necessary in the interests of peace and good order. With this response, it was apparent that the Secretary of State for the Colonies was making every effort to persuade the people to accept the arrangement that was put in place, that is, the ordinance. The colonial government believed that the only means through which the chiefs could express their right was within the confines of the ordinance. By so doing the ordinance became an instrument of control of the institution of chieftaincy in Yorubaland.

[23] N. A. I. CSO 26, 17005 Vol. I Appointment & Deposition of Chiefs Ordinance.,

A representation of the Lagos Section of the National Congress of British West Africa (NCBWA) expressed their discontent that the ordinance 'seeks to encroach on and displace the ancestral rights and privileges of the people'.[24] Hence, a petition was sent by them to the Secretary of State for the colonies, praying that his assent be withheld from the ordinance. Given the sharp criticism leveled against this bill, it was pertinent that the Government might not sign the ordinance until it was properly corrected and amended appropriately. The reason why the ordinance was vehemently opposed by the NCBWA was not far- fetched. It was perhaps because Sections 2 and 4 of the proposed bill were not acceptable to it. Section 2 of the proposed ordinance stated, among other things, that:

> Upon the death, resignation or deposition of any chief in the Colony or any Head chief in the Protectorate, the Governor may appoint as the successor of such chief or head chief as the case may be, any person selected in that behalf in accordance with native law and custom (as to which the Governor shall be the sole judge); and if no such selection is made or if the selection made is not approved by the Governor, the Governor may himself select and appoint such person as he may deem fit.[25]

Section 4 of the same bill stated that the Governor may depose any chief, whether appointed before or after the commencement of this ordinance, 'if after inquiry he is satisfied that such deposition is required according to native law and custom or is necessary in the interest of peace, order and good government'.[26]

Although, it was His Majesty's pleasure to approve and sign the ordinance, there were several petitions against it which must receive careful consideration before approval. Most of these petitions were from the elected members of council and other persons in Lagos, particularly Messers Pearse and Agbaje who were represented the most important Yorùbá communities: Lagos and Ibadan. Criticisms against this ordinance also created a lot of tension among the administrators. This generated several correspondences which were mainly to ask

[24] N. A. I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance.
[25] N. A. I. CSO 26, 17005 Vol. I Appointment & Deposition of Chiefs Ordinance.
[26] N. A. I. CSO 26, 17005 Vol. I Appointment & Deposition of Chiefs Ordinance.

questions and raise issues about the intricacies contained in the ordinance. The Chief Secretary at the Colonial Office in Lagos believed that the administrators: (Residents and Chief Commissioners), should reassure the petitioners in respect of their fears regarding possible arbitrary exercise of the powers conferred on the Governor under the ordinance.[27]

It must be noted that the issues involved were more than just a matter of reassurance from either the Residents or the Chief Commissioners. Several of the administrators began to send messages of how specific cases in their respective locations could be handled, given the provisions of the Ordinance. For instance, in 1945, when the *Alárá* of Ìlarà, in the Erédò Area of Ẹ̀pẹ́ Division died, a dispute ensued as to who was to become the new *Alárá*.[28] After his demise, one Bakare Onomade was selected to hold the title without opposition, but he could not be recognised as such. Though, the *Alárá* of Ìlarà chieftaincy was a member of the Erédò Area Council which was a native authority, and which the Commissioner could appoint by himself, in accordance with section 6 of the Native Authority Ordinance, 1930,[29] yet under the new Appointment and Deposition of Chiefs Ordinance of 1930, he could not recognise the *Alárá* of Ìlarà by himself. This situation in Ìlarà created a serious problem, as the town was thrown into confusion over non-recognition of their paramount ruler. Due to the significance and sensitive nature of Ìlarà which was in Ẹ̀pẹ́ Division of the Colony of Lagos, the Chief Secretary to the Government responded to the problem at Ìlarà by making it clear that: ‘Steps will be taken to delegate to you powers under the Ordinance similar to that already delegated to Residents in charge of Provinces.’[30] The Governor himself recommended the delegation of powers in respect of second class chiefs to the Lieutenant-Governor and powers with regard to Residents. This was made clear in a correspondence by the Acting Chief Secretary to the Government to all Residents in the Provinces thus:

[27] N. A. I. CSO 26, 17005 Vol. IV Appointment & Deposition of Chiefs Ordinance. Correspondence of the Secretary of State for the Colony the Chief Residents in Western Provinces dated 24 August 1935.
[28] Ibid,
[29] N. A. I. CSO 26, 17005 Vol. I Appointment & Deposition of Chiefs Ordinance.
[30] N. A. I. CSO 26, 17005 Vol. I Appointment & Deposition of Chiefs Ordinance.,

> I am directed by the Officer Administering the Government to convey His Excellency's approval of the recommendations of His Honour with regard to the delegation of powers under the Interpretation Ordinance to give legal valÌdity to the Lieutenant-Governor to appoint and depose 2nd class Native chiefs, and likewise to grant such powers to officiating Residents with regard to 3rd, 4th and 5th class chiefs.[31]

The response of the Chief Secretary seemed to have resolved the apprehension of the Chief Commissioner for the Colony of Lagos, who believed that the delegation of the power of the Governor to administrators will simplify the bill and obviate the necessity for any invÌdious distinction between colony and protectorate. Looking at it critically, the Ordinance sought to achieve a dual purpose. One, it seemed to substitute the will of the Governor for the will and consent of the people in the appointment and deposition of chiefs. Two, it made the Governor the sole judge of native law and custom. The Government desired to ensure that the powers granted to the Governor by the Ordinance be exercised in respect of chiefs in the Protectorate as they might be exercised under that Ordinance in relation to chiefs in the colony.[32] At the same time, the Government desired to limit the operation of the existing Ordinance to those chiefs who were Native Authorities, members of a Native Authority or members of Council that formed part of a Native Authority or members of an Advisory Council.

Also, under the Ordinance, the government required that an inquiry would be necessary for the purpose of ascertaining whether or not the appointment or deposition of a chief had been made in accordance with native law and custom.[33] In each case, the inquiry would be held by a political officer and usually in public. The political officer was to take the evidence of some of the leading members of the town, who themselves would perhaps be in a position to give reliable evidence regarding native law and custom. It must be mentioned

[31] N. A. I. CSO 26, 17005 Vol. I Appointment & Deposition of Chiefs Ordinance.
[32] N. A. I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance.
[33] N. A. I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance

that this arrangement provided an opportunity of being heard, with the opportunity to ask questions from all persons giving evidence on the chieftaincy in dispute. If it was a case of deposition, the chief would have to be informed of the grounds on which the Governor was contemplating to depose him.[34] Such a chief would also be allowed to call witnesses, and be given opportunity to ask questions that were germane to his own position on the subject of his deposition. For the purpose of clarity, one may ask, whether any means of appeal was provided against decisions taken by the Governor under the Ordinance? The exercise of power by the Governor under the ordinance was regarded as executive rather than judicial. No appeal to a Court of Law was provided in the ordinance. However, the only means through which appeal could be made was through the Governor himself to the Secretary of State for the Colonies. This measure seemed not to be a proper means of appeal, because it was purely administrative. This was made clear in a correspondence of the Secretary of State for the Colonies to the Administrator of the Lagos Colony:

> I am not fully convinced that the recommendations of the Honourable Attorney-General are in accord with the objects achieved by the passing of this Ordinance.[35]

However, it must be said that the provisions of the bill of this Ordinance were not at first understood by Nigerian unofficial members of the legislative council. A few of them had read the Ordinance, but opposition to it required that it be amended. At the second reading, they expressed their discontent about the bill. It was at this stage that it became apparent that they never understood the purpose of the bill. To help this uncertain situation, the Government felt it was pertinent to hold a special meeting with all Nigerian unofficial members of the Legislative Council, during which the essence of the bill was properly explained to them. This meeting was held in April, 1930 at the instance of the Attorney

[34] N. A. I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance
[35] N. A. I. CSO 26, 17005 Vol. IV Appointment & Deposition of Chiefs Ordinance. Correspondence of the Secretary of State for the Colonies the Chief Residents in Western Provinces dated 24 August 1935.

General.[36] As soon as the Nigerian unofficial members of the Legislative Council understood the bill of the ordinance, their 'opposition ceased'. They unanimously expressed the view that it should be made clear to the people in general. To them, this explanation would make it clear that the Governor would be required to consult the people concerned before acting under the provision of the ordinance. It was agreed that "a reference to consultation with such persons concerned" should be inserted in the amended bill.[37] This was to give it the force of law. Before the end of 1945, the amended bill had been passed and approved. The amended Ordinance did not substantially alter the position of things. It only empowered the Governor to take steps with regard to the appointment or deposition of chiefs other than Head chiefs in the Protectorate as well as in the Colony. It could also be observed that the ordinance restricted rather than widened the powers of the Governor. This is, because the Governor could only approve or depose chiefs who were members of a Native Authority or of a Native Authority Advisory Council. It is also important to note that the Governor did not have the power to appoint a chief himself except that he could appoint a person to carry out the duties incidental to the chieftaincy, if no chief was appointed within a reasonable time.[38] Apparently, the amending Ordinance also required the Governor to make due enquiry and to consult with the persons concerned in the selection of chiefs before decÌding any chieftaincy dispute or deposing a chief.

3.3 Consequence of the Promulgation of Chieftaincy Ordinance

The execution or implementation of the Appointment and Deposition of Chiefs Ordinance created several problems and confusion in Yorubaland. Problems began when paramount chiefs who were Native Authorities or sole Native Authorities continued to exercise their power in a manner that made their subordinate chiefs feel terribly irritated. A

[36] N. A. I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance.
[37] N. A. I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance
[38] N. A. I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance

typical example was what happened at Òṣogbo in 1941, when the *Àtaọjà* (of Òṣogbo) claimed that he was usually disobeyed by one of his principal chiefs, the *Jagun (*of Òṣogbo), Chief Sule Akanbi.[39] Consequently, the *Àtaọjà* did not hesitate to report the "mis-behaviour" of the *Jagun* to the Divisional Officer (D. O.), Mr. M. Sharkland. On the other hand, when the D. O. queried the *Jagun* about his 'rudeness' to the *Àtaọjà*, he, the *Jagun* was of the opinion that the *Àtaọjà* was fond of using abusive terms during council meetings. In addition to this, he was advised by members of council to abstain from taking intoxicating drinks, but would not budge. He was also of the 'habit of handling town affairs single-handedly, while also including the chiefs' names and titles in letters without their knowledge' of the issues in such letters. The D. O. expressed his dissatisfaction with the way the *Àtaọjà* was reported to have handled the administration of Òṣogbo Native Authority (O. N. A.) affairs.[40] He made the *Àtaọjà* to understand that he was surprised at how he 'bickered in such an unseemly manner' and that he could have refrained from "recriminations".[41]

The attitude of the *Àtaọjà* was that of over-stretching of authority and power. He seemed to wield power and authority that could not be questioned by his chiefs, hence his "unseemly" behaviour. Most chiefs, particularly paramount chiefs, understood that both the Native Authority Ordinance and the Appointment and Deposition of Chiefs Ordinance tended to enhance their superiority before other subordinate chiefs. In the process of exercising and carrying out some of their duties of "selecting" or nominating chiefs for vacant positions, they were, at times carried away and went ahead to actually appoint such chiefs without referring to the Sole Native Authority and or the D. O. This problem between the Sole Native Authority and other minor chiefs reached a crescendo in1947. It was clear that little or

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[39] N. A. I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance
[40] N. A. I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance
[41] Editorial Opinion in the *Southern Nigeria Defender*, Saturday, June 28, 1947. p. 2

nothing could be achieved without mutual cooperation within the different units of the Native Authorities (sole or substantive or minor).

At different times, this problem made some minor chiefs to begin to demand for separation from particular Native Authorities in order to be able to gain ''independence'' or be free from domination or the fear of being dominated. This situation became so serious that it attracted the attention of the Editorial opinion of the *Southern Nigeria Defender*;

> ….some N.As are alive to…working diligently, it is something to be regretted that others are still shadow-sparing. For all the havoc which petty squabbles and chieftaincy dispute have wrought in this country and the constant warnings from both the government and the press, one would think that by now, the last of these banes should have been heard. But not only are some disheartening news still emanating from some obscure corners of the country about separation agitation, but even the progressive west seems at the moment, to be the most fertile ground for chieftaincy disputes.[42]

Again, in July 1941, the *Olúfọ́n* of Ifọ́n Ọ̀ṣun installed one Latunji as the 'new' Ìkọ́làbà of Ifọ́n without any reference to either the *Olúbàdàn* (who was the Sole Native Authority) or the D.O. who was the administrator in charge of that district, the Ibadan Northern District.[43] In his explanation, the *Olúfọ́n* claimed that the *Ìkọ́làbà* chieftaincy at Ifọ́n was usually selected and appointed from a particular family and at the time Latunji was suggested, there was no rival claimant from that family. Hence, the *Olúfọ́n* felt he could just go ahead to install Latunji as the *Ìkọ́làbà*. The D.O. was still not satisfied with the explanation of the *Olúfọ́n*. The dissatisfaction of the D.O. can be explained from the point of view of the violation by the *Olúfọ́n* of the Appointment and Deposition of Chiefs Ordinance which made it compulsory for him, not only to inform the *Olúbàdàn* but also the District

[42] N. A. I. Ọ̀ṣun Div. 1/1, 175A- Appointment of Chiefs- Òṣogbo and District. pp. 300-302. Interview with Chief Lanipekun, about 87 years old, at Òṣogbo, March 21, 2009. He was of the opinion that the Colonial Officers were feared and dreaded, to the extent that the *Àtaọjà*, himself always desired not to incur his wrath.
[43] Editorial Opinion in the *Southern Nigeria Defender*, Saturday, June 28, 1947.

Officer, who was to seek approval from the Resident.[44] The D.O. reminded the *Olúfọ̀n* that no salary could be paid to any chief who was installed without approval. The *Olúfọ̀n* swung into action. He wrote again to appeal to the D.O. and to the *Olúbàdàn*, apologising that his action was not in any way to despise their offices. The matter was settled and rested when the *Olúbàdàn* wrote to the D.O. in support of Latunji's choice as the *Ìkọ̀làbà* of Ifọ̀n Ọ̀ṣun.

It is clear from the above instances, that confusion was created in the implementation of the Appointment and Deposition of Chiefs Ordinance. Promulgation of several other ordinances, apart from that of the Appointment and Deposition of Chiefs, created some kind of fear and anxiety in the people. It became serious that the anxiety and the fear of the people caught the attention of a Newspaper Editorial:

> According to latest issues of the Nigeria Gazette, the next session of the legislative council would have to witness the passage of many bills, amendments or otherwise; and of so wide and great ramifications are some of them that, added to what have hitherto found their way into our statue book, we cannot but be apprehensive of the future's seeming insecurity for this country's masses … but this country can be made, we think to feel that it has the right to be freed from fear.[45]

Further complications were created with an amendment to the erstwhile Native Authority Ordinance in 1943. Section 9 of that ordinance stated that: ''The Governor recognises a person who having been appointed to be a native authority or a member of a native authority by virtue of being a person discharging specified functions .i.e. a chief''.[46] With this clause, it will be seen that recognition by the Governor was tied to chiefs who either were native authorities or members of native authorities as was the case with grading of chiefs. But it must again be noted that throughout the process of the actual selection of a

[44] N. A. I. Ọ̀ṣun Div. 1/1, 175A- Appointment of Chiefs- Òṣogbo and District. pp. 300-302.
[45] Editorial Opinion: titled "Nigeria: A Land of Ordinances", in the *Southern Nigeria Defender*, Wednesday March 12, 1947. p. 2.
[46] N. A. I. CSO 26, 17005 Vol. IV Appointment & Deposition of Chiefs Ordinance. Correspondence of the Secretary of State for the Colonies the Chief Residents in Western Provinces dated 24 August 1935.

chief, native law and custom was strictly adhered to. In the Interpretation Ordinance, the word chief and head chief were defined as ''any native whose authority and control is recognised by a native community and head chief''.[47] In other words, it referred to any chief who was not subordinate to any other chief or native authority. It seemed, therefore, that any control whatsoever should be limited to chiefs who were native authorities or members of native authorities, but this was not particularly followed by the administrative officers. Chieftaincy affairs were handled most of the time on the basis of the peculiarity of different cases.

In 1944, it was necessary to amend the Appointment and Deposition of Chiefs Ordinance. This was to extend the Governor's power under section 2 and 4 to all classes of chiefs. It was noted that the application of the ordinance should be restricted to chiefs who by virtue of their position, were native authorities or members of a native authority. The Governor was in favour of the amendment to the Appointment and Deposition of Chiefs Ordinance. This perhaps could be because of the inability to order the deposition of chiefs other than head chiefs which had for a long time been recognised as an anomaly and had proved to be a source of difficulty in case of chiefs who were subordinate native authorities.

On the 6th February, 1945, an amendment to the Appointment and Deposition of Chiefs Ordinance was approved and signed in to law. It was cited and known as the Appointment and Deposition of Chiefs (Amendment) Ordinance, 1945. The object of this amendment was to ensure that the powers given to the Governor by the provisions of the Appointment and Deposition of Chiefs Ordinance, 1930, should be the same in relation to chiefs in the Protectorate as they concerned the chiefs in the Colony. By implication this amendment delegated the power to appoint and depose chiefs (except first-class chiefs) to

[47] N. A. I. CSO 26, 17005 Vol. IV Appointment & Deposition of Chiefs Ordinance. Correspondence of the Secretary of State for the Colonies the Chief Residents in Western Provinces dated 24 August 1935.

Chief Commissioners and Commissioner of the Colony while similar powers were delegated to residents in the Provinces.

Again in 1953, it became necessary to promulgate another law, to provide for the method of appointment and recognition of chiefs and for other purposes that may be connected with it. Why was it necessary to promulgate a new law in respect of chieftaincy matters? Since the 1930s, the appointment of the more important chiefs had been regulated by the Appointment and Deposition of Chiefs Ordinance. In practice, this ordinance was not completely successful in obviating delays and preventing protracted and costly litigation. It was considered that the method of selection of chiefs in consonance with native laws and customs should be codified and in the event of a vacancy, a machinery or procedure should be put in place to assist in determining the rightful candidate.

The various ordinances promulgated to control and clamp down on chieftaincy became the object of attack by the educated nationalists. This was because of the limitations and distortions which, in their view, imposed on the political rights of the chiefs. Opposition to the ordinance grew specifically from the all-embracing manner in which it was drafted, which conveyed the impression that the Governor had the powers of an absolute dictator *vis-a-vis* the chiefs.[48] The educated elite in Yorubaland cited these ordinances as proof that the whole Native Authority system and, indeed, the colonial indirect rule structure was a sham in which the chiefs were not truly representatives of the people but mere puppets of the government and instruments of imperial rule who could be deposed arbitrarily.

Having considered the various ordinances used to control or regulate chieftaincy matters and the confusion that it generated, it is imperative to examine some chieftaincy disputes that emerged between 1939 and 1960. What were the causes of these chieftaincy

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[48] J. S. Coleman, *Nigeria: Background to Nationalism.* Berkeley CA: University of California Press, 1958 (1972). p. 284.

disputes? How were these disputes resolved? What were the consequences of these disputes on different locations in Yorubaland? The answers to these and several other questions will be the concern of the next chapter.

CHAPTER FOUR

CHIEFTAINCY DISPUTES IN YORUBALAND, 1945-1956

By about the 1940s, chieftaincy disputes had increased tremendously. It created obvious social disorder in several towns in Yorubaland. Matters relating with chieftaincy and taxation resulted in riots in Ilesa in 1941. The colonial administration responded to it decisively by sentencing the various culprits involved in the riots. All over Yorubaland, as elsewhere, chieftaincy contestations took a new dimension. It took the dimension of concerted efforts at forwarding correspondences, in form of petitions, to the colonial administration in respect of chieftaincy disputes. Also, the medium of Newspapers were used considerably to elicit public support for themselves inconection with particular chieftaincy disputes in question. The example of the *Gbelegbuwa* chieftaincy disputes was a case in point. Also, the *Risawe* chieftaincy disputes in Ilesa almost resulted into civil disturbance, bur for the memory of what was metted out to the culprits of the 1941 riots.

4.1 Causes of Chieftaincy Disputes

Several reasons can be adduced for the spate of chieftaincy disputes in Yorubaland. The causes of chieftaincy disputes were in four categories; namely traditional, economic, political, and social factors. First, everyone wanted, and still wants to be a chief.[1] In a society where there are rules and regulations, people come up to upturn the rules to have their way because of their personal ambitions. In the past, chieftaincy succession procedure was not written but was followed very strictly. Despite its unwritten nature, 'its principles were expressed in proverbs' and other aspects of the tradition and culture of the people.[2] Its essence was recalled whenever it was required. The advent of colonial rule brought about the

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[1] Comments made by the Senior Resident, Western Provinces, on the floor of the House of Assembly, published in the *Southern Nigeria Defender*, titled: "Chieftaincy Bill Meets Opposition" in Western House of Assembly on Wednesday, July 28, 1948. p. 1.

[2] O. Adewoye, *The Judicial System in Southern Nigeria, 1854-1954: Law and Justice in a Dependency*, London: Longman, 1977. pp. 5-25

wave of chieftaincy disputes in Yorubaland. The compilation of Intelligence Reports by the colonial administration during this period also tended to add to the problem of chieftaincy disputes.[3] Some of the Intelligence Reports were compiled without inputs from the indigenous elderly personalities. Second, the proliferation of ruling houses was another factor for chieftaincy disputes. There are examples of cases where people came up with the story of their family as being a part of the existing ruling houses in a town or a community.[4] A typical example is the case of the *Olómù* of Òmù chieftaincy dispute. S. A Soile who was a major contender in the dispute was said to be a member of the Rámújà ruling house. His opponents contended that the Rámújà ruling house was not actually a "ruling house" in Òmù-Ìjẹ̀bú.[5] Investigation(s) into the dispute later revealed that the confusion came because what was known with that ruling house was the name *Adékiyeri*, rather than Rámújà. It was later confirmed that S. A. Soile was actually a member of the Adékíyerí ruling house, but before it was resolved the case went on almost in an endless circle of disputes.

Another significant factor for chieftaincy dispute is the connection that land has in relation to chieftaincy.[6] Land and chieftaincy disputes are a serious argument or disagreement in Yorubaland. As a result of the existence of different groups and individuals with diverse claims, disputes' arising from land and chieftaincy is expected. Most chieftaincy positions in Yorubaland are connected to chieftaincy land. Major Yorùbá towns have a number of villages that are directly subservient to the paramount chief, i.e. the *Ọba*. For example, the *Aláàfin* of Ọ̀yọ́, the *Awùjalẹ̀* of Ijẹ̀bú-Òde, *Ọwa Obokun* of Ijesaland, the *Olúbàdàn* of Ibadan and the *Aláké* of Abẹ́òkúta, to mention just a few, have chieftaincy land under their jurisdiction.[7] Indigenous system of land tenure asserts that land belongs to the community,

[3] N. A.I., Nigeria: Government Gazette, 1930 - Chieftaincy Disputes (Preclusion of Courts) Ordinance.
[4] Editorial Opinion, *Southern Nigeria Defender*, on Saturday, June 28, 1947. p. 2
[5] A. N. Cook, *British Enterprise in Nigeria*, London: Frank Cass & Co. Ltd., 1964. pp. 202-203.
[6] N. A.I., *Western House of Chiefs Debates*. Ibadan: Government Press, 1948.
[7] *Southern Nigeria Defender*, titled: "Chieftaincy Bill Meets Opposition" in Western House of Assembly on Wednesday, July 28, 1948.. p. 1.

village or family and never to the individual. Therefore, where title to a portion of land is vested in the community, no single member of the community can lay a claim to it as his.

The land generally belongs to the head chief who holds it as head chief and not in his personal capacity because an *Oba* or head chief who is vested with authority over land is viewed as the best person to administer the land for the benefit of the people. Historically, indigenous land tenure systems were related to family and inheritance systems based on the concept of group ownership of absolute rights in land with individuals acquiring usufructuary rights under which each individual member of land holding family was entitled to a portion of land and no member could dispossess another of their stake in the family land or alienate family members interest in land without knowledge and consent of those members.

As a result, the *Ọba* expects perquisites on such land from farmers and or tenants. The economic value of land and the uses to which land was, and is still being put, encourage dispute when vacancy is declared in respect of chieftaincy positions connected to land issues. Among the Yorùbá, inalienability of land has led to several intractable problems of land ownership. A common concern here relates to the rights inherent in claiming ownership to land. The reality is that in most cases, the *Ọba* should not sell or appropriate land even though he is regarded as the leader of the community, but it must be said that several *Ọba* and others with chiefly positions have misrepresented their role in community land management,[8] hence, serious disputes emanate.

To buttress this point, there were chieftaincy disputes in Yorubaland that were not necessarily the result of any vacancy to chiefly positions but because of either land sale and or its ownership. An example was the case between David Jegede and Chief David Ibidapo, the *Lẹ́mọdù* of Iléṣà in 1947.[9] David Jegede was claiming declaration of title to all the

[8] *Southern Nigeria Defender*, titled: "Chieftaincy Bill Meets Opposition" in Western House of Assembly on Wednesday, July 28, 1948.. p. 1.
[9] *Southern Nigeria Defender*,….

portions of land situated at Okesa street, 'which is occupied by the CMS Bookshop'[10] but the plaintiff inherited the land from his father who was a previous *Lẹ́mọdù* of Iléṣà. Second, the plaintiff demanded for an account of the rents received by Chief Ibidapo from the CMS Bookshop who occupied the said land. It is important to note that this land was granted to the CMS by *Ọwá* Arómolárán I, before his demise.[11] This he did through Chief *Lẹ́mọdù* Ajayi who was David Ibidapo's predecessor. When this came to the Native Court in Iléṣà for hearing, it was determined in favour of Chief David Ibidapo, the *Lẹ́mọdù,* because he was a chief. The plaintiff, David Jegede, disagreed with the judgment. He immediately sent a petition to the Assistant Divisional Officer (A. D. O.). The A. D. O. decided the case in favour of David Jegede who was to become the *lessor* in the place of the Native Authority. This was a direct case of conflict of evidence. The *Ọwa*'s previous recognition of the land as chieftaincy land stood in contrast with his later acceptance of the land as private property.[12] This case is significant in that it showed the importance that was placed on chieftaincy land. The case between David Jegede and Chief David Ibidapo, is just one of such cases.

4.2 The Sorundi Chieftaincy dispute is another case in point. That dispute can be seen from two directions. The first concerned the legitimacy of Chief Aogo Falabonu, the Sorundi of Iléṣà, in 1942. The descendants of Babatimo Arike accused Chief Aogo Falabonu of taking the Sorundi Chieftaincy title wrongfully. Several petitions were written in protest against Chief Falabonu's assumption of the chieftaincy office of Sorundi of Iléṣà. Petitions were not only written to the colonial government over this dispute but other letters of protest were written and sent to the *Ọwá* Arómolárán I. This dispute went on till the reign of the *Ọwá* Ajímóko II who became the *Ọwá* in 1946. Several attempts were made to unseat the Sorundi Falabonu but these were to no avail.

[10] *Southern Nigeria Defender,…*
[11] *Southern Nigeria Defender,*
[12] Editorial Opinion, *Southern Nigeria Defender*, titled: "Foretaste of Chiefs Bill" in Western House of Assembly on Monday, September 6, 1948. p. 2.

The second aspect of this dispute started in 1949. Again, Chief Falabonu was accused of selling chieftaincy land that collectively belonged to the entire Sorundi Chieftaincy family. It was one, R. S. Omowumi, who was the Secretary of the Babatimo Arike descendants, that spear-headed the struggle against Chief Falabonu. When this dispute came before the *Ọwá* Ajímóko II, it was made clear that Chief Falabonu was rightfully chosen for the *Sorundi* Chieftaincy. This was because he was the authentic paternal descendant of the Babatimo Family while Babatimo Arike was from the maternal side of the family. Chieftaincy position in Yorubaland is usually conceded to contestants from the paternal side. It is only in very rare situations that somebody from the maternal side of the family was made to assume chiefly position, except that chieftaincy was strictly a female chieftaincy. It was also confirmed that Chief Falabonu did not alienate the land in question without the consultation of other members of the family. Chief Aogo Falabonu was not penalised for the said *Sorundi* Chieftaincy land that he sold, but a letter was sent to him from the Native Authority Council Office that he should stop further sale of chieftaincy land as it belonged to the entire *Sorundi* Chieftaincy family. It was clear that Chief Aogo Falabonu gave the *Ọwá* Ajímóko II perquisite in respect of the sale of the said chieftaincy land. This must have been responsible for the smooth sail that the dispute enjoyed before the *Ọwá* Ajímóko II during this period. Again, it must be said that the memory of the consequence of the 1941 riot in Iléṣà went a long way in ensuring peace.

Another significant factor for chieftaincy disputes was the spate of bribery.[13] Bribes were collected by either the kingmakers and or the council of chiefs, responsible for the selection of candidates into vacant positions. In several chieftaincy cases, evidences of offer of bribes were leveled against some important chiefs who were connected with selection of

[13] D. O. Olupayimo, "The Impact of Judicial Intervention on Chieftaincy Institution in Old Ọ̀ṣun Division, 1946-1991", A Thesis Submitted in Partial fulfillment of the Requirement for the Award of the Master of Philosophy Degree in History, Department of History, Obafemi Awolowo University, Ile-Ife. 2005. pp. 59-60.

candidates into such chiefly positions. For example, complaints were leveled against the *Olúbàdàn* of Ibadan of receiving bribe from *Timi* Memudu Lagunju during the *Timi* of Ẹdẹ chieftaincy dispute between him and Adetoyese Laoye.[14]

The popularity of the idea of an educated *Ọba* also contributed to the wave of chieftaincy disputes in Yorubaland.[15] For instance, the clamour for S. A. Adedeji as the new *Ríṣawẹ̀* of Iléṣà as against M. G. Asogbe. Adedeji was the choice of the people. They believed he was more educated than Asogbe. The 1950s witnessed the influx of a crop of educated elite on the councils in Yorubaland which was an indication of a season of a change of power from the traditional rulers to the educated elite. Hence, when any contender for the position of chieftaincy was educated, it was common place that the generality of the people would give such candidate their support. That was perhaps because every community wanted its paramount ruler to be educated such that he would have the opportunity of relating favourably with the colonial administration. At this juncture it will be necessary to consider some chieftaincy disputes that came up in Yorubaland during our period.

4.3 ***Ọlọ́wọ̀*** Chieftaincy Dispute

The *Ọlọ́wọ̀ Chieftaincy* dispute started in the early 1930. The dispute was about who was to become the 'new' *Ọlọ́wọ̀*. The trouble that the *Ọlọ́wọ̀* Chieftaincy dispute fomented had reached a climax by 1941.[16] Prince Olayanju wrote a petition to the colonial government in respect of the process of the selection of a new *Ọlọ́wọ̀*. He believed that he was the next to become the *Ọlọ́wọ̀*. He claimed to have stepped-down for his elder brother in 1938 and that he could not step down again for his younger brother. He explained further that on the line up of five male children born to his father, the late *Ọlọ́wọ̀* Ọlágbégi I,[17] he was the first. Prince Olayanju also was of the opinion that Chief *Sashere* was the only one among all the Ọ̀wọ̀

[14] N.A.I., C. S. O. 26, 54007/ S.2 Ibadan Province: Annual Report, 1953. Entry on: Chieftaincy Disputes.
[15] O. Adewoye, The Judicial System in Southern Nigeria.... p. 38
[16] N.A.I, C. S. O. 26, 40710/C. 1. / Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.
[17] Ibid, 1-269

chiefs that was against his candidature. Again, he believed that Chief *Sashere* was very influential with the government because he was the only educated person among the Ọ̀wọ̀ chiefs at the time. Chief *Sashere* had used his good relationship with the District Officer to oppose the candidature of Prince Olayanju for that of Oladeteru, the fifth and the youngest of the *Ọmọ- Ọlọ́wọ̀* eligible to the throne. [18]

Another petition was sent to the Chief Commissioner, Western Provinces, to protest further about the support of the Distinct Officer to upturn his candidature for Oladeteru. It must be noted that Prince Olayanju enjoyed the support of a number of the principal chiefs in Ọ̀wọ̀. It had already been said that the *Ọ̀jọmọ* wanted Prince Olayanju to be appointed as the next *Ọlọ́wọ̀* but for the opposition of Chief *Sashere* who stood in stiff opposition to Prince Olayanju's choice. Chief *Adafin* of Ọ̀wọ̀ and Chief *Ajana* wrote a separate petition to the District Officer (D.O.) protesting the action of the latter in dropping Prince Olayanju.[19] He confirmed that the *Ọ̀jọmọ* initially selected Prince Olayanju but was later dropped because of Chief *Sashere's* opposition to his choice. It was not long after several chiefs who had earlier supported the candidature of Prince Olayanju begun to give support to the *Ọ̀jọmọ's* choice. By February 1941, the choice of the *Ọmọ- Ọlọ́wọ̀* had changed from that of *Oladeteru* to *Obanla*.[20] There must be a reason why there was a sudden change of decision by the *Omo-Ọlọ́wọ̀* from their initial choice of first, Olayanju and second, Oladeteru to *Obanla*. It was because Prince Olayanju was considerably older and they preferred the choice of a younger person on the throne of the *Ọlọ́wọ̀*. With the apparent refusal of the choice of Olayanju, it was probable that he no longer enjoyed the support of the *Ọ̀jọmọ* and or others who were entitled to participate in the selection. Again, it is also possible that he did not at anytime command the respect and support of any considerable body among the Ọ̀wọ̀ society. The contention of Olayanju that the other candidates were junior to him should not have in any way prevented

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[18] Ibid, 1-269. See also T. Aderinboye, Ọ̀wọ̀*: Through the Cases*, Vol. I Akure: 2000, p. 24.
[19] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.
[20]N.A.I, C.S.O. 26, 40710/C. 1. / Vol. I

their selection. It must be noted that qualification for succession to this title was direct descent from a former *Ọlọ́wọ̀*.

On the 21st February, 1941 another petition was sent to the Resident.[21] This petition was written by Chief Aralepo and a group of others regarding the election of the *Ọlọ́wọ̀*. The procedure for the selection of the *Ọbanla* as the *Ọlọ́wọ̀* -elect was through the consultation of the Ifá Oracle. Traditionally, Ifá oracle was usually consulted by the *Olórí-Ẹbí* and if the oracle was favourable, the candidate was presented by the *Olórí-Ẹbí* and other senior members of the *Ọmọ- Ọlọ́wọ̀.*[22] The petition of Chief Aralepo can be said to have had no basis. The *Olori-Ẹbí* had the responsibility to consult *Ifa* for the determination of who should be selected as the 'new' *Ọlọ́wọ̀*. Chief Aralepo's action was begging the question of proper selection of an *Ọlọ́wọ̀* by protesting the *Olórí-Ẹbí's* right to consult the *Ifa* oracle. Aparently, Chief Aralepo's interest was in amending the procedure of selection in his own favour. The District Officer made sure he informed the *Ọmọ-Ọlọ́wọ̀* and chiefs that no candidate should be installed until the Governor's permission was sought and received. [23]

Since there was confusion among the chiefs and the *Ọmọ-Ọlọ́wọ̀* about whether it was *Ọbanla* or Oladeteru that should finally be picked, the Governor was of the opinion that further time for consideration be allowed in order to produce complete unanimity of support for a particular candidate.[24] It was not likely that any substantial change in the position of things was possible. One would also think that several other petitions that came in, after about twenty-five had earlier been received by the government, would shed light on any fact not already shown in the previous petitions. But they further confused the matter the more. Four days after Chief *Aralepo* sent in his petition, Chief *Ọ̀jọmọ* openly approved the selection of Oladeteru as he was entitled to by custom. However, *Ifa* was consulted by the *Olórí-Ẹbí*

[21] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. II – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.25- 36.
[22] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. II – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.25- 36.
[23] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. II – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.25- 36.
[24] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. II – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.25- 36.

and the lot fell on Oladeteru.[25] Prince Oladeteru's selection was opposed, particularly from his own royal family, being the youngest of the five male children from their father, *Ọlọ́wọ̀* Ogunoye. At the head of this opposition was his brother, the second of the five, J. Eyiolase Ọlágbẹ́gi. One would wonder why Oladeteru, the youngest was selected, but it is probable that he was very close to Chiefs *Ọ̀jọmọ* and Oshuporu, since he was at that time the Native Authority treasurer. As the treasurer, he could perhaps be very popular among the people and, particularly, among the chiefs. Again, Oladeteru had worked as an interpreter in the past for the government. He had worked hand in hand with the District Officer, Ọ̀wọ̀, when the D. O. was posted to IlÀró of Abẹ́òkúta Division.[26] It is possible that the D.O was used as an instrument to enforce Oladeteru's election. It had earlier on been noted that in some occasion or circumstance, the government would be bent on ensuring the installation of a man of its choice.

On the 19th March, 1941, the Ọ̀wọ̀ Council Chiefs unanimously wrote a letter to the D.O about their choice of a date for the coronation ceremony of the *Ọlọ́wọ̀*-elect.[27] They suggested the 29th of March, 1941. The previous day, an Inspector of Police was sent to Ọ̀wọ̀ to ensure peace at the purported installation ceremony of the following day. The inspector sent for Prince Olayanju and warned him against his threat to shoot at his brother, the *Ọlọ́wọ̀* -*e*lect, during the installation ceremonies.[28] On the day of installation, a combined detachment of the Nigeria Police and that of the Native Authority Police was sent to maintain peace and order. At the occasion, Major J. Wann, Resident Òndó Province, represented the Chief Commissioner, Western Provinces, on behalf of the government in recognising J.K

[25] Interview with Chief David Boboye Ògúndiminegha, 82 years old, at Ọ̀wọ̀, on 15 August, 2009.
[26] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.
[27] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.
[28] Interview with High Chief Michael Adeyinka Ògúnsusi, 75 years old, at Ọ̀wọ̀, on 20 June, 2010.

Ọlágbẹ́gi as the *Ọlọ́wọ̀* of Ọ̀wọ̀. The *Ọlọ́wọ̀*, therefore, took to himself the title of Ọlágbẹ́gi, II.[29]

It was not long that Ọlágbẹ́gi II became the *Ọlọ́wọ̀* that he fell out with the *Ọ̀jọmọ* of the Ìjẹ̀bú quarter. The position and title of the *Ọ̀jọmọ* chieftaincy in Ọ̀wọ̀, at the Ìjẹ̀bú quarter was created by *Ọlọ́wọ̀* Elewokun. The first *Ọ̀jọmọ* was *Ọlọ́wọ̀* Elewokun's brother, named Oludipe. The Ìjẹ̀bú quarter was the last of the five quarters in Ọ̀wọ̀. During the reign of *Ọlọ́wọ̀* Elewokun, the *Ọ̀jọmọ*, Oludipe became in-subordinate and was found to be full of intrigues and cunning devices.[30] Consequently, *Ọlọ́wọ̀* Elewokun deposed him and declared his title null and void and sent him away from Ọ̀wọ̀ to Ugbo Usugwe, a distance of about 20 miles from Ọ̀wọ̀. The *Ọ̀jọmọ*, Oludipe died at Ugbo Usugwe, but his third son, Agunloye came back to Ọ̀wọ̀ to plead with the then *Ọlọ́wọ̀* Adara, who heeded his plea and allowed him to return to the town. Since the period of Agunloye, the *Ọ̀jọmọ* chieftaincy title at Ọ̀wọ̀ was resuscitated. It was the time of *Ọ̀jọmọ* Amaka that crisis began again between the *Ọ̀jọmọ* and the *Ọlọ́wọ̀* Ọlágbẹ́gi II. [31]

It must be noted that the strained relationship between the *Ọlọ́wọ̀* Ọlágbẹ́gi II and the *Ọ̀jọmọ* cannot be far from the controversy over the support that the *Ọ̀jọmọ* could not throw behind the *Ọlọ́wọ̀* Ọlágbẹ́gi II during his selection. It was the D.O. who made the *Ọ̀jọmọ* to realise that Ọlágbẹ́gi II was the popular choice in Ọ̀wọ̀. The *Ọ̀jọmọ* could not but change his mind, particularly, because he was accused by the D.O. to have collected bribe from Chief *Ọ*banla for not being on the side of the majority. The threat of the D.O was what made Chief *Ọ̀jọmọ* to eventually agree to Ọládéterú Ọlágbẹ́gi's choice. On the basis of the opposition of the *Ọ̀jọmọ*, Ọlágbẹ́gi could have felt very bad and determined to deal with the *Ọ̀jọmọ* when he became the *Ọlọ́wọ̀*. This was very clear in a petition that the *Ọlọ́wọ̀* Ọládéterù Ọlágbẹ́gi II

[29] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.
[30] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.See also T. Aderinboye, Ọ̀wọ̀ *Through the Cases*, Akure: Olu FamÌlúsi Printer, Vol. 1, 2000, p. 36.
[31] Interview with High Chief Adedokun Joseph, 73 years old, at Ọ̀wọ̀, on 21 June, 2010.

sent to the Resident in September 1948 in which he alleged, among other things, that "Chief *Ọ̀jọmọ* is a recalcitrant chief whose aim is autocracy over a section of Ọ̀wọ̀ town, and a planned strategy to usurp the rights of the *Ọlọ́wọ̀* and council…"[32]

From the above quotation from the *Ọlọ́wọ̀*'s petition, it is apparent that the *Ọlọ́wọ̀* was ready to ensure that the *Ọ̀jọmọ*'s person and position before the Resident was rubbished and painted as a *persona non grata*. The D.O himself confirmed that the exercise of conferring titles on Ìjẹ̀bú chiefs by the *Ọlọ́wọ̀* Ọlágbẹ́gi II, caused considerable ill-feelings in the Ìjẹ̀bú quarter. This practice by the *Ọlọ́wọ̀* Ọládéterù Ọlágbẹ́gi appeared to be contrary to Ọ̀wọ̀ tradition and custom. The *Ọlọ́wọ̀* Ọládéterù Ọlágbẹ́gi II tried every means to frustrate the *Ọ̀jọmọ* at the Ìjẹ̀bú quarters. First, the *Ọlọ́wọ̀* made the N.A. Accounts Clerk to record taxes collected from the Ìjẹ̀bú quarter on other quarters' tax record book.[33] Second, the *Ọlọ́wọ̀* Ọládéterù Ọlágbẹ́gi intentionally reduced the stipends paid to hunters who were guarding the town. These hunters were engaged from the Ìjẹ̀bú quarter by the *Ọ̀jọmọ*. For the purpose of paying these hunters properly and promptly, two shillings was levied on all taxable adults in the town. When the hunters got to the palace for payment of their stipends, the *Ọlọ́wọ̀* Ọlágbẹ́gi II ordered that each be paid five shillings per month.[34] Consequently, these hunters from Ìjẹ̀bú quarter went to chief *Ọ̀jọmọ* to complain and threatened not to 'continue to guard the town at that rate.'[35] For this reason, chief *Ọ̀jọmọ* took it upon himself to pay the hunters fifteen shillings each per month. He then instructed them to restrict their night watch activities to the Ìjẹ̀bú quarter only. This was done ostensibly because the *Ọlọ́wọ̀* Ọlágbẹ́gi II fraudulently reduced the stipends paid to the hunters to five shillings per month.

The *Ọlọ́wọ̀* Ọládéterù Ọlágbẹ́gi II did everything possible to create chaos at the Ìjẹ̀bú quarters. This was done by his agent, Chief Ashara. Unrest became rife at the Ìjẹ̀bú quarter

[32] N.A.I, C.S.O. 26, 40710/C.1./ Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ omo* Title, 1949. pp.1- 269.
[33] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.
[34] N.A.I, C.S.O. 26, 40710/C. 1./ Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.
[35] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.

when Ashara was wrongly made a chief by the *Ọlọ́wọ̀*. Since then Chief Ashara had been an instrument through which the *Ọlọ́wọ̀* fomented trouble at the Ìjẹ̀bú quarter. Chief Ashara was used by the *Ọlọ́wọ̀* Ọlágbẹ́gi II to write a petition against Chief *Ọ̀jọmọ*.[36] He did this to make the situation seem as if it was the *Ọ̀jọmọ* that was causing trouble. In order to resolve the dispute between *Ọlọ́wọ̀* Ọlágbẹ́gi II and Chief *Ọ̀jọmọ*, the Resident engaged one J.B Arifalo, a Provincial Member of the Western House of Assembly, but before Arifalo was contacted the D.O had arranged for a private meeting between the *Ọlọ́wọ̀* and the *Ọ̀jọmọ* at his instance. This meeting did not do much at resolving the dispute as the *Ọlọ́wọ̀* was not particularly interested in a simple settlement of the dispute. By April, 1949, the dispute between the *Ọlọ́wọ̀* and the *Ọ̀jọmọ* had escalated. It must be noted that the acting D.O during this period did not help matters. He was fond of arbitrary support of the *Ọlọ́wọ̀* against the *Ọ̀jomo*.[37] In that year, it became necessary to seek the best method of obtaining a clear picture of the dispute between the *Ọlọ́wọ̀* Ọládéterù Ọlágbẹ́gi II and the *Ọ̀jomo.* This dispute had been the result of several petitions and counter-petitions. In 1948, it was decided that an enquiry be set up when it was necessary to get at the root of any dispute. It was for this reason that a mediation mission was set up. This mission was made up of the *Ọoni* of Ife, who was the chairman, the Ewì of Adó-Èkìtì and the *Ọ̀ṣémọ̀wé* of Ọ̀ndó.[38] Though initially the *Ọlọ́wọ̀* disagreed and resisted the setting up of this mediation mission, the government insisted that the mission was the most viable body that could look into the dispute and proffer solution and recommendation for settlement.

[36] N.A.I, C.S.O. 26, 40710/C.1. / Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.
[37] N.A.I, C.S.O. 26, 40710/C. 1. / Vol. I – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp.1- 269.
[38] N.A.I, C.S.O. 26, 40710/C.1. / Vol. II – Ọ̀wọ̀ Chieftaincy Dispute: *Ọ̀jọmọ* title, 1949. pp. 25- 42.

4.4 *Ríṣawẹ̀* Chieftaincy Dispute

Another significant chieftaincy dispute that came up during our period was the *Ríṣawẹ̀* Chieftaincy Dispute in Iléṣà.[39] The death of Chief *Ríṣawẹ̀* Turton at Iléṣà, on the 15th May 1952 started the most controversial dispute during the reign of *Ọwá* Ajímọkọ II.[40] As soon as the vacancy was made known, two men in the town indicated their interest in the *Ríṣawẹ̀* Chieftaincy. They were Mr. M.G. Asogbe, a prominent trader in Iléṣà who had some good financial standing and Mr. S.O Adedeji, who was younger but was educated and had worked with the government for some time. Earlier on, M.G Asogbe had contested twice for the *Ríṣawẹ̀* chieftaincy without success in 1933 and in 1943.[41] S.O Adedeji stood at an advantage because he was a descendant of Ológìdí, a prominent Ìjẹ̀sà warrior and one of the earlier *Ríṣawẹ̀* whose line had been conferred with the title several times. It was this advantaged position that the entire Adedeji family hankered on to counter the claim of M.G Asogbe to the *Ríṣawẹ̀* title. Meanwhile, *Ọwá* Ajímọkọ II, in collaboration with his C*hiefs* had already decided for M.G Asogbe, to become the new *Ríṣawẹ̀*. *Ọwá* Ajímọkọ II did not pretend about his choice of M.G Asogbe. He claimed that all chiefs had unanimously agreed to choose him and that his choice had been supported by the *Ifa* Oracle.[42] The Adedeji family wrote a petition to the *Ọwá* about their disagreement of the choice of Asogbe. They claimed that Mr. M.G Asogbe was not a descendant of *Eganfiran*, the first *Ríṣawẹ̀* of Iléṣà.[43] It was believed that Asogbe's claim was based on the fact that his father was appointed the *Ríṣawẹ̀* in 1890 and that the choice of his father then was circumstantial.[44] The eligible descendants of Eganfiran were by this time absent from Iléṣà because it was the period of the Yorùbá Civil Wars. Another *Ríṣawẹ̀* who was installed after Asogbe in 1890 was *Aṣípa*. In 1897, he also

[39] N.A.I, Ile Div.1/2, II 867- *Ríṣawẹ̀* Chieftaincy Dispute.
[40] N.A.I, Ile Div.1/2, II 867- *Ríṣawẹ̀* Chieftaincy Dispute.
[41] N.A.I, Ile Div.1/2, II 867- *Ríṣawẹ̀* Chieftaincy Dispute.
[42] N.A.I, Ile Div.1/2, II 867- *Ríṣawẹ̀* Chieftaincy Dispute.
[43] N.A.I, Ile Div.1/2, II 867- *Ríṣawẹ̀* Chieftaincy Dispute.
[44] Interview with Chief A. Adedeji, the *Ríṣawẹ̀ of* Iléṣà on 26 Jan. 1999.

was chosen for the same reason for which Asogbe was installed in 1890.[45] Hence, they felt that never again would anyone who was not a direct descent of Eganfiran become the *Ríṣawẹ̀*.

Besides the fact that Asogbe was disclaimed to have direct descent from Eganfiran, public opinion in the town, particularly those in support of Adedeji claimed that 'a literate element of good character and physical ability should fill the vacant stool'.[46] On the 24th of June 1952, the *Ọwá* Ajímọkọ II and his chiefs sent their decision to the D.O through a letter stating how their candidate, Asogbe was chosen.[47] They believed that Asogbe had 'a very good and stainless character' and that the *Ifá* oracle was favourably disposed to his candidature.[48] It is important to note the role of *Ifá* in the choice or selection of chiefs. As we shall soon see, *Ifá* is one of the pantheons of divination among the Yorùbá. It is believed that *Ifá* will reveal who the next chief would be when consulted. The colonial administration did not directly oppose the use of *Ifá*. The colonial administration was only against the mention of the use of the *Ifá Oracle* in the selection process. This was a clear indication of a subtle attack against the culture and tradition of the Yorùbá.

It is interesting to note that this dispute was enhanced by party politics. Strongly behind the choice of M.G Asogbe was Hon. S. Akinola, who was a member of the Western House of Assembly.[49] He rallied round the various quarters to solicit support for the Action Group (A.G.) in his favour. The activities of Hon. Akinola were capable of creating tension. Several letters of petition got to the D.O and the Resident about the "obnoxious activities of Hon. Akinola."[50] The *Olọ́gidì* arm of the *Ríṣawẹ̀* chieftaincy family warned that the activities of Hon. Akinola could 'cause unrest in Iléṣà town' if it was not checked.[51] The manner with which he spoke at various meetings was provocative and capable of causing chaos.

[45] N.A.I, Ile Div.1/2, II 867- *Ríṣawẹ̀* Chieftaincy Dispute.
[46] *West African Voice*, Issue of 13 June, 1952. p.2.
[47] N.A.I, Ile Div.1/2, II 867- *Ríṣawẹ̀* Chieftaincy Dispute
[48] N.A.I, Ile Div.1/2, II 867- *Ríṣawẹ̀* Chieftaincy Dispute.
[49] *West African Voice*, Issue of 13 June, 1952. 4
[50] N.A.I, Ile Div.1/2, II 867- *Ríṣawẹ̀* Chieftaincy Dispute.
[51] *West African Voice*, Issue of 13 June, 1952. p. 2.

Inflammatory and mis-leading statements were said to be made by him and his men about the dispute. The three prominent groups in Iléṣà: members of the Action Group (A.G.), the Iléṣà Association of Tax Payers (A.T.P.) and Native Authority (N.A.) Councilors, who were supporters of S.O. Adedeji, incited the people against public peace.[52]

One would have wondered why *Ọwá* Ajímọkọ II and his chiefs were adamant about the choice of M.G Asogbè as against the popular wishes of the people, particularly the members of the *Ríṣawẹ̀* chieftaincy families. Three reasons can be adduced. One, perhaps the *Ọwá* and chiefs might have preferred Asogbe to Adedeji because of their ages. Asogbe was considerably elderly while Adedeji was younger. Two, Asọgbè had contested for the *Ríṣawẹ̀* title twice: in 1933 and 1943. Asogbe being elderly obviously may never again be able to contest, let alone be chosen if he lost out. Three, it was possible that on the two occasions that Asogbe contested, he might have spent so much in terms of perquisites given to the *Ọwá* and his chiefs. This was, therefore, an opportunity to compensate him. Again, the popularity of Adedeji with the Government could probably have been scaring to the *Ọwá* who would not want his authority to either be flouted or infringed upon by an experienced 'technocrat'. This was because Adedeji had worked for the colonial administration prior that time.

It has already been noted earlier that the *Ríṣawẹ̀* Chieftaincy dispute was significantly fuelled by party politics.[53] By this period, the National Council of Nigerian Citizens (N.C.N.C.) and the A.G. were the two major political parties in Iléṣà that had considerable followership. It should be noted that the membership of J.O. Fadahunsi of the N.C.N.C. attracted a number of educated youth in Iléṣà and its environs into the party.

As against personal connection and internal well being, party affiliation and education had become a factor for consideration for chiefly positions among the Ìjẹ̀ṣà then. Acquisition of western education which was a major factor of social change can be said to be a major

[52] *West African Vanguard* of 30 June, 1952. p. 1.
[53] N.A.I, Ile Div.1/1, 2387- NCNC – Matters Affecting.

motivation of this dispute. In other words, it was a contest of cultural conservatism and modernity which was obviously going to cause friction. A large number of youths had already received considerable level of education by the late 1940s. Some of them were on the N.A. council as councilors. But at this time, the educated councilors were very few compared to the non-literate Chiefs on the council. For this, they felt that the *Ríṣawẹ̀* chieftaincy dispute presented an opportunity for them to put their feet on the ground for an educated *Ríṣawẹ̀*:

> We ought to force them (the chiefs) on some important vital issues. The *Ríṣawẹ̀* chieftaincy case is such one. Although Mr. G. Asogbe may be educated yet such is not the type we require for modern work.[54]

The issue of the consultation of *Ifá* oracle was no longer acceptable to the educated youths. They believed that such mode of election was conservative, unprogressive and more likely prone to abuses and should be changed. However, one needs to sympathise with the chiefs who felt that it was the prerogatives of the elders and chiefs to select and elect a chief to a vacant title in Iléṣà, they did not know that they were at the threshold of change from the old order. There was rapid administrative progress being made in the Western Provinces particularly in places like Abẹ́òkúta, Ìjẹ̀bú-Òde, Ibadan, Benin- City, and Ilé-Ifẹ̀ where there existed a number of educated chiefs.

The question to ask here is: how was this dispute resolved? The stalemate created by the *Ríṣawẹ̀* Chieftaincy dispute at the beginning of July, 1952 made the D.O. of Iléṣà Division to advice against the installation of any individual or nominee as the *Ríṣawẹ̀* until full enquiry was made. It must be mentioned that one of the requirements for resolving chieftaincy dispute in accordance with the provision of the Appointment and Deposition of Chiefs Ordinance, (Amendment) 1945, was to set up a committee to inquire into the dispute.[55] This

[54] West African Vanguard of 30 June, 1952.
[55] N.A.I, C.S.O. 26, 17005, Vol. I-IV–Appointment and Deposition of Chiefs Ordinance- 1925-1953.

was also in consonance with the decision of the government that every Native Authority Council should draw up a procedure for settling chieftaincy disputes. This decision was to back up the desire of the government that chieftaincy cases should be precluded from the courts. Though several Native Authority Councils heeded this directive of the government, cases were still being brought into the former courts. Apart from this, the constituted committee of enquiry was at a point operating like a formal court.[56] Appeal cases, from administrative enquiry came before Administrative Officers who were dispensing them. The *Olómù* of Òmù chieftaincy dispute is a case in point. The details of this dispute shall be considered later. The confusion that was manifest in the colonial administration's instrument of control is noticeable in the operation of committee of enquiry like formal courts. Again, it was the intention of the government to prevent lawyers from extorting the populace under the pretext of advocating on their behalf. It must also be said that it was possible that the government might not be preventing lawyers from the native courts for a genuine reason, their prevention was a ploy by government to protect Administrative Officers from embarrassments. To finally resolve the *Rísạwẹ̀* chieftaincy dispute in Ilésạ̀, the Resident, Western Provinces, on his part advised that the best course to take after a number of efforts had failed was to seek the Governor's sanction to amend the Native Law and Custom in respect of the appointment of chiefs.[57] In other words, any appointment to any vacant title in the future would be by majority vote of the Native Authority Council (N.A.C). Indeed by this time, September, 1952, the Ìjẹ̀sà Divisional Native Authority Council (I.D.N.A.C.) had already passed a resolution to this effect.[58] This option would have earned them a peaceful end to this dispute but for the determination and obstinacy of the *Ọwá* Ajímọkọ II and his senior chiefs to maintain traditional methods of succession to chieftaincy.

[56] N.A.I, C.S.O. 26, 17005, Vol. I-IV–Appointment and Deposition of Chiefs Ordinance- 1925-1953.
[57] N.A.I, C.S.O. 26, 17005, Vol I-IV –Appointment and Deposition of Chiefs Ordinance- 1925-1953
[58] N.A.I, C.S.O. 26, 17005, Vol I-IV –Appointment and Deposition of Chiefs Ordinance- 1925-1953

Public opinion in Iléṣà was supportive of a voting procedure. The people argued that there had been a precedent to this mode before the same was adopted to install the incumbent *Lẹ́jọ̀kà, Òdolé Ọbaodò.*[59] The chiefs' refusal to adopt the majority vote method was because it was not going to serve their interests this time around. The Ìjẹ̀sà Improvement society (I.P.S) met with the *Ọwa* and pleaded with him to accept the option of majority vote, to which he later consented. A majority of 10 votes against 1 was cast in favour of S. O. Adedeji, during the Executive Committee meeting of the (I.D.N.A.) that was held on the 22nd January, 1953.[60] This decision was communicated to the Resident the following day and the approval of government was sought. Thus, S.O. Adedeji became the *Ríṣawẹ̀* of Iléṣà after a prolonged tussle. His appointment was confirmed by the Resident on 25th April, 1953 despite series of petition by Mr. S. A. K. Ilesanmi to stop the appointment. The resolution of this dispute was accepted by the people in Iléṣà because of their memory of the consequence of the 1941 riots in Iléṣà, when the suspects were arrested, tried, convicted and sentenced to various imprisonment terms.

4.5 *Olómù* Chieftaincy Dispute in Òmù-Ìjẹ̀bú

The demise of the late Adékíyerí II, the *Olómù* of Òmù created a vacuum that had to be filled in 1952.[61] Immediately, the *Olúwo* of the *Òṣùgbó* was made to act as the Regent. A serious dispute came up as a result of the vacancy. The dispute took a dimension that required careful consideration before anyone could be appointed as the *Olómù* of Òmù. By 1954, the Adetola Rámújà family sent a petition to the Resident of Ìjẹ̀bú Province.[62] Hitherto, the *Awùjalẹ̀* had set up a commission of enquiry in August, 1953. The commission was set up to

[59] N.A.I. Ile Div. 1/2, II. 867- *Ríṣawẹ̀* Chieftaincy Dispute.
[60] N.A.I. Ile Div. 1/2, II. 867- *Ríṣawẹ̀* Chieftaincy Dispute.
[61] N.A.I. Ije Prof I, 1130/1 Òmù Chieftaincy Dispute
[62] N.A.I. Ije Prof I, 1130/1 Òmù Chieftaincy Dispute. See also Ije Prof 1, 1130- Òmù People- Petition for Chieftaincy and Native Court.

investigate the claims of the two ruling houses: the Adékíyerí and the Rámújà houses.[63] It was to declare, among other things, which of the ruling houses should nominate a candidate. After several sittings the commission of enquiry, which was composed of the *Orimolusi* of Ìjẹ̀bú- Igbó, the *Balogún Sọ̀yè* of Ìjẹ̀bú-Òde, the *Ajalorun* of Ìjẹ̀bú-Ìfẹ̀, the *Líkẹ̀n* of Ìbẹ̀fun[64] came up with some findings. The *Awùjalẹ̀* who announced the findings, made it clear that the commission of enquiry came to the conclusion that the two houses; the Rámújà and the Adékíyerí, had equal rights and claims to the stool of the *Olómù.*[65] He further said the stool should be occupied in rotation by the two families. The two families were instructed by the *Awùjalẹ̀* to go and consider the possibility of presenting a consensus candidate for recognition within a forthnight.

In order to heed the order of the *Awùjalẹ̀* of Ìjẹ̀búland, the Rámújà house that was believed to be the next house to rule, presented Mr. S.A. Soile, a retired Accountant with the Post & Telegraph (P&T) Department, to the *Ọ̀ṣùgbó*, who were the kingmakers. The *Awùjalẹ̀* called on the *Ọ̀ṣùgbó* to confirm the appointment of Mr. S. A. Soile.[66] This they did in conformity with native law and customs. The *Oluwo* tried to make the members of the Adékíyerí house understand that it was not yet their turn. It was possible that the Adékíyerí house did not succeed because the immediate past *Olómù* was from their house. Several petitions were sent to the *Awùjalẹ̀* against the choice of Mr. S. A. Soile by several sections of the Òmù community.[67] Other petitions were sent to the D. O. and the Resident respectively. Much as some sections of the community tried to flout the authority of the *Awùjalẹ̀,* the colonial government kept reminding them, that 'the petitioners be informed to direct their

[63] N.A.I. Ije Prof I, 1130/1 Òmù Chieftaincy Dispute
[64] N.A.I. Ije Prof I, 1130/1 Òmù Chieftaincy Dispute
[65] Interview with Chief David Adesanya, 82years, in an interview on 22 July, 2009. Mr. Samuel Adesanya, 52years, in an interview on 15 July, 2009.
[66] N.A.I. Ije Prof I, 1130/1 Òmù Chieftaincy Dispute
[67] *Ibid*, Interview with Mr. T. A Otubanjo, 78years, in an interview on 24 July, 2009 at Ìjẹ̀bú- Igbó.

petitions to the *Awùjalẹ̀* of Ìjẹ̀búland'.[68] It was clear that the *Awùjalẹ̀* had made up his mind about the choice of Mr. S. A. Soile of the Rámújà family. Every entreaty by the other house could not make the *Awùjalẹ̀* change his mind. It was not long before the Adékíyerí family engaged the services of a team of legal practitioners, who wrote directly to the Resident, Ìjẹ̀bú Province. In their letter, it was noted that if the title of *Olómù* of Òmù did carry with it membership of Ìjẹ̀bú Divisional Council, it would be correct then that an official enquiry by the colonial government would be necessary other than that which was constituted by the *Awùjalẹ̀.*[69] It must be mentioned that the constitution of the Commission of Enquiry by the *Awùjalẹ̀* was a contravention of the Appointment and Deposition of Chiefs Ordinance. This is perhaps because the Lt. Governor of Western Region was the sole judge in case of any appointment of a chief.

To show the confusion inherent in most instruments of the control of chieftaincy matters, the D. O. tried to explain that the *Olómù* of Òmù might have been a member of the old Divisional Native Authority but the appointment of that body was revoked by paragraph 2 of the Western Region Public Notice of 1953. According to the D.O., the Divisional Native Authority appointed by paragraph 3 of the Public Notice mentioned earlier, did not include the *Olómù* of Òmù. Despite this explanation, Adékíyerí family went to court to file their case and did inform the Resident thus:

> …a legislative action had been instituted and summons served on Mr. S. A. Soile on 19/4/55 and hearing fixed for 16/5/55 at Ibadan Supreme Court, Ibadan. Notwithstanding, the situations of gross provocation on his and supporters' part is becoming worse gradually and these may lead to confusion and disorder in the town.[70]

[68] Ije Prof I, 1130/1 Òmù Chieftaincy Dispute. See also Ije Prof 1, 1130- Òmù People- Petition for Chieftaincy and Native Court.
[69] N.A.I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance.
[70] N.A.I. CSO 26, 17005 Vol. III, Appointment & Deposition of Chiefs Ordinance.

At this stage, the government realised that peace would definitely be breached if the appointment of S.A. Soile as the *Olómù,* was upheld. Hence, it became clear that the appointment of S. A. Soile be deferred until such a time that action would be completed in accordance with the Western Regional Appointment and Recognition of Chiefs Law.[71] It was then decided that a special committee of the Ìjẹ̀bú Southern District Council be constituted to meet on the *Olómù* of Òmù chieftaincy dispute. The committee resolved that Mr. S. A. Soile, the present holder of the *Olómù* of Òmù should be suspended from the traditional office of the *Olómù* pending recognition by the Western Regional Government. The D. O. was not in support of this resolution. The *Awùjalẹ̀* too was not in support of the resolution of the committee. He rather desired that Mr. S. A. Soile be granted 'permission to continue to be a traditional member of the council and also be recognised as a native court judge.'[72] On the 13th June, 1956, the Divisional Adviser (D. A.) Ìjẹ̀bú, Division, Mr. Cooper, wrote to the Provincial Adviser, Ìjẹ̀bú Province, recommending that the council be advised by the Minister of Local Government to commence payment of Mr. S. Adebayo Soile's salary as the *Olómù* of Òmù.[73] He was also to be paid arrears of his salary for the period of his suspension by the council. Earlier on, a notice had been signed by the Acting Secretary to the Premier that the Governor-in-Council had approved and recognised the appointment of S. Adebayo Soile as the *Olómù* of Òmù.[74] This notice actually settled the question of opposition to the appointment of Mr. Soile as the *Olómù*. This dispute seemed to receive 'quick' settlement, perhaps because of the promulgation of the Chiefs' Law of 1955. This law was to provide for the appointment and approval of chiefs for the determination of certain chieftaincy disputes, for the suspension and deposition of chiefs and for purposes connected therewith. This law,

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[71] N.A.I. Ije Prof 1, 4242 The Western Region Appointment and Recognition of Chief Law, 1954-1957.

[72] *Ibid*, See also N.A.I. Ije Prof I, 1130/1 Òmù Chieftaincy Dispute- Correspondence from the Divisional Adviser, Ìjẹ̀bú Division, to the Provincial Adviser, Ìjẹ̀bú Province, on the 31 January, 1956.

[73] N.A.I. Ije Prof 1, 4242…

[74] N.A.I. *The Western Region of Nigeria Gazette,* No. Vol. 5 of 7 June, 1956. See also Correspondence from Acting Provincial Adviser, Ìjẹ̀bú Province, Mr. W. St. P. M. Hancock, to the Permanent Secretary, Ministry of Justice and Local Government, Western Region, Ibadan on 28 June, 1956.

also provided that the Governor may by order, designate a Local Government Council in respect of any chieftaincy dispute. It must be remembered that Section 4 sub-section 1 of that Law provided that:

> …the committee of a competent council …shall make a declaration in writing stating the customary law which regulates the selection of a person to be the holder of recognized chieftaincy.[75]

The resolution of the dispute did not immediately bring the desired peace at Òmù-Ìjẹ̀bú, as one Adejuwon Odubote did not stop at anything to cause trouble because Soile was the one chosen.[76] Mr. Adejuwon went as far as unlawfully posing as the *Olómù* of Òmù until he was contacted by the Police. He was warned to desist from presenting himself as the *Olómù* of Òmù.[77] It was the composition of a special committee of the Ìjẹ̀bú Southern District Council constituted in consonance with the provision of the above quoted law that made the resolution of the *Olómù* of Òmù Chieftaincy dispute relatively easier.

4.6 Ìràwọ̀ Chieftaincy Dispute

At Ìràwọ̀, in Ọ̀yọ́ Division, there was a dispute over who should be installed as the new *Ajórinwín* of Ìràwọ̀ in 1947.[78] The dispute was between one Adéolá and Àróyeún. It was said that Àróyeún was the rightful claimant to the throne of Ìràwọ̀, as he descended from the only royal house in the town, the Ẹ̀du royal House. Adéolá, the other claimant, was not a member of the Ẹ̀du royal House and as a result, could not be installed as the *Ajórinwín* of Ìràwọ̀. One significant issue to note in this dispute is that the *Aláàfin* had earlier on supported the choice of Adéolá who was believed not to be a descendant of Ẹ̀du, the founder of Ìràwọ̀.[79]

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[75] N.A.I. *The Western Region of Nigeria Gazette,* No. Vol. 5 of 7 June, 1956.
[76] N.A.I. Ije Prof I, 1130/1 Òmù Chieftaincy Dispute
[77] N.A.I. Ije Prof I, 1130/1 Òmù Chieftaincy Dispute
[78] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute
[79] Interview with Mr. Yusuf Alamu, 71years old, at Okeho on the 12th October, 2009.

The reason for Adéolá's support by the *Aláàfin* was not immediately known, it became obvious afterwards that Adéolá had given the *Aláàfin* money and gift.[80] This he did in order to win the favour of the revered Yorùbá monarch. It was not long when another candidate showed his interest in the contest, in person of one Adeyemi.[81] As a testimony to the fact that the *Aláàfin* was enriching himself with this dispute, in January 1948, he suggested Adeyemi as a compromise candidate. He was keen to install Adeyemi but the District Officer thought it wise to find out first whether Adeyemi had any support in the town and whether Saki District Council supported his candidature.[82] In June 1948, the District Officer found that Adeyemi had little support except from the *Okere* of Saki, who was the President of the Saki District Council, and the *Aláàfin* himself. The *Okere* did this as a mark of respect for the *Aláàfin.*

How did it become known that the *Aláàfin* took advantage of this dispute? It is apparent that the office of the *Ajórinwín* of Ìràwọ̀ was not under ''the Appointment and Deposition of Chiefs Ordinance'' because the *Ajórinwín* was not a Native Authority, hence his appointment was entirely a matter for the *Aláàfin* and his Council to handle. It was this opportunity that the *Aláàfin* catched-up on. Again, this is also a confirmation of the confusion that the Ordinance created, as it was not consistent in its application in handling chieftaincy matters. In September, 1948, the *Aláàfin* sent his messengers to Ìràwọ̀, to install Adéolá. But from the day of his installation the people in Ìràwọ̀ unanimously opposed his installation. It was obvious that there was not going to be peace in Ìràwọ̀ as the choice of Adéolá was not acceptable to the generality of the people. From the date of Adéolá's installation onwards, a 'flood' of petitions from either side reached the District Office.[83] On his part the District Officer, with the assistance of committees of the Ọ̀yọ́ Native Authority made several

[80] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute
[81] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute
[82] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute
[83] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute

investigations into the dispute at Ìràwọ̀. The first of these enquiries was carried out by the Assistant District Officer, Ọ̀yọ́ Division, in November, 1948. At this time the town was hopelessly divided over who should be installed as the *Ajórinwín* of Ìràwọ̀. Based on the first enquiry, the District Officer saw no reason why the initial decision to install Adéolá should be rescinded.

However, while the Resident was considering the report of the District Officer, the *Aláàfin* summoned Adéolá the *Ajórinwín,* to Ọ̀yọ́ and forbade him from re-entering the palace at Ìràwọ̀ for the time being. Early in July, 1949, Adéolá was re-installed after the District officer had communicated his approval. This dispute took another dimension when in 1950; Àróyeun received the permission of the *Aláàfin* to collect tax. He began to behave like an *Ajórinwín.* He wore the royal silver bangles, the royal insignia of the *Ajórinwín.* It was surprising to those who saw the royal silver bangles on Aroyeun. These bangles had been 'removed' by Àróyeun's followers from the palace while Adéolá was at Ọ̀yọ́ to visit the *Aláàfin* in 1949.[84] In 1950, Adéolá was re-instated by the Resident, Ọ̀yọ́ Province. But Àróyeun's possession of the royal silver insignia continued to cause trouble. The *Aláàfin* sent a letter to the District Officer, Ọ̀yọ́ Division, that the ''family side'' of the *Ajórinwín,* in Ìràwọ̀ was ''obstructing the entrance of the newly installed *Ajórinwín* in person of "YESUFU ADEOLA into the official residence of *Ajórinwín*. I suggest that I should send some policemen and my messengers to Ìràwọ̀ …to enforce the order and to keep peace''.[85]

In February, 1951, the Chieftaincy Committee of the Ọ̀yọ́ Native Authority conducted an enquiry at Ìràwọ̀. Several sections of Ìràwọ̀ town came to the venue of the enquiry to speak in respect of who should be the *Ajórinwín* of Ìràwọ̀. The year 1951 was a year of terrible confusion in Ìràwọ̀. It was in the same year that Àróyeun the major contender to the throne

[84] Interview with Mr. Tajudeen Salawu, 74 years old, at Ìràwọ̀ on the 18th October, 2009.
[85] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute

with Adéolá was arrested for collecting tax.[86] Although he was released immediately, tension still filled the entire town as a result of the *Ajórinwín* chieftaincy dispute. In the same year the dispute was brought before the Divisional Council at Ọ̀yọ́. The report of the enquiry favoured Adéolá. However, the *Aláàfin* objected to the choice of Adéolá.[87] What could have caused this swift change of mind? It became obvious that the majority of Ìràwọ̀ people were behind Àróyeun and it was possible that the *Aláàfin* never wanted to be on the wrong side as the dispute was taking a new dimension. Also, the possibility of collection of gifts and bribe by the *Aláàfin* from Àróyeun cannot be over-looked.

This stalemate made the Resident to order a full-fledged enquiry to be made by an Administrative officer, as soon as the Local Government elections were over in September, 1951.[88] After a very thorough enquiry, this committee reported in November, 1951, in favour of Àróyeun. The report was accepted by the Executive Committee of the Ọ̀yọ́ Native Authority on the 21st February, 1952, but was rejected by the full Council the following day.[89] After a further acrimonious meeting of the Divisional Council in May, 1952, the two major contestants were summoned to Ọ̀yọ́ to the Council meeting. It was at this meeting that the silver insignia of office of the *Ajórinwín* was collected from Àróyeun and handed over to Adéolá. The D. O. informed the members of council that he and the Resident had earlier on explained to the Minister of Local Government, Hon. Chief Ọbafemi Awolowo the evident dangers of allowing one person to be removed when no offence had been committed and no fault found with his behaviour.

Immediately the supporters of Àróyeun heard the news of the decision at Ọ̀yọ́, they began to leave Ìràwọ̀ to a virgin land of about ‘one and a half miles’ away, that was cleared and named the new Ìràwọ̀ settlement. Àróyeun’s supporters claimed that they would only pay

[86] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute
[87] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute
[88] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute
[89] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute

their tax through Aroyeun and not through Adéolá.[90] All entreaties to make them change their mind were to no avail. At the end of April, 1953, there was already a constitutional crisis at Ọ̀yọ́. The *Aláàfin* was forced by the Chiefs and the Councillors to throw his support behind Adéolá and not Àróyeun. It must be mentioned that this period was that of improvement in 'local government administration', when educated councilors were actually taking on serious administrative responsibilities of their different areas. Several suggestions were made in order to bring Àróyeun's insurgent behaviour under control. The Ọ̀yọ́ Native Authority and the Saki District Council, with the consent of the Attorney-General, were both convinced that legal action should be taken against Àróyeun under Section 40 sub-section 2 of cap 140 of the Native Authority Ordinance, on a charge of ''holding himself out as a chief''[91]. It must be said that one issue for contention was that the history of Ìràwọ̀ did not in any way show that Adéolá hails from any royal family. The Saki council councilors who influenced the Ọ̀yọ́ Divisional Native Authority in arriving at the decision to oust Àróyeun for Adéolá were the ones who created the problem at Ìràwọ̀. The Executive and General Purpose Committee met to determine what to be done to stop Àróyeun from starting a new settlement. It was decided that the D. O. should be urgently requested to apply to His Excellency the Governor, for a deportation order against Àróyeun. It was suggested that he should be deported for a period of two years from Ọ̀yọ́ Division. But it was not entirely clear whether section 2(1) of the Ex Native Office Holders Removal Ordinance cap. 8 applied to this case. This was because the position of the *Ajórinwín* was not a member of a Native Authority Council. It was decided that the earlier suggestion to take an action against Àróyeun with the consent of the Attorney General, under section 40 (2) of the Native Authority Ordinance Cap. 140 was finally agreed on.[92] This chieftaincy dispute is very significant as it led not only to crisis and confusion in

[90] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute
[91] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute
[92] N.A.I. Ọ̀yọ́ Prof I, 1048/23 Ìràwọ̀ Chieftaincy Dispute

Ìràwọ̀, but the ''establishment'' of a new settlement which the Colonial Government found very difficult to resolve.

4.7 *Alakenne* Chieftaincy Dispute

The *Alakenne* of Ikenne stool became vacant as a result of the demise of *Alakenne* Orenowo, on the 4th June, 1949.[93] Almost immediately two candidates began to contest for the vacant throne. There are four main ruling houses in Ikenne; namely, *Gbasemo*, *Ora*, *Orogbe* and *Moko*. Two candidates were put forward; Mr. Onafowokan and Mr. Awomuti. Neither party was prepared to withdraw, hence a dispute ensued. The Kingmakers of Ikenne, with the support of the *Ifa* priest, chief Odumosu, the *Lisa* of *Ifa* cult of Ikenne who was invited by Efunnuga, the *Oliwo* of Ikenne to consult *Ifa* on the choice of Mr. G. A. Onafowokan on the 7th July, 1949.[94] The Kingmakers held that it was Onafowokan, from *Moko* ruling House that *Ifa* had chosen and that he should be installed. On the other hand, earlier in June 1949, Messers Shonneye Awomuti (Akindoyin's elder brother) and Elijah Akinsanya sent a letter to the *Oliwo* and the *Oshugbo* members informing them of Mr. Gilbert Akindoyin Awomuti's choice by the *Gbasemo* ruling house. The *Oliwo* promptly replied that the Oshugbo were the only traditional kingmakers of Ikenne and that in consonance with the divination of *Ifa* oracle Onafowokan had been ''elected'' the new *Alakenne.*[95]

Between the 9th and 17th July 1949, Mr. Obafemi Awolowo began to campaign for support for Mr. Gilbert Awomuti.[96] It was clear that the Oshugbo was the recognised institution reposed with the authority to decide on who was to become the *Alakenne*. The *Oshugbo* cult had already been divided over who was to be chosen. Awolowo threw his weight behind Awomuti with the strong support of the *Akarigbo.* This situation created a lot

[93] N.A.I. Ije Remo, 3734 vol. I The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, 1949.
[94] N.A.I. Ije Remo, 3734 vol. I The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, 1949-1950.
[95] N.A.I. Ije Remo, 3734 vol. I The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, 1949-1950.
[96] N.A.I. Ije Remo, 3734 vol. I The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, 1949-1950.

of confusion in the town. Ikenne people believed that Awolowo had come to create confusion because of his influence with the colonial administration. The Resident, Mr. Butcher, personally visited Ikenne on two occasions. First, he came to Ikenne on the 16th and 17th August, 1949. He went there again on the 19th Sept., to take evidence from both parties to the dispute.[97] He warned all parties to the disputes to await his findings before proceeding to install any candidate.

To Ọbafemi Awolowo, the Resident, Mr. Butcher, was bias in his enquiry. This made him to protest Butcher's role during the process of the enquiry. He published a number of Newspaper articles maligning the Resident of complicity. The protest of Ọbafemi Awolowo against the Resident, Mr. Butcher, perhaps resulted in his transfer from Ìjẹ̀bú Province and Mr. H. K. Robinson replaced him in 1950.[98] The transfer of Mr. Butcher was an opportunity that Ọbafemi Awolowo did not fail to seize. It is obvious that the new Resident was aware that the protest and influence that Awolowo wield was responsible for the transfer of his predecessor. With this in mind, it was a posting that required a lot of caution on the part of Mr. Robinson. During Resident Butcher's enquiry he discovered that it was the *Oshugbo* society that was the accredited traditional body to select a successful candidate to the stool. The Resident, in his investigation found out that the election of the *Ewusi* of Makun Shagamu in 1939 and the election of the *Odemo* of Ishara in 1949 were evidences that the *Oshugbo* and not the *Oliwo* alone were the kingmakers in Ìjẹ̀bú-Remo.[99] It was also found out that the *Moko* ruling house had been resuscitated by the late *Alakenne*, Mr. Ọrenowo, the chiefs and the generality of the Ikenne people. The *Alakenne* chieftaincy dispute took a new dimension

[97] N.A.I. Ije Remo, 3734 vol. I The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, 1949-1950.
[98] N.A.I. Ije Remo, 4/43 The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, - Matters Affecting, 1949-1950.
[99] N.A.I. Ije Remo, 4/43 The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, - Matters Affecting, 1949-1950.

when Obafemi Awolowo, on the 2nd March, 1950, declared at the Ìjẹ̀bú-Remo Native Authority Council, that he would install his own candidate on the 5th Match, 1950.[100]

In flagrant defiance to the Resident and Chief Commissioner's ''warning and ruling'' that no installation should take place until the Resident had concluded his enquiry, the Obafemi Awolowo group went ahead with the support and cooperation of Mr. Efunnuga, the *Oliwo*, went ahead to install Mr. Gilbert Akindoyin Awomuti. The group went to the traditional *Iledi* of Ikenne, the installation groove. They ''broke into the *Iledi* groove and forcibly entered'' it and ''performed the unconstitutional ceremony of installation''.[101] This was seen by the Onafowokan group as ''an act which constitutes a serious crime in pre-British advent punishable by death penalty in those days.''[102] It must be noted that the flagrant abuse of tradition and custom by the Awolowo group, further rubbished any serious claim to traditional law and custom before the colonial administration.

In reaction to this incidence, several petitions were sent to the government in protest to the installation of Mr. Gilbert Akindoyin Awomuti as the new *Alakenne* of Ikenne. But it was difficult for Mr. Robinson to start another round of investigation ''in the circumstances that existed and re-open enquiries that had already been construed as a direct invitation to open disorder.''[103] After a close examination of Mr. Butcher's notes and discussion with many of the leading citizens of Ikenne, the Acting Resident, Mr. Robinson, came to the conclusion that the requirements of section 2(2) of cap 12 regarding due enquiry had been properly carried out.[104] In Ikenne, a decision at the earliest possible time was essential and the Acting Resident made his decision and recognised Mr. Gilbert Akindoyin Awomuti as the *Alakenne* of Ikenne. Though the opposition kept on writing several petitions to the Governor

[100] N.A.I. Ije Remo, 4/43 The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, - Matters Affecting, 1949-1950.

[101] N.A.I. Ije Remo, 4/43 The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, - Matters Affecting, 1949-1950.
[102] N.A.I. Ije Remo, 4/43 The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, - Matters Affecting, 1949-1950.
[103] N.A.I. Ije Remo, 3734 vol. II The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, 1949-1950.
[104] N.A.I. Ije Remo, 3734 vol. II The *Alakenne* of Ikenne, Ìjẹ̀bú-Remo, 1949-1950.

in Lagos and published series of newspaper articles in protest to the recognition of Awomuti as the new *Alakenne.* They wanted the Governor to intervene and possibly revoke the decision of the Resident. The whole town of Ikenne was thrown into confusion, but the government was able to calm down the tension there with the involvement of the police.

It is important to note that the power which the Governor had as the sole Judge of a chieftaincy dispute, under the Appointment and Deposition of Chiefs Ordinance, had been delegated to the Resident. Consequently, the Resident was the Sole Judge of all chieftaincy disputes in his Province. There was no provision in the Appointment and Deposition of Chiefs Ordinance enabling an aggrieved person to appeal to a higher authority. It follows therefore, that since the Resident had exercised the power delegated to him under the ordinance, two things happened together. First, the decision of the Resident as the Governor's representative was binding on the Governor and second, both the Governor and the Resident were *functus officio.*

We have seen how chieftaincy disputes caused serious problems in almost every part of Yorubaland. Several efforts at resolving chieftaincy disputes resulted in new ones. By about the 1930s, chieftaincy disputes had changed dimension. Administrative measures that were put in place failed considerably, as we saw in the cases discussed above. Despite the fact that the administration tried to prevent chieftaincy cases from the court, cases were eventually brought there for adjudication. In the next chapter, the role of the courts at resolving chieftaincy disputes and the extent to which such cases at court were effectively handled will be of great concern.

CHAPTER FIVE

THE ROLE OF THE COURT IN CHIEFTAINCY DISPUTES RESOLUTION IN YORUBALAND, 1933 – 1957.

5.1 Introduction

The establishment of courts in Yorubaland was to serve as a 'safeguard for British commercial interests'.[1] The process by which this was done had already been mentioned in the first chapter. The signing of the judicial agreement ushered in the appearance of the court system in Yorubaland.[2] By about the late 1920s and early 1930s it had become very clear to the colonial administration, the need to create changes in the judicial sphere. In 1933, there was a judicial reform. This reform put the court system on a stronger footing. Consequently, the erstwhile Provincial Courts were replaced with Magistrates' Courts and a High Court in the protectorate. The High Court, at the top of the court system in the protectorate, consisted of a chief judge, judges and assistant judges. It must be noted that the High Court did not function in certain jurisdiction such as probate, divorce and matrimonial cases. The court also had no original jurisdiction in land contestations, but it had appellate jurisdiction in such disputes in circumstances of transfer to it from native courts. On the other hand, the magistrates' courts were courts of summary jurisdiction. It heard cases of appeals from certain categories of native courts.

Of particular importance to us in this chapter are the issues of the prevention of lawyers and preclusion of chieftaincy cases from the courts. It must be said that several chieftaincy cases came to the courts for hearing during our period, despite the bill which precluded chieftaincy cases from the courts. However, it is important to note that in 1948 a bill was

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[1] *O. Adewoye, The Judicial System in Southern Nigeria 1854-1954: Law and Justice in a Dependency London: Longman 1977*. p. 42.

[2] *O. Adewoye, The Judicial System in Southern Nigeria 1854-1954:* see also N.A.I. CSO, 5/2, Vol. XIX, XX, XXI XXIV. The subject of the Judicial Agreement has been discussed in details in O. Adewoye, 'The Judicial Agreements in Yorubaland, 1904-1908', *Journal of African History*, xii, 4, 1971, pp.621-628.

presented at the floor of the parliament.[3] This bill was for the Chieftaincy Disputes (Preclusion of Courts) Ordinance.[4] The reason for this bill could be located first, in the motion moved by Hon. Turton.

As it has been noted earlier, this bill received a very stiff opposition. The Senior Resident; Commander J. G. Pyke-Nott expressed his dissatisfaction with the disastrous effects of chieftaincy disputes that were taken to court. To say that chieftaincy dispute became an embarrassment will not be an understatement. This could perhaps be the reason why an editorial of a prominent Newspaper in Southern Nigeria commented that:

> For all the havoc which petty squabbles and chieftaincy disputes have wrought in this country and the constant warning from the government and the press, one would think that by now, the last of these banes should have been heard. But not only are some disheartening news still emanating from some obscure corners of the country but even the progressive West seems at the moment, to be the most fertile ground for chieftaincy disputes. [5]

Obviously the situation painted above properly described the exact pattern of things during our period. Constant disputes, whether chieftaincy, land or communal will circumvent the possibility of easy exploitation of the resources of the interior of Yorubaland by the British. Again, it is also important to stress that the activities of lawyers in Yorubaland during the period covered by this study left much to be desired. Right from the beginning, the colonial administration did not pretend about their feelings that lawyers constituted a serious threat also to the authority of the traditional rulers. The need to eventually preclude chieftaincy cases from the courts could be seen as another step at curbing the activities of lawyers in respect of filing litigations at court. The main object of these lawyers was to make

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[3] Editorial Opinion, *Southern Nigeria Defender*, Ibadan, issue of Wednesday, July 28, 1948. p1.

[4] N. A. I. Ordinance No. 30 of 1948 Chieftaincy Disputes (Preclusion of Courts) An Ordinance to Preclude the Hearing and Determination of Chieftaincy Disputes From Cetain Court Both In Original and Appeliate Jurisdictions.

[5] Editorial Opinion, *Southern Nigeria Defender*, Ibadan, issue of Wednesday, July 28, 1948. p.1

as much money as possible and return to their various locations. It appeared that the government saw in lawyers, 'troublemakers' who were teaching the local populace what to do to have their way.[6] The activities of lawyers, who were moving from one place to the other, created a serious concern for the administration. Lawyers, most times, encouraged disputants to take their cases to court for proper hearing and resolution. This tendency of lawyers motivating disputants' to seek judicial intervention was not a good development, from the point of view of the administration. This resulted in serious opposition against lawyers by the administration. The charges of lawyers was also of great concern. This was because they charged fees out of all proportion to the value of the services rendered or the subject matter of the dispute in several instances of litigation. Also, it must be mentioned that lawyers had strong influence with prominent traditional rulers as the *Awujale* of Ijebu-Ode, the *Owa* of Ijesaland and the *Alake* of Egbaland in their relationships with the colonial administration. The activities of some lawyers as advisers to some the traditional rulers in Yorubaland occasioned not a little anxiety in official circles. For example, Chritopher Sapara Williams, because of Ijesa ancestry, wieled considerable influence in Ilesa, particularly with the Owa himself. Some of them functioned as letter-writers for parties in dispute. The role of some lawyers as letter-writers encouraged the emergence of some crops of men who took on the task of letter-writers without any legal education.

Until much later, particularly, at about 1914, there were no 'formal' courts in Yorubaland, except the traditional courts of the chiefs. That arrangement meant the 'legalisation of the old patriarchal system, under which the chief was the source of justice and his decisions accepted as law.'[7] The Supreme Court at this time had jurisdiction only in restricted areas of Yorubaland because of the limitation posed by the treaties discussed earlier

[6] O. Adewoye, *The Judicial System in Southern Nigeria 1854-1954……*p.52. Most lawyers spoken with believed that the colonial administration took this stance because of the opposition the activities of lawyers posed on it. This was the views of Barristers Olayinka Adeyemi, Olaitan Adewumi, and Adetunji Thomas.
[7] A. N. Cook, *British Enterprise in Nigeria*, London: Frank Cass & Co Ltd, 1964. p. 203.

on. Instead of completely preventing lawyers from practicing in the courts, the colonial administration regulated the practice of lawyers. This was done with the promulgation of the Legal Practitioners' Ordinance, No. 57, 1933, which set up a committee, refered to as the Legal Practitioners' Committee, for this purpose. This was essentially a disciplinary body, empowered to examine complaints of misconduct against lawyers.

5.2 Preclusion of Chieftaincy Dispute from the Courts

It is very necessary for us at this juncture to discuss an important issue; government's effort to preclude chieftaincy dispute from the court. It must also be mentioned that Chief J. R. Turton was the first person to move a motion earlier, on the floor of the House of Chiefs in 1948, in respect of preclusion of chieftaincy disputes from the courts.[8] Before the end of that year, a further presentation of the issue of preclusion of chieftaincy disputes from the court was brought up again. At the floor of the Western House of Assembly, the Senior Resident, J. G. Pyke-Nott, cited both Ede and Iseyin's cases of which he noted that the matter hanged on for about two years.[9] He appealed to the House to seize this opportunity to protect the 'poor' from the ambition of just a few. Chief J. R. Turton, the *Ríṣawẹ̀* of Iléṣà, supported the views already aired by the Resident, J. G. Pyke-Nott.[10] The reason for this is not far-fetched. Chief Turton had been an important mover of that 'policy of government'. He further noted that the bill could be seen as 'an adopted son of the house which had stood the test of maturity, and had the blessing of the House.'[11] On the other hand, the Hon. Omo N'oba Akenzua II opposed the bill and suggested that the bill be amended.[12]

[8] NAI, CSO, 26, 17005, Vol. II – Appointment and Deposition of Chiefs Ordinance. pp. 30-39.
[9] Editorial Opinion, *Southern Nigerian* Defender Issue Monday Sept 6 1948, Titled*:* "Foretaste of Chiefs Bill*"*. p.2
[10] Editorial Opinion, *Southern Nigerian Defender…* p2
[11] Editorial Opinion, *Southern Nigerian Defender…* p2
[12] Editorial Opinion, *Southern Nigerian Defender…* p2

It is worthy of note that the bill was a severe blow to civil law and liberty. It is the power to act without restraint and to choose one alternative over another.[13] Freedom usually refers to specific civil liberties, such as freedom of speech, the press, and religion. It includes the right to due process of the law.[14] With this bill, the government might be placed in an awkward position because either of the parties involved in a chieftaincy dispute might take the law in to their own hands. This might consequently lead to riot or any similar occurrence. To preclude chieftaincy disputes from legal treatment in the competent courts of law would be to deprive the people of their rights and liberties to which they were fully entitled. There were, however, two circumstances concerning this preclusion bill that were not given sufficient prominence. They were, one, the scope of chieftaincy disputes that were taken to the courts, and two, the disastrous effects of prolonged litigation of such chieftaincy disputes. True, if the issue of prolonged litigation is considered, one will almost think that it was a good decision to preclude chieftaincy disputes from the courts. Most of the time, the legacy that remains behind after prolonged legal struggle is one of disunity, ill-feeling, financial exhaustion, and utter stagnation of the society.

On the other hand, it is important to note that in Yorubaland, a chieftaincy dispute is unlike a dispute over succession to a Dukedom or an Earldom in the United Kingdom. For instance, it does not involve just one or two individuals or possibly one or two small families. On the contrary, chieftaincy dispute embraces nearly everyone within that chieftaincy area and it affects the welfare of them all. The chief, when he assumes his office, becomes responsible for leadership of the people. What he does and what he says will either assist towards the progress of his people and their welfare or will have the opposite effect.

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[13] D. W. Halsey and E. Friedman, (eds) *Merit Students Encyclopedia* Vol. 7, New York: Macmillan Educational Company, 1982. p.323.

[14] D. W. Halsey and E. Friedman, (eds) *Merit Students Encyclopedia* Vol. 7,p. 323

5.3 Chieftaincy Cases at Court

Owing to the above argument, one may want to be on the side of what I refer to as a 'representative' approach to chieftaincy dispute resolution as against the use of court. A fine example of what the future of that bill was to be was shown by **Chief Oke Laoye Lanipekun, the *Baale* of Ògbómọ̀ṣọ́ v.Oyetunde Amao**.[15] When Laoye was removed from office as the *Baale*, he fought his way through the court up to the Judicial Committee of the Privy Council. *Baale* Laoye's resilience on the case for seeking redress at court, earned him justice. If he had dropped the case because of the preclusion bill, he would not have known that that case would move up to the Privy Council in London. At the end, he was re-instated as the *Baale*-in-council.

Another significant chieftaincy dispute in Yorubaland that later found its way to the court was that dispute between ***Ọlọ́wọ̀*** **Ọlágbẹ́gi II and *Ọ̀jọmọ* Kolapo**.[16] It is important to note that *Ọ̀jọmọ* Kolapo was the son of *Ọ̀jọmọ* Amaka. *Ọ̀jọmọ* Kolapo was charged to the Magistrate Court at Ile-Ife in 1952.[17] He was accused of wearing a beaded crown and other paraphernalia of a king. It is important to note that by this time, the title of the *Ọ̀jọmọ* had been abolished in Ọ̀wọ̀ Chieftaincy system. At the Magistrate court, *Ọ̀jọmọ* Kolapo was convicted, but he appealed. His appeal was upheld and the Magistrate Court's verdict was quashed.[18] The case was eventually brought before the Supreme Court of Appeal which was presided over by Justice Adetokunbo Ademola.[19] At the Supreme Court, the order on abolition of the *Ọ̀jọmọ* chieftaincy was upheld. But *Ọ̀jọmọ* Kolapo finally brought the case to

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[15] N. A. I. Oshun Div.1/1, 175/2 pp. 32-47 Memo on the Timi of Ede Chieftaincy contest. Oshun Div. 1/5, OG 29, Ogbomosho & District Chiefs: Chieftaincy Disputes. For a detailed discussion of the Ogbomosho Chieftaincy Dispute see B. A. Agiri, "Development of Local Government in Ogbomosho 1850-1950" M. A. History Dissertation Submitted to the Faculty of Arts, University of Ibadan, Ibadan in the Department of History.

[16] N. A. I. C.S.O. 26/, 11961- *Aládégbegi*, The *Ọwá* of Ọ̀wọ̀. See also N. A. I., C. S O. 26/3, 29956- Intelligence Report on Ọ̀wọ̀ and Ifọ̀n District, Ọ̀wọ̀ Division, Òndó Province

[17] N. A. I. C.S.O. 26/, 11961- *Aládégbegi*, The *Ọwá* of Ọ̀wọ̀.

[18] N. A. I. C.S.O.26/ 40710/C.I/ Vol.1- Intelligence Report on Ọ̀wọ̀. p.99.

[19] N. A. I. C.S.O.26/ 40710/C.I/ Vol.1- Intelligence Report on Ọ̀wọ̀. p.99.

the West African Court of Appeal (W.A.C.A.) in 1954.[20] The appeal at W.A.C.A. was again dismissed and the judgment of the Supreme Court was upheld.

In what looks like an unending circle, *Ọ̀jọmọ* Kolapo further pursued the case to the judicial panel of Her Majesty Privy Council in London.[21] The case was referred also to the Legislative Council which appointed a selected committee to consider the petition of the *Ọmọ- Ọ̀jọmọ* (descendants of *Ọ̀jọmọ*) chieftaincy family.[22] The committee was made up of the following people: the Senior Resident, Kano Province, as Chairman, Hon. Ògúnbiyi, Hon. H. B. Brown, second Minister for Eastern Provinces and the Hon. Aliyu Makaman Bida. The committee after its sittings recommended that the *Ọ̀jọmọ* title should be restored in the interest of peace and justice in Ọ̀wọ̀.[23] The committee pointed out that the *Ọ̀jọmọ* title holder should abandon all claims to the right to wear a beaded crown. Again, it was made clear that the *Ọ̀jọmọ* should only assume the status of *Edibo- Ọlọ́wọ̀* (i.e. *Ọlọ́wọ̀*'s chiefs). He was only to enjoy those privileges which were ordinarily by custom attached to the post of a senior chief in Ọ̀wọ̀.

The *Ọ̀jọmọ - Ọlọ́wọ̀* case reveals that it was not all chieftaincy disputes that could be settled by the court. It was clear that the dispute had its root in Ọ̀wọ̀ tradition, native law and custom. A statutory institution such as a court could perhaps not determine such an important matter that bordered on the people's custom and tradition. This again could explain the reason why the colonial administration was "pushing" that such disputes should not be taken to the court.

Another significant chieftaincy dispute in Yorubaland was the ***Gbélégbúwà* Chieftaincy Dispute**. *Gbélégbúwà* was a ruling house in Ìjẹ̀bú-Òde.[24] They lost that ruling status when they did not produce an *Abidagba* for the throne. During P.A. Talbot's tenure as

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[20] N. A. I. C.S.O.26/ 40710/C.I/ Vol.1- Intelligence Report on Ọ̀wọ̀. p.99.
[21] Editorial Opinion, *Southern Nigerian Defender,* Issue Wednesday July 15, 1954, p.2
[22] N. A. I. C.S.O.26/ 40710/C.I/ Vol.1- Intelligence Report on Ọ̀wọ̀. p.99.
[23] N. A. I. C.S.O.26/ 40710/C.I/ Vol.1- Intelligence Report on Ọ̀wọ̀. p.99.
[24] N. A .I., Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.

Resident, of the Western Provinces, efforts were made by members of the *Gbélégbúwà* family to resuscitate the family's ruling status.[25] In 1939, a formal process was initiated shortly after *Awùjalẹ̀* Adenuga's deposition.[26] The family forwarded two separate petitions to the Resident, asking for government's recognition of the family's ruling status. Indeed, in one of its petitions, the family suggested that it should be allowed to provide Adenuga's successor. To this effect, a judicial council meeting was called at the instance of the family's request for re-institution and at the end of the proceedings, it was resolved that the ruling status of the *Gbélégbúwà* family be restored.[27] After a while the government turned down the proposal. A revival of the ruling status of the *Gbelegbuwa*, it was reasoned, implied the future succession to the throne of a non-*Abidagba.* The government was anxious to avoid a repetition of a similar crisis that occurred in the past, during the period 1915/16 in a succession crisis.[28] At this time, the government had, only reluctantly approved the appointment of a non *Abidagba* Ali Ògúnnaike of the *Fidipote* ruling family as Adenuga's successor, on the Residents assurance that the chiefs supported the selection, and that Ògúnnaike was the best option available. In consenting to the selection, government expressed hope that the contravention of the *Abidagba* rule would not form a precedent to be followed in future, on more fortunate occasions when better qualified candidates may be available.

The *Gbélégbúwà* family members were however, not discouraged by the government's negative response initially but began to mount pressure again through the new *Awùjalẹ̀,* who was conscious that he was a non *Abidagba.* Awùjalẹ̀ Ògúnnaike seized the opportunity of the request for the re-institution of the ruling status of the *Gbélégbúwà*, and he supported it. Thus, not only did *Awùjalẹ̀* recommend to the government that the ruling status

[25] N. A .I., Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.
[26] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland" in M. Crowder and O. Ikime (eds), *West African Chiefs: Their Changing Role* London: Longman, 1980. pp. 231-254.
[27] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland" pp. 231-254.
[28] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland" pp. 231-254.

of the *Gbélégbúwà* should be revived, he also suggested that his successor be elected from that family.[29] With the *Awùjalẹ̀*'s glaring support for the *Gbélégbúwà* family, government eventually gave approval for the restoration of its ruling status.

Thus, when the *Awùjalẹ̀* died in 1933, it became necessary that a new *Awùjalẹ̀* should emerge possibly from the *Gbélégbúwà* ruling family.[30] A few days after the *Awùjalẹ̀'s* death, there emerged a movement for the re-instatement of Adenuga, the deposed *Awùjalẹ̀*. This was a group which subsequently called itself the Prince Folagbade Return Committee. The committee comprised the Chief Imam, Bakare Raji Akayinode and J.A Fowokan.[31] It must be noted that Fowokan was among the seven people banished in 1929, but he was later pardoned. The committee also included some educated personalities that were indigenes of Ìjẹ̀bú- Òde but who were then resident in Lagos. It was only Samuel Akisanya who was an indigene of Isara. He later became the *Odemo* of Isara between 1943 and 1985.[32] A petition was forwarded to the government and signed by 9,926 signatories said to be representative of the general Ìjẹ̀bú opinion. In the petition, government was implored to respect the importance attached by the Ìjẹ̀bú to the *abidagba* rule: 'it is only when this tradition is rightly observed in the appointment of *Awùjalẹ̀*…that we enjoy peace, happiness and prosperity in our land'.[33] Attention was also drawn to the Native Political maxim that ''unless an *Oba* dies another *Oba* cannot reign". The contravention of this tradition and that of the a*bidagba* in the case of the late *Awùjalẹ̀* rendered his reign unpopular among the people. Government was therefore urged to reinstate Adenuga so that normalcy would be restored. It must be mentioned that the credibility of the petition as a document representing the genuine desire of the majority of the people was called to question. That was because of the allegations of unorthodox methods

[29] N. A .I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.
[30] N. A .I., C. S O. 26/3, 29956- Intelligence Report on Ọ̀wọ̀ and Ifọ̀n District, Ọ̀wọ̀ Division, Òndó Province
[31] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland" in M. Crowder and O. Ikime (eds), *West African Chiefs: Their Changing Role,* London: Longman, 1980. pp. 231-254.
[32] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland"
[33] N. A. I. Ije Prof, C. 1714, Anikilaya Ruling House to the Resident, dated March 2, 1933.

used in the collection of signatures. It was alleged that little children were made to sign. The Resident of the Province, therefore, returned the petitions to its authors, requesting them to affix their tax receipts' number of every signatory on the document if it was to be forwarded to government.[34] Again, the reports remained unacceptable as there were allegations that the sponsors of the petition obtained tax receipt numbers fraudulently.

Besides, the petitioners were unable to receive the co-operation of the chiefs. This explains why, in a bid to disguise their failure with the chiefs and downplay its official significance, the petitioners contended in a covering note attached to their petition that:

> We have decided not to ask the *odis* and chiefs of Ìjẹ̀bú- Òde to join the people in signing the petition. The reason for this decision is simple. The *odis* and chiefs have joined in the selection of our ex-*Awùjalẹ̀* he cannot be deprived of his high office except by death… as the appointment of and recognition on the ex-*Awùjalẹ̀* must therefore remain in him, as far as the *Odi*s and chiefs of our town are concerned, as if the unfortunate incident of 1929 (Adenuga's deposition) did not take place, we are persuaded it is unnecessary to ask them to sign the petition of the people as we feel it would be asking for a new or double election of one and the same *Awùjalẹ̀*.[35]

The failúre of the petitioners to secure the support of the chiefs was perhaps because the *Gbélégbúwà* and the *Anikilaya* ruling families also exerted strong pressures to have their claims considered. But for the re-institution of the *Gbélégbúwà* ruling family, the *Anikilaya* would have been the next in the succession cycle. The *Odi* chose the *Gbélégbúwà*, and after receiving the Resident's endorsement, they notified the family. On the other hand, the other contending parties reacted sharply and swiftly to this development. The Prince Folagbade 'Return Committee' immediately re-submitted its 'monster petition' with a new signatory list

[34] N. A. I. Ije Prof, C. 1714, Anikilaya Ruling House to the Resident, dated March 2, 1933.
[35] N. A. I. Ije Prof, C. 1714, Anikilaya Ruling House to the Resident, dated March 2, 1933.

of 9,126 persons as against 9,926 earlier submitted.[36] This hasty submission was to facilitate the transmission of the petition to the government in order to forestall official recognition of a new *Awùjalẹ̀* from the *Gbélégbúwà* family. Counter petitions were also submitted by the other ruling house, in order to stress the importance of the *Abidagba* criteria.[37] Since the *Gbélégbúwà* had its ruling status restored during the reign of Ògúnnaike of the fidipote family the other ruling houses expected to take their turns before the *Gbélégbúwà* could be considered, but the decision of the *Odi* to elect a new *Awùjalẹ̀* from the *Gbélégbúwà* family was disturbing news to the opposing parties.

The popular candidate in the family was Daniel Robert Ògúnsanya Otunbusin.[38] Ògúnsanya was a descendant of *Awùjalẹ̀ Gbélégbúwà* who came through the matriarchal line and for which his candidacy was challenged by some other members of the royal family. Their protests led to the exclusion of Ògúnsanya from the list just as the family was about to forward to the *Odi* a list of its nominees. There were nine names on the list, including Ògúnsanya's name which was crossed out by a single line.[39] Ògúnsaya was the *Odi's* choice, but because they feared that they might be compelled to select from the names submitted they referred the matter to the Resident. The *Ọ̀gbẹ́nì Odi* informed the administrative officer thus:

> The (*Gbélégbúwà*) house was asking them to select a man on the male line of descent but… the popular candidate was on the female line. This would have excluded him in the olden days, but times had changed. The *abidagba* rule had been broken and a man capable of dealing with modern thought and problem was desired.[40]

The Resident, who himself, perhaps preferred Ògúnsanya, being the only educated contestant in the family, rescued the *Odi*. He immediately summoned members of the

[36] N. A. I. Ije Prof, C. 1714, Anikilaya Ruling House to the Resident, dated March 2, 1933.
[37] Ibid, See also E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland"…
[38] N. A. I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.
[39] Interview with Mr. Titus Ògúnbona, 78 years, on the 27 June, 2009 at Ijẹ̀bu- Igbó
[40] N. A. I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute. Corroborated by Alhaji 'Tunde Oduwole, 73years, on 3 Oct. 2010.

Gbélégbúwà family, and asked them to present a single candidate or have their turn forfeited.[41] The family members were alarmed. 'Several elders loudly asserted, that the Resident reported that (Ògúnsanya) Otubosin was the choice of both the family and the town generally … that descent in the female line was not necessarily a hindrance'. The family, it would seem, discerned that the Resident preferred Ògúnsanya. He was presented as their candidate. Despite the opposition of the other group, the Resident approved Ògúnsanya's selection.[42] This seems to put an end to the contest to the throne by other ruling houses. A date was fixed for the installation of Ògúnsanya as the *Awùjalẹ̀.* In Lagos, the protesters were given some publicity by the *Daily Times*, owing largely to the influence and popularity of Samuel Akinsanya. The *Daily Times* quoted their spokesman thus:

> We have come to Lagos that some public spirited individual might take up our case and bring us into contact with the Governor so that we might be able to explain to His Excellency, our stand point, surely, there must be some big public-spirited person left in your great city who sympathises with us.[43]

Their protest or the publicity of it did not yield much fruit, as it did not change the decision earlier taken in support of Otubosin, as the Awùjalẹ̀-elect.

After his installation, immediately Ògúnsanya changed his name to Adesanya, this was perhaps to reflect royal ancestry and adopt the cognomen of *Gbélégbúwà* II.[44] He received government recognition through Sir Donald Cameron who came down to Ìjẹ̀bú- Òde for his official investiture as Native Authority and announced that the question of the return or restoration of the former *Awùjalẹ̀* Adenuga should be regarded as closed, but the installation of Ògúnsanya as the new *Awùjalẹ̀* was far from closed as the other aggrieved ruling houses remained very implacable. Despite the peace overtures made by the *Awùjalẹ̀*

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[41] N. A. I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.
[42] N. A. I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.
[43] N. A. I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.
[44] Interview with Mr. Mr. Bayo Kasali, 71 years, on the 6 September, 2009 at Ìjẹ̀bú- Òde.

himself, they refused to pay the customary visit of allegiance to him at his palace. They began to suggest possible means of deposing the 'new' *Awùjalẹ̀*

Thus, the suggestion to have the *Awùjalẹ̀* deposed was not far-fetched as it was mooted by one Alfa Alli (a significant public figure in Ìjẹ̀bú- Òde) during one of his public rallies in May 1942: 'We no longer want the 'new' *Awùjalẹ̀* as our king'.[45] This desire was manifested in the resolve of the women to have the *Awùjalẹ̀* forcibly ejected from his palace. Meanwhile the women had rendered songs renouncing their allegiance to the *Awùjalẹ̀.* One of such songs rendered translates thus: ''Ògúnsanya has fallen down, his crown has dropped, {and} we are not going to serve Ògúnsanya''. The reference to the *Awùjalẹ̀'s* original name of Ògúnsanya was intended to cast aspersion on him and portray him also as a usurper. Efforts to have the *Awùjalẹ̀* removed were made in December 1942. This was when the disaffected *Oloritun* addressed a petition to the government urging that a Commission of Enquiry be appointed to look into a number of allegations of misconduct and corruption against the *Awùjalẹ̀.*[46] But the government was not ready to entertain any protest or disaffection against the *Awùjalẹ̀,* hence it rejected the petitioners' request.

Undaunted, the *Oloritun* decided to send another petition in May 1943 which was supported by the other ruling houses. A list of over two thousand signatories assented to this petition.[47] In the petition, an enquiry was requested to investigate the question of the breach of custom in the resuscitation of the *Gbélégbúwà* house and selection of an *Awùjalẹ̀* from a matriarchal line instead of a direct patriarchal line. To enhance their chance of success, the other three ruling families (i.e. Anikilaya, Fidipote and Fusengboye) in June 1943 jointly forwarded a petition to the government urging that the restoration of the ruling status of the

[45] N. A .I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.
[46] N. A .I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute. Interview by Adebayo Abdul, 68 years, on the 3 Oct. 2010.
[47] N. A .I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.

Gbélégbúwà family be invalidated.[48] Again, government was unruffled and on 6 July, the Chief Commissioner visited Ìjẹ̀bú- Òde and re-affirmed government's support for the *Awùjalẹ̀*. In August, a group of Ìjẹ̀bú- Òde citizens' resident outside the province initiated moves towards restoring peace in the town. These moves were spurned by the *Oloritun*, their condition for peace being the deposition of the *Awùjalẹ̀*. The educated counselors who were their most ardent supporters responded favourably to the peace initiative. Indeed, some of the counselors (namely, J.A Fowokan, E.S. Odulaja and J.M Otuyelu) were members of the Peace Committee which was subsequently formed late in 1943.[49]

The change in the attitude of the educated councilors can be explained. In November 1942, the government had, in response to the agitation against the *Awùjalẹ̀,* ordered that field enquiries be conducted with a view to effect administrative re-organisation in Ìjẹ̀bú- Òde. The administrative officer charged with the duty was also asked to submit proposals for the formation of a Representative Central Council. The officer completed his assignment in April 1943, but the Chief Commissioner, during his visit to Ìjẹ̀bú- Òde, in July, announced that the recommendations put forward would not be implemented until peace was restored in Ìjẹ̀bú-Òde.[50] The Chief Commissioner also announced the dissolution of the town council. As a result of this interdiction on further administrative changes, the educated elements in the town generally became ready for peace initiative.

In the hope that the arrival of a new Governor, Sir A. F. Richards, early in 1944, might tilt the scales in their favour, the *Oloritun* and their supporters among the members of the ruling families addressed fresh petitions to the government. Again, the government was urged to consider the earlier request for an enquiry into what they regarded as anomalous re-institution of the royal status of the *Gbélégbúwà* family. In one of the petitions, the authors

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[48] N. A .I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.
[49] N. A .I, Ije Prof, 2, 17/5/1 *Gbélégbúwà* Chieftaincy Dispute.
[50] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland"… pp. 231-254.

made a plea to the Governor stating that 'as a new man with a new mind towards everything in this dependency to carefully examine our matter on its merits',[51] but the new Governor refused to reverse earlier government decisions on the matter. Indeed, at a public gathering in Ìjẹ̀bú- Òde in April, the Governor announced that government would entertain no further petitions concerning the re-institution and selection of the incumbent *Awùjalẹ̀*, Adesanya Gbelogbuwu II.

The Governor's pronouncement on the succession issue produced the desired restraining effect on the *Awùjalẹ̀'s* opponents. But it was for a short while. A new inspiration to continue the battle against the *Awùjalẹ̀* came in October, when the *Baale* of Ògbómọ̀ṣọ́ was removed from office and a rival candidate installed following a court ruling. This brought a ray of hope to the dissenting sections of the three ruling families.[52] Thus, in November, they instituted a joint legal action in which they contested the validity of the re-institution of the ruling status of the *Awùjalẹ̀* and his accession to the throne. But as it was in government house, so it was in the courtroom. Judgment on the case was given in March 1945, with 150 guineas costs awarded against the plaintiffs.[53] Subsequent appeals to the Supreme Court and West African Court of Appeal in 1947 and 1948 respectively, again, ended in the *Awùjalẹ̀'s* favour with 200 guineas cost awarded against the appellants.[54] The loss of the legal suits increasingly led to the isolation of the agitators in the town, as their supporters deserted them or remained passive sympathisers.

The *Gbélégbúwà* chieftaincy dispute is a clear indication of the colonial administration's support for a candidate of their choice. We saw how the colonial administration stood vehemently against every opposition that was put forward. One would wonder why the colonial administration gave this kind of support to Daniel Adesanya

[51] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland"… pp. 231-254.
[52] Editorial Opinion, *Southern Nigerian* Defender Issue Monday Sept 6 1948, Titled*:* "Foretaste of Chiefs Bill*"*. p.2
[53] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland"… 231-254
[54] E. A. Ayandele, "The Changing Role of the Awùjalẹ̀ of Ijebuland"… pp. 231-254.

Otubosin. It is possible that he received the support of the government perhaps because he was the only educated candidate that vied for the position of the *Awùjalẹ̀.* Again, one other aspect of this dispute that is of paramount importance is the fact that in spite of the assassination attempt on the *Awùjalẹ̀,* which resulted in his hand being amputated, this interestingly, did not deter the administration in supporting the *Awùjalẹ̀'s* choice. The support of the government for Daniel Adesanya paved the way for an eventual 'acceptance' of the verdict of the court. If the government did not really have any candidate in mind, the case could have continued in an unending circle.

Again, a significant chieftaincy dispute that was taken to the court during our study period was **I. O. G. Adebo *v.* The Governor-in-Council**, Western Nigeria.[55] Mr. Adebo, was appointed and installed as, the *Olofin* of Illishan on the 1st January 1954, but on the 15th February 1961, he received a letter from the Ministry of Chieftaincy Affairs referring him to a telegram sent to him, inviting him to attend a meeting of the Council of *Obas* and Chiefs on the 27th February. It was at this meeting that the Council was due to consider recommendations for his deposition. The purpose of inviting him was to make him to answer ''such questions as the Council may wish to ask''. Chief Adebo replied by a letter dated 23rd February, 1961, in which he stated that he could not attend the purported meeting because of his ill health, to which he enclosed a Doctor's certificate.[56] He also requested that he be given information about the nature and details of the charge preferred against him. The next thing that the Appellant saw was another letter dated the 10th June, 1961, from the Ministry of Chieftaincy Affairs, drawing his attention to the notice in the Western Region Gazette, where the Governor-in-Council, on the advice of the *Obas* and Chiefs, had approved of his deposition in exercise of the power conferred by the Chiefs Law.[57]

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[55] All Nigeria law Reports, 1962, Federal Ministry of Justice, 1990. pp. 917-928.
[56] All Nigeria law Reports, 1962, Federal Ministry of Justice, 1990.pp. 917-928.
[57] All Nigeria law Reports, 1962, Federal Ministry of Justice, 1990.pp. 917-928.

Chief I.O.G. Adebo, applied for an *Order of Certiorari* to quash the Deposition Order on the ground that it had been made in violation of the rules of Natural Justice.[58] This the appellant requested because he was not given opportunity to be heard in reply to the charges on which the Order was made. It was obvious that the Governor-in-Council's decision to depose the applicant was made without the latter having been given any real opportunity of being heard. The learned counsel for the respondent did not attempt to argue to the contrary. He only rested his case solely on the ground that the exercise of the power of deposition conferred by section 22(1) of the Chiefs Law was an administrative, and not a judicial act.[59] The Judge, Justice J Charles, in his judgment was of the opinion that *Certiorari* was not confined to determination affecting rights in the strict sense but extended to any determination which affected quashing any legally recognized interest. The judge, who could not but grant the prayer of the appellant, thus quashed the Order of the Governor-in-Council.[60] It is apparent that this case is an indication of the influence of politics in Chieftaincy matters during our period. If Chief Adebo had not had the opportunity of litigation, he would have been prevented from obtaining justice that he required. In the next chapter we shall be considering the changes that attended the various instruments of chieftaincy control. Of particular interest to us in that chapter is the Local Government Law and its relationship with chieftaincy matters.

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[58] All Nigeria law Reports, 1962, Federal Ministry of Justice, 1990.pp. 917-928.
[59] All Nigeria law Reports, 1962, Federal Ministry of Justice, 1990.pp. 917-928.
[60] All Nigeria law Reports, 1962, Federal Ministry of Justice, 1990.pp. 231-254.

CHAPTER SIX

WESTERN REGION LOCAL GOVERNMENT REFORM OF 1952 AND CHIEFTAINCY AFFAIRS

6.1 Introduction

Indirect Rule was the basis of the administration in Yorubaland during the last decade of the nineteenth century. The reason for the adoption of that system of administration will not be discussed here. What is important to us about its adoption is that it provided an avenue for the chiefs who administered local governments of their various areas. It is important to also note that by 1900, considerable improvement was made on the council-type of administration, which the chiefs ran with supervision and guidance of the British officers. It was observed that the creation of councils would be necessary in other interior parts of Yorubaland other than the major towns such as Ibadan, Ọ̀yọ́, Abẹ́òkúta, to mention just a few. To achieve this, it was observed that it would be required to increase the power, prestige and authority of the chiefs. The only means by which that could be done was to reduce the supervisory authority of the British administrative officers. It was for this reason that the Native Council Ordinance was promulgated in 1901.[1] The councils established as a result of this Ordinance were designed mainly to 'enhance the prestige and authority of the chiefs for administrative efficiency'.[2] They were created at provincial, district, town and village levels, and were empowered to handle all matters relating to internal administration, including the adjudication of disputes. The role of adjudication of disputes by the chiefs, particularly with the introduction of the Native Courts, considerably portrayed the chiefs in very significant light amidst their subjects. This again explains the reason why chieftaincy disputes assumed a very serious dimension in Yorubaland. This Ordinance was again amended several years

[1] ''The Native Administrations of Nigeria'', ***West Africa***, 9 June, 1945, pp.531-532; 7 July 1945, pp. 631-633. See also NAI, Native Authority Ordinance, 1900.
[2] J. A. Atanda, Indirect Rule in Yorubaland, ***Tarikh*** Vol 3 No. 3 1970.

after, particularly when Lord Lugard took on the role of Governor of Nigeria. Lord Lugard who had left Nigeria in 1906 was re-called from Governorship of Hong Kong in 1911 to undertake the task of amalgamating the Northern and Southern Protectorates. He promulgated the Native Court Ordinance in 1914 and the Native Authority Ordinance in 1916.[3] The relevance of the chiefs in the administration of Yorubaland under the leadership of the colonial administration cannot be over-emphasised. It is against the background of the manner in which the chiefs participated in local administration in Yorubaland before 1950, that the local government reform of 1952 will be appreciated.

6.2 Local Government Re-organization at the wake of the Reform of 1952

It is necessary at this juncture to examine the condition of a number of native authorities in the major towns in Yorubaland in order to appreciate the reform that was done on local government administration in 1952. It must be noted that Abẹ́òkúta was the only place where anything that is close to modern local government administration started in the entire Yorubaland. Until he went into 'voluntary' exile in 1948, the *Aláké* of Abẹ́òkúta was the Sole Native Authority for the Ẹ̀gbá Division, though he was assisted by an advisory Council.[4] After his departure into exile, the Ẹ̀gbá Central Council was constituted as Native Authority and consisted of thirteen titled and seventy-three elected members, including four women. In 1950, the Ẹ̀gbá Native Authority set up a Committee to make recommendations for further reorganization.[5] As a result of this, the membership of the council was increased with the inclusion of a greater number of representatives from the outlying districts. The reorganised council was composed of a total of one hundred and fifteen members, of whom ninety-six were elected. This included four from Otta and one from Imala. Before the end of 1950, the Native Authority, by a majority vote decided to re-call the *Aláké* to Abẹ́òkúta. This

[3] O. Adewoye, The Judicial System in Southern Nigeria, 1854-1954: Law and Justice in a Dependency. London: Longman Group Ltd, 1977. p.185.
[4] NAI, MLG (W) I, 253 vol I Local Government in the Western Provinces.
[5] NAI, MLG (W) I, 253 vol III Local Government in the Western Provinces.

new innovation on the Ẹ̀gbá Divisional Native Authority began sitting on February 28, 1951.[6] This innovation was in anticipation of the planned reform by the Western Region.

In Ibadan, earlier in 1945, eleven sub ordinate Native Authorities had been established outside Ibadan District. In an attempt to make improvement on local government administration, in consequence of the implementation of recommendations made by the Butcher's Commission of Inquiry, the Ibadan Divisional Native Authority ceased to exist.[7] Nine of the eleven Native Authorities subordinate to it were grouped together in a new administrative division known as the Ọ̀ṣun Division. Three new independent Native Authorities remained in the new Ibadan Division. Before September 1949, the Ibadan and District Native Authority consisted of the eleven chiefs of the Inner Council and four elected councilors.[8] The Native Authority received assistance from an Advisory Board of thirty members, fifteen of whom were quarter representatives and the other fifteen representatives of the junior chiefs and Mogajis (family heads). In 1951, recognition as Native Authority was 'temporarily' withdrawn from the *Olúbàdàn* and Council while the Divisional Officer, Ibadan, was appointed to act as Native Authority in their place.[9] All members of the old Native Authority Council, except the *Olúbàdàn* himself, were subsequently appointed members of an Advisory Council to assist the Divisional Officer in his work. It is interesting to note that this development dealt a serious blow to the prestige and authority of position of the *Olúbàdàn*. The re-organization done on Ibadan District Native Authority resulted into: the Olúbàdàn as President, eleven senior chiefs, including the senior woman chief, the *Ìyálóde*, as permanent member, while not less than seven of them were elected representatives of the rural areas.[10] The elected members were for the first time be in a considerable majority.

[6] NAI, MLG (W) I, 253 vol III Local Government in the Western Provinces.
[7] NAI, MLG (W) I, 253 vol III Local Government in the Western Provinces.
[8] NAI, MLG (W) I, 253 vol III Local Government in the Western Provinces.
[9] NAI, MLG (W) I, 253 vol I Local Government in the Western Provinces.
[10] NAI, MLG (W) I, 253 vol I Local Government in the Western Provinces.

Again, the use of the committee system was also introduced, anticipating the general reform in 1952.

In Ìjẹ̀bú- Òde, a decision was taken in 1949 when the *Awùjalẹ̀* agreed not only to abandon his status of Sole Native Authority but also to re-organize local government administration in Ìjẹ̀búland. After consultation with all shades of opinion, it was agreed that the membership of the Council be composed of the *Awùjalẹ̀,* as the President.[11] Other members were: two titled Chiefs and fifteen elected members from Ìjẹ̀bú- Òde; two titled chiefs and seventeen elected members from the other villages and districts. It must be mentioned that two Subordinate Native Authority Councils were established: Ìjẹ̀bú- Òde Town Council and the Ìjẹ̀bú- Igbó Council. In 1951, the Ìjẹ̀bú- Òde Town Council was reorganized and the total membership became fifty-one. Of these, thirty nine were elected while the other twelve were selected by titled chiefs, town societies and the ruling houses.[12] The *Olisa* of Ìjẹ̀bú- Òde who was the next in rank to the *Awùjalẹ̀* in the town became the President. On the other hand, the Ìjẹ̀bú- Igbó Council was composed of the *Orimolusi* of Ìjẹ̀bú- Igbó as President, six permanent titled members and fifty-five members elected by the various quarters of the town.[13] A considerable number of the members of this council were literate, an indication of the preparedness of the educated folks to take over local government administration from the traditional chiefs.

In Ile-Ife, just like the situation in Ìjẹ̀bú- Òde, the Native Authority for the whole Ife District consisted of the Ooni as Sole Native Authority, assisted by an Advisory Council of twenty-four chiefs and two nominated members.[14] The Ife District Native Authority consisted of the *Ooni* as the President, twenty-eight chiefs and fifteen elected members. Two subordinate Native Authorities were set up- the Origbo District Council, with sixteen Chiefs

[11] NAI, MLG (W) I, 253 vol III Local Government in the Western Provinces.
[12] NAI, MLG (W) I, 253 vol III Local Government in the Western Provinces.
[13] NAI, MLG (W) I, 253 vol III Local Government in the Western Provinces.
[14] NAI, MLG (W) I, 253 vol I Local Government in the Western Provinces.

and ten elected members; and the Ife Town Council, made up of twenty Chiefs and eighteen elected members.[15]

In Iléṣà, the Native Authority was reorganized early in 1951. It was composed of the *Ọwá* of Iléṣà as President. 24 Iléṣà chiefs, including two women chiefs, 15 elected representatives of Iléṣà town, while 24 chiefs were from the District and 15 elected representatives of the outlying Districts.[16] Of the 24 Iléṣà chiefs, some were chosen as permanent members by the *Ọwá* in consultation with the senior chiefs.[17] The majority of elected members were educated folks: consisting of teachers, traders, contractors and a tailor. This local government re-organization purportedly strengthened the old traditional councils by enlarging them and ostensibly introducing the elective principle.

6.3 Factors for Local Government Reform

What could be said to be the impetus for change in local government administration before 1952? The Native Authority Ordinance of 1916, with its several revisions (the last major one being that of 1943), was applied for more than thirty years.[18] The dissatisfaction with the Native Authorities constituted under this ordinance helped to pave the way for the new local government system (as we shall soon see). In the Western Region, the evolution of the Native Authority system had moved away from the position provided in the ordinance of "Sole Native Authority," that is, a chief ruling without recourse to his council in any way. Such "absolute" authority had not been traditionally vested in the chiefs, as it had been shown in Chapter Two of this study. By about 1951, *Obas* in Yorubaland had stressed their desire to relinquish the title of "Sole Native Authority". The many factors which caused the decline of the Native Authority system in Yorubaland immediately after 1938 can be located in the fundamental inability of the chiefs to meet the demands of a changing society. Even in 1939,

[15] NAI, MLG (W) I, 253 vol I Local Government in the Western Provinces.
[16] NAI, MLG (W) I, 253 vol I Local Government in the Western Provinces.
[17] NAI, MLG (W) I, 253 vol III Local Government in the Western Provinces.
[18] NAI, MLG (W) I, 253 vol III Local Government in the Western Provinces.

only five ''Sole Native Authorities" were left in the entire Western Region and by 1949, there were none anymore in Yorubaland, as we have seen the various re-organizations up to the early 1950s before the reform.[19]

Another significant impetus for change was the constitutional change that was blowing during the period 1945. By this time, there had emerged newly organised political parties. One important challenge to the N.A. system during this period was its inability to allow adequate representation of the new middle class of young educated men. These men were already taking an active interest in 'national' politics through the platform of the newly organised political parties. It was a clear fact that the bulk of the traditional rulers were mainly non-literates. This contributed immensely in hampering the possibility of progress in the development of local government administration.

In no small measure the inefficiency and lack of initiative of the Native Authorities must be attributed to the provisions of the legislation under which they operated. The extent of their powers was often misunderstood, even by those in official positions. In 1949, the Acting Secretary, Western Provinces, T. M. Shankland, noted that ''enough is not known of the progress which has been made during the last four years in regard to reform and democratisation of the Native Administrations of the Western Provinces.''[20] It must be noted that in 1951, a political party, the Action Group, grew out of the *Egbe Omo Odùduwà*, which took a cultural form. It was in an attempt to distinguish the conservative cultural group from the radical one which was to motivate the people for radical changes that the Action Group was eventually created. Hence, it operated as a politically militant arm of the *Egbe Omo Odùduwà*. In 1952, the Executive Council of the Western Region decided that the Minister of Local Government, Chief Obafemi Awolowo, will introduce a bill for a Western Region

[19] G. Cowan, *Local Government in West Africa*, New York: Columbia University Press, 1958. pp 16-28.
[20] G. Cowan, *Local Government in West Africa,…*

Local Government Law.[21] Given the manner in which the Native Authority Ordinance had operated and the problems with which it was fraught, it became necessary that a change in legislation be made in respect of local government administration. That was because the Native Authority Ordinance (cap 140) was no longer meeting the desire of the people of the Region at the time. Though, its provisions were fairly elastic and full advantage was taken of it, it was considered that a new and comprehensive enabling law be made.[22] In the same year, a memorandum was released by the Regional Government, a testimony to the fact that the only "road to local self-government was to remove every hindrance to the promulgation of a comprehensive enabling law".[23] The principles on which the 1952 Local Government reform were based included**:** wider representation on native authority council and committees, greater responsibilities, improved efficiency of the executive, federation of smaller Native Authorities into larger and stronger units, as well as political education of the people, particularly in the more backward and rural areas.[24] The signing of this bill into law waited till 1953. That was because the central government desired a number of amendments which was finalised in 1953. The new Local Government Law was then passed to law by His Honour, the Lt. - Governor of Western Region, Mr. Hugo Marshall, on the 26 February 1953.[25]

6.4 The Local Government Law of 1952: Nature and Structure

The Western Region Local Government Law was eventually passed, and took effect from February 25, 1953. The Law was based on the British Local Government System. What was the nature and structure of the local government law? There were about 229 sections in it.[26] It brought to an end the erstwhile Provincial and the top-down structure of local

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[21] N.A.I., MLG (W) I, 22706 Factual Records of Progress of Local Government in Western Provinces.
[22] NAI, MLG (W) I, 24966 vol. I Western Region Local Government Law, 1952.
[23] NAI, MLG (W) I, 24966 vol. II Western Region Local Government Law, 1952.
[24] NAI, MLG (W) I, 24966 vol. II Western Region Local Government Law, 1952.
[25] NAI, MLG (W) I, 24966 vol. II Western Region Local Government Law, 1952.
[26] NAI, MLG (W) I, 253 vol I Local Government in Western Provinces

government. Despite the abrogation of the pyramidal structure, the new law reposed in the Regional Authority, the power to establish these councils. The councils were in three classes: the Divisional Councils, Urban District Council/ Rural District Councils and Local Councils. Under this law, no council was to have more than one quarter of its total membership as traditional members while other members should be elected in accordance to section 5 (1) (h). Before establishing any council, the law required that enquiries should be made; to ensure that it enjoyed the support of the area in question (section 3 sub-sections 1-4).[27] Although the Presidents of councils were still the chiefs or *Oba*, the day to day administration of councils was committed to the elected members who were led by a chairman. Again, each of the councils created was thus established by a definite instrument which determined its composition and functions. Each council had perpetual powers of succession and the power to hold land, sue and be sued (section 6).[28] By about 1955, about 22 Divisional, 104 Districts and 100 Local Councils were already established. Under this law, the Regional Authority was vested in the Lt. Governor-in-Council and had powers, to establish councils by instrument. He could alter them when necessary and could vary the areas. Apart from the power of the Lt. Governor-in-Council to cause enquiries to be held and to dissolve councils, he could also appoint Local Government Inspectors and their Assistants.[29] These Local Government Inspectors, both substantive and the Assistants, had access to all council and committee meetings and to all books, accounts and other records of council. Unlike the erstwhile Residents and the District officers, they were no longer the chief executives but advisers and guides of the local government councils. This was a significant improvement in local government administration. Some of the Local Government Inspectors were responsible for general supervision and advice while others specialized on specific aspects of local

[27] NAI, MLG (W) I, 253 vol I Local Government in Western Provinces
[28] NAI, MLG (W) I, 253 vol I Local Government in Western Provinces
[29] NAI, MLG (W) I, 24966 vol III Western Region Local Government Law, 1952.

administration, such as Treasury and Accounts work. In each Province there were Assistant Local Government Inspectors with Legal qualifications. The Regional Authority was to appoint Auditors of local government accounts. The financial provisions of the law were the same as with the Native Authority Ordinance. District Councils were responsible for the imposition and collection of rates. By 1952, it was not immediately known how the important issue of taxation was to be handled.[30] This was because the chiefs were already relieved of their role of tax collection. This role was viewed by the chiefs as part of their symbol of authority among their people. The removal of this role from the hands of the chiefs considerably reduced their authority and prestige before their subjects.

It is significant to note that elections to the Local Government councils were by secret ballot which was provided for by regulation made under the new law. For the promotion of standards in local government practice, new staff regulations were put in place while staff training came to the purview of the University College, Ibadan, which organised periodical courses in Local Government to meet the needs of the newly created Urban and District Councils. Though the new law, like the previous ordinances, provided for local government police, much more than the erstwhile ordinances, considerable power of supervision, organization and discipline of the local government police were vested in the Regional Commissioner of Police. The emergence of the new local government law indeed marked the beginning of a new era in that it reposed in the local government more powers compared to what was obtainable before the reform.

The calibre of people that were elected into the council went some way in putting local government administration on a stronger footing. That was because they displayed a good 'sense of responsibility, political wisdom, honesty and industry'.[31] The explanation for this is not difficult. It was an era of the emergence of the educated elite in local

[30] NAI, MLG (W) I, 24966 vol III Western Region Local Government Law, 1952.
[31] NAI, MLG (W) I, 24966 vol III Western Region Local Government Law, 1952.

administration of their areas. The requirement for membership of the finance committee made the new local government to predominantly consist of these educated elements. Apart from the fact that a Local Government Inspector was to be appointed for each Province with at least an Assistant or two, one of such assistants was to specialise on treasury work.[32] The powers and duties of Inspectors were defined clearly in the law. (See section 17 sub-section 1-2) It included: the right to check council books and attend committee meetings. It was also his duty to render annual account reports on each council to the Regional Authority and other duties as the relevant Regional Authority deemed fit.

It is significant to examine the provision on land in this new law. This law provided for the acquisition and disposal of land, including the power of compulsory acquisition where that was necessary for local government purposes.[33] It must be noted that one of the reasons why chieftaincy disputes were rife in Yorubaland during our period was the right that the chiefs exercised in land sale. They saw their position in connection with control over land in their various areas. This was because before colonial rule, they had right to appropriate land. It is important to note that in traditional Yorùbá culture, ownership of land was corporate. It was managed and administered by the chiefs on behalf of their people. That was why in 1900, at the wake of colonial rule, the colonial government promulgated the Land Acquisition Ordinance, which empowered recognized head chiefs of the community to alienate land for compensation, to the colonial government. This was a testimony that the chiefs had right to alienate land before 1952.

Membership of council consisted of both traditional members (Chiefs) and elected members. The chiefs were appointed to the council by the Regional Authority or where necessary were elected by an electoral college of Chiefs.[34] This was a new era compared to the Native Authority days. Committees were set-up just as in the days of the Native Authority

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[32] NAI, MLG (W) I, 253 vol I Local Government in the Western Provinces.
[33] NAI, MLG (W) I, 253 vol I Local Government in the Western Provinces.
[34] NAI, MLG (W) I, 253 vol I Local Government in the Western Provinces.

Ordinance, but these committees were directly answerable to the councils. This was a significant departure from what was in practice before the promulgation of the Local Government Law of 1952. The law itself made all councils responsible within their different areas for the maintenance of order, good government and the prevention of crime.

6.5 Amendment of the Local Government Law in 1953

Before the end of 1953, it was obvious that amendment to the 'new' Local Government Law was very inevitable. Mr. A. Bower, an Administrative Officer at Ibadan, wasted no time in sending a message to all Local Government Inspectors thus:

> Consideration is been given to redrafting the Western Region Local Government Law, to incorporate all amendments and such other provisions as appear necessary in the light of experience.[35]

That was partly because some sections in the law had the effect of transferring functions to the Local Government Inspectors. But the law did not contain any provision enabling the Minister to delegate these functions to Local Government Inspectors. This 'new' law was cited as the Western Region Local Government (Amendment) Law, 1953. Section 24 of the principal Law, was amended by re-numbering it as section 24 sub-section (1&2). This section added two sub-sections. The first section provided thus: Notwithstanding the provisions of section 23:

> No person shall be entitled to be elected or appointed as a member of a council without the consent, in writing, of the Regional Authority, who has, within a period of ten years immediately before the date of election or appointment, been as unsuccessful candidate for any office or title of chief in or associated with the area of such council.[36]

[35] NAI, MLG (W) I, 24966 vol III Western Region Local Government Law, 1952. Mr. Joseph Agboola, a Barrister, 57years in an interview on 2 July, 2009.
[36] NAI, CSO 26/2, 17005 vol III Appointment and Deposition of Chiefs Ordinance

For the purpose of sub-section (2) above, the term ''unsuccessful candidate'' meant any candidate, claimant, or contestant for any office or title of chief, other than the person expressly recognized as the holder of such office or title of chief. This was different from the person expressly recognized as the holder of such office or title by the person or body entitled to accord such recognition. Such person must be a person who had been in a dispute within the provisions of sub-section (2), of section 2 of the Appointment and Deposition of Chiefs Ordinance. The object of this law was to provide for the method of appointment and recognition of chiefs to be fixed with a greater degree of certainty than it existed hitherto the new law.[37] Since the 1930s, the appointment of the more important chiefs had been regulated by the Appointment and Deposition of Chiefs Ordinance. But in practice, this Ordinance had not been completely successful in obviating delays and preventing protracted and costly litigations. It was considered that the method of selection of chiefs, as provided by native law and customs, should be codified and in the event of a vacancy, there should be machinery in place to bring about a speedy and final appointment to such vacancy.[38]

This law also provided that the Lt. Governor to designate Local Government Councils and Native Authorities as competent in respect of chiefs recognized by him. Where selection was through a ruling house, the law provided that a council should make a declaration in writing as to the ruling houses, order of rotation, line of succession and identity of kingmakers in accordance to clause 3 of the new law.[39] Chieftaincy Declaration was an officially approved written document stating the customary method of selecting a person to be the holder of a chieftaincy title. Consequently, when a vacancy occurred in respect of a chieftaincy, the competent local government council set up a committee of kingmakers in conjunction with some council members to deal with cases where more than one candidate were put forward by the ruling house concerned in accordance with clause 8. It was clear in

[37] NAI, CSO 26/2, 17005 vol III Appointment and Deposition of Chiefs Ordinance
[38] NAI, CSO 26/2, 17005 vol III Appointment and Deposition of Chiefs Ordinance
[39] NAI, CSO 26/2, 17005 vol III Appointment and Deposition of Chiefs Ordinance

1955 that the Governor should repose in the Minister of Local Government, the responsibility of chieftaincy matters. The new law did not require the Governor to consult the Executive Council regarding the exercise of his powers under section 32 of the Appointment and Recognition of Chiefs Ordinance. The Governor exercised quasi-judicial powers which apparently were in most cases delegated to Residents, in accordance to section 2 sub-sections 2 of the Law.[40] The new law did not, however, repeal the Appointment and Deposition of Chiefs Ordinance. However, it was expected that it would eventually supersede it. Apparently, this explains the manner with which clumsy provisions created confusion in its implementation.

As a testimony to this confusion, the application of the Appointment and Recognition of Chiefs Law to those chieftaincies held by traditional members of local government council did not imply automatic recognition or their approval by government. But persons who were not previously 'Chiefs' as defined by section 5 of the Appointment and Deposition of Chiefs Law did, however, become 'Chiefs' on the establishment of a local government council of which they were traditional members.[41] They were therefore recognized in accordance with the provisions of the initial legislation, before the ''competent Council'' made a declaration under section 3 or 16 of the new law.

Again, in 1953, another amendment was made to the Local Government Law of 1952.[42] This amendment was referred to as the Western Region Local Government (Amendment) (No. 2) Law, 1953. The object of this law was that Clause 2 of the bill was designed to replace a similar provision in the law and made it clear that only the power to regulate the dissolution of native marriages and not all marriages can be exercised.[43] This amendment took care of a number of other issues such as: Land, Local Government Police,

[40] NAI, Ọ̀yọ́ Prof, 3, 6229 Western Region Appointment and Recognition of Chiefs Law, 1954.
[41] NAI, Ọ̀yọ́ Prof, 3, 6229 Western Region Appointment and Recognition of Chiefs Law, 1954.
[42] NAI, Western Region Local Government (Amendment) (No. 2) Law, 1953.
[43] NAI, Western Region Local Government (Amendment) (No. 2) Law, 1953.

and Postal Agencies. That amendment was necessary at this time because of the criticisms of the Secretary of State for the Colonies on the afore-mentioned issues. One of the main reasons for the amendment was that the law as a whole provided for only three categories of councils (Divisional, District, and Local) but subsection 3 (2) might imply that there were four.[44] The proposed amendment was designed to make it clear that while there were only three categories of councils, one of these categories (District Council) may be designated either ''Urban District'' or ''Rural District''.

In this chapter, we have seen that the 1952 Local Government Reform contributed immensely not only to local government administration, it made considerable adjustment to the significance and position of traditional chiefs in Yorubaland. The police system became regularised with the introduction of local government police in the Western Region. That law, emasculated the 'power and authority' of the chiefs on land appropriation and sale. This step changed the erstwhile attachment of chiefaincy to land. Appointment into local council administration started through election which brought into governance crops of educated personalities. The Western Region Local Government Law provided opportunity for the first time for a 'responsible' local government administration. To all intents and purposes, the promulgation of the Western Region Local Government Law of 1952 emasculated the chiefs, thus subordinated them as agents of colonial administration until 1960.

[44] NAI, Western Region Local Government (Amendment) (No. 2) Law, 1953.

CHAPTER SEVEN

CONCLUSION

LEGAL REGULATION OF CHIEFTAINCY DISPUTES IN YORUBALAND: AN APPRAISAL

Chieftaincy as an important social institution in Yorubaland operated as a rallying force that binds the people together. It was fraught, (and still is) with numerous disputes. We have been able to identify that chieftaincy as a political institution in pre-colonial Yorubaland originated from three distinctive sources. A person could become a chief by virtue of being the leader of the group of first settlers. Secondly, a person could also become a chief and imposed his authority on the vanquished after several wars of supremacy. The third avenue through which chiefly position was obtained was through military conquest.[1] We have seen in the course of this study that the chiefs played significant roles in traditional Yorùbá society. One of the functions that the chiefs have been associated with was the administration of justice. The chiefs were involved in the regulation and adjudication of disputes and promotion of community development. Several levels of courts operated in the traditional Yorùbá society as we have seen. Their social functions in the pre-colonial times extended beyond enforcement of traditional laws and adjudication of personal disputes. The chiefs also functioned in the promotion of the socio-economic life of their people. They also provided assistance to individual members of their community in need of lodging and work. Again, an indisputable role performed by the chiefs was the establishment of markets and the control of its operation. In conjunction with the above role, the chiefs set standards for the agricultural products as well as for the products of the various arts and crafts.

The institution of Chieftaincy witnessed considerable changes from the period of the advent of the British in Yorubaland, as elsewhere in Nigeria. The chiefs were seen as

[1] N. A. Brempong, ''Chieftaincy, an overview'', in *Chieftaincy in Ghana: Culture, Governance, and Development,* Legon, Accra, Ghana Sub-Saharan Publishers, 2006. pp.27-30.

instruments of local administration because of the crucial role they played in pre-colonial Yorubaland. It was partly for this reason that they were made to constitute the Native Authority. It must be mentioned that right from the onset, the colonial administration knew that whatever administrative role assigned to the chiefs was going to change with time. Sir William MacGregor, the Governor of Lagos Colony, did not mince word about this even very early:

> …this system will be a temporary one, calculated to take the chiefs only one stage onward in their administrative education. In a very few years something more elaborate will be necessary.[2]

This was made good after several years. By about the 1940s, the position of the chiefs in local administration began to change. As it has been discussed earlier, several factors were responsible for the spate of chieftaincy disputes in colonial Yorubaland. Again, it must be mentioned that the significance that the institution of chieftaincy attained during the colonial period tended to encourage stiff disputes any time there was vacancy. Everyone wanted to be a chief in Yorubaland. The compilation of Intelligence Reports by the colonial administration for the purpose of understanding the socio-political background of the various people created problem of disputes. Secondly, proliferation of ruling houses is another factor for chieftaincy disputes. Several stories of ruling houses that were either included or excluded from the list of existing ruling houses also caused problem. Another significant cause of chieftaincy dispute was the connection that land had in relation to chieftaincy. Several chieftaincy disputes ensued in Yorubaland which came up because of contention over chieftaincy land. We have established earlier on the relationship between chieftaincy and land.

In the course of this study, an attempt was made to show that the promulgation of ordinances and laws to regulate the institution of chieftaincy was done to keep it under

[2] NAI, CSO 1/3, VII, Sir William Macgregor to Colonial Office, dated 22nd March, 1903.

control. The basis for this was the Yorubaland Jurisdiction Ordinance which was promulgated after the 1904/1908 agreement was signed.[3] It had been earlier explained that this was done to give every activity of the British colonial government some form of legality. Ordinances and laws were promulgated to ensure that all the processes of succession or appointment and deposition were strictly under the supervision of the colonial government. As we have seen in this study, the colonial administration found it necessary to regulate chieftaincy practices because it had recognised that chieftaincy institution was the political authority in pre-colonial Yorubaland. It deemed it necessary to control and ensured that it was regulated in order to prevent the possibility of obstruction to trade and economic exploitation of Yorubaland.

The process to regulate chieftaincy institution began when in the early 1940s, it was discovered that chieftaincy disputes were creating a lot of problems in the society and also for the colonial administration. The problem that was created by several chieftaincy disputes became so prevalent that it was reported that:

> For all the havoc which petty squabbles and chieftaincy disputes have wrought in this country…one would think that by now, the last of these banes should have been heard. But even the progressive West seems at the moment, to be the most fertile ground for Chieftaincy disputes.[4]

As a result of this problem described above, several chieftaincy cases were taken to the court as we have seen in the course of the study. The spate of chieftaincy cases in court further created several other problems. This was the result of the involvement of lawyers in the process of chieftaincy disputes resolution. They served not only as advocates for some

[3] NAI, CSO, 5/2, Vol. XIX, XX, XXI, XXIV. See also O. Adewoye, *Judicial System in Southern Nigeria, 1854-1954: Law and Justice in a Dependency*. London: Longman 1977. pp. 54-55. The subject of the Judicial Agreement has been discussed in details in O. Adewoye, 'The Judicial Agreement in Yorubaland, 1904-1908', *Journal of African History,* xii, 4, 1971, pp. 621-628.
[4] Editorial Opinion, *Southern Nigeria Defender* Issue of Saturday, June 28, 1947. p. 2

chiefs and members of the society but also as advisers and letter writers. It is pertinent here to mention how lawyers were 'milking' the people for the services they rendered let alone the circumstances created by them. Such circumstances made some of the disputes almost an unending circle. Also, the exorbitant fees that lawyers charged were what a newspaper referred to as 'the rapacious legal exactions'.[5] The colonial administration believed that the activities of lawyers needed to be checked, otherwise, it would be 'inimical to (the administration's) native policy'.[6] Again, the colonial government felt that none of the professional lawyers who had English legal training could escape 'some study of English constitutional and political history',[7] not least, becoming a politician at the end of his bar studies at the Inns of Court. The effect of these, speculated the administration, was that the African lawyer would return to his country with a bias for 'English representative government and party system of an elected legislature',[8] not realizing how inapplicable such system was to the circumstances of his country. Besides, the administration was interested in shielding the Administrative Officers from lawyers' embarrassments, realising that the Administrative Officers were not adequately versed in legal niceties. As we have seen in the course of this study, lawyers were not alone in the business of making their 'trade'.

Letter-writers, a class of people, who were not in themselves lawyers but had a modicum of 'semi-legal education,' served the chiefs and the populace in Yorubaland to draft and write petitions in respect of different chieftaincy disputes during this period.[9] The activities of letter writers were conspicuously noticeable in the entire Yorubaland. They helped not only to write petitions but also assisted to collect debt for their clients. They also assisted not only in

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[5] Editorial Opinion, *Southern Nigeria Defender* Issue of Saturday, June 28, 1947. p. 2

[6] O. Adewoye, *Judicial System in Southern Nigeria, 1854-1954….* pp. 107-133, See also pp. 188-197. See also NAI, CSO 12/21,288/1902, Lagos Standard, 28 August, 1912; Nigerian Pioneer, 26 June, 1914.

[7] Editorial Opinion, *Southern Nigeria Defender*, Issue of Wednesday, July 28 1948. 'Chieftaincy Bill Meets Opposition in Western House of Assembly. Debates of Chieftaincy Bill. p.1

[8] NAI, CSO, 26, 17005, vol II Appointment and Deposition of Chiefs Ordinance. pp. 32-35.

[9] NAI, CSO, 26, 17005, vol II Appointment and Deposition of Chiefs Ordinance. pp. 32-35.

drafting and actual writing of letters but in fronting for their clients in submitting letters to the colonial offices when it was necessary. The generality of the populace related with them more than they did with lawyers. This was because their charges were far lower than what lawyers were charging. Again, the manner with which judges were deciding on some chieftaincy cases left much to be desired. The people believed that it was a misnomer for the court to continue to set aside the will of the people through the technicalities of the law.[10] This they found to be an embarrassment to the institution of chieftaincy in Yorubaland. As it has been explained earlier, Chief J. R. Turton, the *Ríṣawẹ̀* of Iléṣà, moved a motion that a law be introduced to preclude all matters relating to the appointment, selection and deposition of chiefs from the jurisdiction of the courts.[11] Apparently, this step was to help in preventing lawyers from their nefarious activities in relation to chieftaincy matters in Yorubaland.

As if to resolve this problem, the central Legislative Council proposed the promulgation of another ordinance. This ordinance was to provide for the Appointment and Deposition of Chiefs.[12] Despite this ordinance several chieftaincy disputes were taken to the law courts for resolution. As a result of this, it was difficult to completely preclude lawyers from the operation of the court. It has already been said that the Appointment and Deposition of Chiefs Ordinance created considerable confusion. This confusion started from the efforts of colonial Officers to interpret the essence of the Ordinance in the course of implementation. It was not particularly clear whether the Ordinance applied to chiefs in the Colony of Lagos and the Protectorate. Secondly, it was also not clear whether it involved Chiefs other than Head Chiefs.[13] Several amendments were done to accommodate different bottlenecks that manifested.

[10] NAI, CSO, 26, 17005, vol II Appointment and Deposition of Chiefs Ordinance. pp. 32-35.
[11] NAI, CSO, 26, 17005, vol III Appointment and Deposition of Chiefs Ordinance.
[12] NAI, CSO, 26, 17005, vol II Appointment and Deposition of Chiefs Ordinance.
[13] Supplement to the Western Regional Gazette No. 29, Vol. 4, 23rd June, 1955- Part A. p.14

As if this confusion created was not enough, the permission of the operation of some portions of the old Native Authority Ordinance, particularly, section 9, further made such confusion to continue.[14] Recognition of Chiefs by the Governor was tied to Chiefs who either were native authorities or members of native authorities as was the case with the grading of chiefs.[15] But the actual process of selection of a chief was tied to native law and custom. It is important to note that in the 'Interpretation Ordinance', the word 'chief' and 'Head chief' were defined as ''any native, whose authority and control was recognized by a native community and ''Head chief'' meant any other chief of native authority.[16] It seems therefore, that any control was limited to chiefs who were native authorities or member of native authorities.

With the Appointment and Deposition of Chiefs Ordinance, an enquiry was to be used to settle chieftaincy dispute. It is important to note that all local councils were expected to document their chieftaincy declaration.[17] In 1955, it was made clear that only the Local Government Inspector was responsible for registering all declarations. A special book that was known as a Chieftaincy Declaration Register was kept for this purpose.[18] As we have seen in the discussion of some of the disputes that came up, despite the setting up of such enquiry, chieftaincy cases were still being taken to the courts.

It is important to note that prior to the new Local Government Law of 1952; chiefs were held in high esteem. As soon as this law was promulgated the position of the chiefs began to wane. In the period immediately after 1945, anti-chieftaincy sentiment became much stronger while party politics and traditional authority seemed to exist at opposite ends of the political spectrum. In 1947, the Nigerian Women's Union (N.W.U.) under the

[14] Supplement to the Western Regional Gazette No. 29, Vol. 4, 23rd June, 1955- Part A. p.14
[15] I. Nolte, "Obas and Party Politics: The Emergence of a Postcolonial Political Identity in Ìjẹ̀bú-Remo, 1948-1966''. In O. Vaughan (ed.) *Indigenous Political Structures and Governance in Nigeria*, Ibadan: Bookcraft Ltd, 2004. pp.131-163.
[16] I. Nolte, "Obas and Party Politics:…''
[17] I. Nolte, "Obas and Party Politics:…''
[18] Western Region House of Chiefs Debates, 9th August 1952.

leadership of Mrs Funmilayo Ransome-Kuti led a protest against the *Aláké* of Abẹ́òkúta.[19] This was mainly against the taxation of women by the Native Authority, which was led by the *Aláké*. Several of such resistance against the policy of the colonial administration broke out in most parts of Yorubaland. One main reason which contributed to the reduction of anti-royal agitation in most towns in Yorubaland particularly in Remo was Obafemi Awolowo's political ambition.[20] As soon as he achieved his political desire, his attitude changed to Chiefly authorities. This was first observable in the provisions of the reforms of the local government which he put forward in 1952.

At about the beginning of the proposal of the Local Government Law, particularly at the floor of the House of Chiefs, it was said that the object of the Law was threefold. One, it was to protect the Chiefs and to assist them in the 'present day work of the administration'.[21] Two, it was intended to enhance the prestige of the Chiefs and to stimulate the respect and cooperation not only between the Chiefs and their subjects but also to encourage this by their spirit of mutual understanding which was so much required for greater service to the people. Three, it was intended to give legal sanction to practices and conventions which were already in vogue in the Western Region. These intentions enumerated above seemed to be a ploy to deceive the Chiefs in the House of Chiefs. The *Odemo* of Ishara, a prominent member of the House of Chiefs who did everything possible to support the Local Government Law, did not fail to show that the Law would inevitably affect the Chiefs negatively. In his words:

> The growth of education today in our country has created a new community, a new community with a new problem a new political aspiration, a new outlook, and a new form of demands…they are in the minority and perhaps a very small minority, in the Western Region, but it is a minority very loudly articulate, a very strong minority, too

[19] Western Region House of Chiefs Debates, 9th August 1952.

[20] I. Nolte, "Obas and Party Politics: The Emergence of a Postcolonial Political Identity in Ìjẹ̀bú-Remo, 1948-1966''. In O. Vaughan (ed.) *Indigenous Political Structures and Governance in Nigeria*, Ibadan: Bookcraft Ltd, 2004. pp.131-163.

[21] Western Region House of Chiefs Debates, 9th August 1952.

> strong, too influential and too powerful to be despised or shall I say, to be suppressed.[22]

It was not difficult for the members of the public to understand that the likes of the *Odemo* of Ishara, were only promoting the desire of the nationalists. This was because a number of the chiefs were themselves educated. It was also clear to the non-literates chiefs that it was the end of the road as far as participation in local administration was concerned. One B. I. Salami, sent a letter of protest to the Western Regional Legislature: the House of Assembly and the House of Chiefs. In his letter, he made reference to a meeting of the Hon. Minister of Local Government with the Ẹ̀gbá Local Council on the 29 May 1951, he implored the two Houses to 'use all influence, to prevent the passing of this bill to law'.[23] To him, he was of the opinion that the law 'is inimical to the interest of the natural rulers'.[24] The provisions of the Local Government Law removed the Chiefs almost completely from the scheme of things. Before the promulgation of this law, the chiefs were involved in the collection of taxes in their various areas. As soon as this new law came into force, tax collection role of the chiefs seized. This trend created a lot of misgivings between the Chiefs and the Nationalists.

One issue that needs be noted is the extent to which the law and the courts settled Chieftaincy disputes during our period. It can be said that law and the court went some way in resolving Chieftaincy disputes. On the part of the use of law as an instrument of social control, we have seen how the promulgation of several ordinances helped to control chieftaincy matters in colonial Yorubaland. But it must be noted that these ordinances created confusion, particularly in the process of their implementation. Just as the colonial administration used law to regulate chieftaincy affairs, the Western Regional Government

[22] Western Region House of Chiefs Debates, 9th August 1952
[23] NAI (W) 1, 253 vol. I-III Local Government in the Western Provinces.
[24] NAI (W) 1, 253 vol. I-III Local Government in the Western Provinces.

also used the promulgation of the law to regulate local government administration in the region. Hence, law was a veritable tool of governance.

The courts played a significant role in resolving chieftaincy disputes. Several disputes that would have created disorder and pandemonium in Yorubaland were put to rest by judicial process. A typical example was the case of the *Awùjalẹ̀* Otubosin, the *Gbélégbúwà* of Ijebuland. There were instances in which the high-handedness of the kingmakers was checked. The *Rísawẹ̀* Chieftaincy dispute in Iléṣà is a case in point.

The court cannot be freed from some blame in respect of chieftaincy disputes. In some occasions cases were delayed as it went on an unending circle. Again, there were occasions when the colonial administration also intervened to tip the scale of justice for political reasons. Personal ideologies of some of the Judges also tended to affect judicial decision. Courts exist to settle disputes of varying degrees, but this function imposes certain requirements on judicial procedures. Judicial decisions are expectedly based only on the information formally fed into the system. The most important single formal requirement is that judicial decisions be based on reason. In a colonial setting, it was the policy of the administration that was fed into the colonial system and all colonial officers were almost always guided by this policy even if it was inimical to justice.

This study has established that law is a veritable instrument of administration in either colonial or post colonial period. Law was used to regulate the activities of the populace for the convenience of socio-economic and political administration for social order. Behind the need for order was the desire of the administration to exploit the resources of the country. British colonial rule in Yorubaland could have been very chaotic but the use of the law legitimised its activities. Governance has found law as a useful tool for either the introduction of vital aspects of its operations or its implementation. This study has shown that just as law did not stand alone in pre-colonial Yorubaland, it operated in cooperation with other

measures in colonial Yorubaland. The British colonial administration was able to resolve the problem of social disorder associated with chieftaincy matters between 1939 and 1960 through the instrumentalities of the law, the Courts, commission of enquiries and Chieftaincy Declaration but they could not stop persistent chieftaincy disputes during this period. The British colonial administration was largely successful in restoring social order through legal regulation of chieftaincy disputes.

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Adesanya David	Trader	82	Ìjẹ̀bú-Igbó	22 July, 2009
Adesegun Joseph	Retired Civil Servant (Barrister)	70	Ago-Iwoye	23 July, 2009
Adetola Laja	Industrialist	70	Ìjẹ̀bú-Igbó	12 April, 2010
Adetola Odusote	Farmer	72	Ìjẹ̀bú-Igbó	23 May, 2010
Adeyinka Ogunsusi	Farmer	75	Ọ̀wọ̀	20 June, 2010
Atewogbade Thomas	Sawmiller	76	Ìjẹ̀bú-Igbó	1st March, 2010
Bayo Kasali	Trader	71	Ìjẹ̀bú-Òde	6 Sept., 2009
Chief Adedeji, Akinola	Barrister	68	Ilésà	26 Jan, 2009
Chief Adedokun Joseph	Trader	73	Ọ̀wọ̀	21 June, 2010
Chief Adeniyi Salako	Farmer	70	Ọ̀yọ́	20 Oct, 2009
Chief Alamu Ganiyu	Farmer	71	Okeho	12 Oct, 2009
Chief Babalola Samuel	Trader	70	Ilésà	17 June, 2011
Chief Sarumi Ibitoye	Trader	78	Ilésà	23 Jan, 2009
Chief Tajudeen Salawu	Farmer	74	Ìràwọ̀	18 Oct, 2009
John Ogunsua	Trader	69	Ìjẹ̀bú Mushin	29 June, 2009
Joseph Ogunbona	Farmer	67	Ìjẹ̀bú-Òde	23 June, 2008
Ògúnbanjo James	Farmer	72	Òmù-Ìjẹ̀bú	4 Sept, 2009
Olanrewaju Olaleye	Trader	73	Ilésà	27 Jan, 2009
Popoola Samuel	Retired Civil Servant	68	Ilésà	26 Jan, 2009
Timothy Otubanjo	Barrister	78	Ìjẹ̀bú-Igbó	24 July, 2009
Titus Ogunbona	Barrister	68	Ìjẹ̀bú-Òde	27 June, 2009

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Adebayo Abdul	Retired Civil Servant	68	Ìjẹ̀bú-Òde	3/10/2010
Adeniyi Sofowora	Trader	65	Ikenne	8/12/2012
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Mrs. Alaba Oyefeso	Trader	63	Ikenne	7/12/2012
Mrs. Biodun Osinusi	Trader	68	Ìjẹ̀bú-Òde	6/10/2010
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Omotayo Adekanhusi	Civil Servant	60	Owo	6/10/2012
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Samuel Erinfolami	Trader	53	Ikenne	8/12/2012
Tiamiyu Adebisi	Farmer	68	Osogbo	16/8/2012

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Adegbola Adebisi	Barrister	50	Ibadan	8/5/2012
Adetola Samuel	Barrister	57	Ibadan	8/5/2012
Adetunji Thomas	Barrister	65	Ibadan	8/5/2012
Adewole Oludare	Barrister	48	Iléṣà	14/8/2010
Akinpelu Osobu	Barrister	62	Iléṣà	14/8/2010
Babatunde Ibironke	Barrister	58	Iléṣà	13/8/2010
Gbadamosi Olatunji	Barrister	57	Ibadan	8/5/2012
James Oluwande	Barrister	48	Ìjẹ̀bú-Òde	6/10/2010
Nwankwo Jane	Barrister	46	Ibadan	9/5/2012
Olaitan Adewumi	Barrister	62	Iléṣà	14/10/2010
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Olugbenga Turton	Barrister	51	Iléṣà	13/8/2010
Olusegun Baruwa	Barrister	60	Ìjẹ̀bú-Òde	6/10/2010
Ososanya Modupe	Barrister	47	Ibadan	9/5/2012
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APPENDIX I

LEGISLATIVE COUNCIL

PROCLAMATION

By ALAN CUTHBERT MAXWELL BURNS,
Esquire, Companion of the Most Distinguished
Order of Saint Michael and Saint George,
Governor's Deputy, etc., etc., etc.s

WHEREAS the undermentioned Ordinance enacted by the Governor, with the advice and consent of the Legislative Council so far as the provisions thereof relate to the Colony and to the Southern Provinces of the Protectorate, was on the 13th March, 1930, reserved by the Governor's Deputy for the signification of His Majesty's pleasure;

Now, THEREFORE, I, ALAN CUTHBERT MAXWELL BURNS, Companion of the Most Distinguished Order of Saint Michael and Saint George, the Governor's Deputy, do hereby proclaim that the Right Honourable the Secretary of State for the Colonies has signified to His Excellency the Governor that the said Ordinance shall take effect.

AN ORDINANCE

To provide for the Appointment and Deposition of Chiefs in the Colony and Head Chiefs in the Protectorate (No. 14 of 1930)

GIVEN under the Public Seal of the Colony and Protectorate at Lagos, this 2nd day of July, 1930s.

GOD SAVE THE KING.

-- N.B. – The Ordinance mentioned in the above Proclamation is [published for general information in a supplement to this Gazette.

APPENDIX II

No. 20 1945

Colony and Protectorate of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE VI.

SIR GERALD WHITELEY, C.M.G.

Officer Administering the Government.

AN ORDINANCE TO AMEND THE APPOINTMENT ANDDEPOSITIPON OF CHIEFS ORDINANCE ,1930.

(19th April, 1945.) Date of commencement.

Enactment

BE IT ENACTED by the Governor of the colony and Protectorate of Nigeria, with the advice and consent of the Legislative Council so far as the provisions hereof relate to the Colony and to the Southern Provinces, as follows:-

No. 20 of 1945 *Appointment and Deposition of Chiefs (Amendment)*

----

short title. **1.** This Ordinance may be cited as the Appointment and Deposition of Chiefs (Amendment) Ordinance, 1945.

Amends long title of Ordinance 14 of 1930 **2**. The long title of the Appointment and Deposition of Chiefs Ordinance, 1930, hereinafter referred to as the principal Ordinance, is hereby amended by inserting a full stop after the word "Chiefs" where it first occurs therein and by deleting the reminder of the long title

Amends Section 2 of Ordinance 14 of 1930 **3.**Section 2 of the principal Ordinance is hereby amended:-

(a) By deleting the expressions "in the Colony" and "in the Protectorate" where they occur therein and

(b) By deleting sub-section (2) and substituting the following therefor:---

"(2) "In the case of any dispute the Governor, after due enquiry and consultation with the persons concerned in the selection, shall be the sole judge as to whether any appointment of a chief has been made in accordance with native law and custom."

Amends Marginal note **4.** In the marginal note to section 2 of the principal Ordinance there shall be inserted a full stoop after the word marginal note deleted:

to section 2 of part of the Ordinance affect the 14 of 1930. Construction of either Ordinance. Proviso.

Provided that nothing in this Ordinace shall make any marginal note principal Ordinance or of this Ordinance or make any marginal note

Amends Section 4 of Ordinance No. 14 of 1930

5.Section 4 of the principal Ordinance is hereby amended:--

(a) By inserting after the word "Governor" the expression", after due enquiry and

(b) By deleting the expression "in the Colony and any head chief in the Protectorate" where it occurs therein and substitution the words " or any head chief" therefor.

Amends marginal note to section 4 of Ordinance 14 of 1930

6.In the marginal note to section 4 of the principal Ordinance there shall be inserted a full stop after the word " Chiefs" where it first occurs and the remainder of the marginal note deleted:

---Provided that nothing in this Ordinance shall make any Proviso. marginal note part of the principal Ordinance or of this Ordinance or make any marginal note affect the construction of either Ordinance.

7. The principal Ordinance is hereby amended by adding thereto the following section:--

Adds a new section to Ordinance 14 of 1930.

Ordinance 17 od 1943 Definition. "5 For the purposes of sections 2 and 4 of this Ordinance the words "chief" and "head chief" mean a chief or a head chief who has been appointed to the office of native authority under the provisions of the Native Authority Ordinance, 1943, or which is a member of a native authority so appointed or deemed to be constituted, is a chief associated with a council, any chief or head chief who is a member of that council and any chief or head chief who is a member of an advisory Council.".

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and in so far as the provisions thereof relate to the Colony and to the Southern Provinces of the Protectorate, is found by me to be a true and correctly printed copy of the said Bill.

F.D. JAKEWAY,
Clerk of the Legislative Council.

--- Printed and Published by the Government Printer, Lagos
448/445/400 2d copy.

APPENDIX III

APPOINTMENT AND DEPOSITION OF CHIEFS
(Colony and Protectorate)

Ordinances No. 14 of 1930 20 of 1945

AN ORDINANCE TO PROVIDE FOR THE APPOINTMENT AND DEPOSITION OF CHIEFS.
(Amended by No. 20 of 1945.)

Short title And application.

1. This Ordinance may be cited as the Appointment and Deposition of Chief Ordinances, and shall apply apply to the Colony and Protectorate (including the Cameroons under British Mandate).

Appointment Of chiefs.

2. (1) Upon the death, resignation or deposition of any chief or of any head chief the Governor of the Region concerned (1) may approve as the successor of such chief or head chief, as the case may be, any person appointed in that behalf by those entitled by native law and custom so to appoint in accordance with native law and custom; and if no appointment is made before the expiration of such interval as is usual under native law and custom, the Governor of the Region concerned (1) may himself appoint such person as he may deem fit and proper to carry out such duties incidental to the chieftancy as it may be necessary to perform.

2. In the case of any dispute the Governor of the Region concerned, after due inquiry and consultation with the persons concerned in the selection, shall be the sole judge as to whether any appointment of a chief has been made in accordance with native law and custom. (substituted by No. 20 of 1945)

Grading of head chiefs

3. The Governor of the Region concerned (2) may grade head chiefs in his region as first, second, third fourth or fifth class according to their importance

Deposition Of chiefs.

4. The Governor of the Region concerned, (1) after due inquiry and consultation with the persons concerned in the selection, may depose any chief or any head chief whether

---

(1) Power to appoint and depose head chiefs and chieftaincies except first-class chiefs and chieftaincies, delegated to chief commissioners; and similar power delegated to Residents in charge of provinces and the commissioner of the colony, with the exception of first – and second-class head chiefs and chieftaincies
(2) Power to grade head chief, except the power to grade a head chief as a first- class head chief, delegated to Chief Commissioners appointed before or after the commencement of this

Ordinance, if after inquiry he is satisfied that such deposition is required according to native law and custom or is necessary in the interests of peace, or order or good government.

Definition 5. (1) For the purposes of sections 2 and 4 of this Ordinances the words "chief" and "head chief" mean a chief or a head chief who has been appointed to the office of native authority under the provisions of the Native Authority Ordinance or which office is deemed to be constituted thereunder or who is a member of a native authority constituted or deemed to be constituted under the provisions of that Ordinance or, where the office of native authority so appointed or deemed to be constituted, is a chief associated with a council, any chief or head chief who is a member of that council and any chief or head chief who is a member of an advisory council.

(a) Renumber the section as section 5(1); and
(b) Add the following new sub-section:-
"(2) The words "chief" and "head chief\' for the purposes of the said sections shall also include any chief or head chief who is appointed to be a member of a local government council established under the provisions of the Eastern Region Local Government Ordinance, 1950 or the western Region Local Government Law, 1952."

APPENDIX IV

No. 30 of 1948
CHIEFTAINCY DISPUTES (PRECLUSION OF COURTS)
AN ORDINANCE TO PRECLUDE THE HEARING AND DETERMINATION OF CHIEFTAINCY DISPUTES FROM CERTAIN COURTS BOTH IN ORIGINAL AND APPELIATE JURISDICTIONS.

Ordinance No. 30 of 1948.

Short title. and application.

(1) This ordinance may be cited as the chieftaincy dispute (preclusion of courts) ordinance, 1948, and shall apply to the western provinces.
The Governor may apply this ordinance to the northern province upon a resolution adopting this ordinance being passed by the House of chiefs and the Northern House of Assembly, and to the colony upon being so requested by a majority of the Native Authorities there in.

Interpretation.

In this ordinance: -
“chief” includes a chief within the meaning of the Appointment and Deposition of chiefs ordinance;
“court” means a magistrate’s court, the supreme court and the West African court of Appeal or any one of such courts;
“property” includes all regalia and other things whatsoever attaching to a chief by virtue of his chieftaincy.

Chieftaincy disputes not to be entertained by the courts.

Notwithstanding anything in any written law contained whereby or where under jurisdiction is conferred upon a court, whether such jurisdiction is original, appellate or by way of transfer, a court shall not have jurisdiction to entertain any civil cause or matter instituted for –
The determination of any question relating to the selection, appointment, installation, deposition or abdication of a chief; or
The recovery or delivering up of any property in connection with the selection, appointment, installation, deposition or abdication of a chief.

Description of ownership of property of chiefs in criminal cases.

Cap. 43

Where in any criminal proceedings it is necessary to name the person to whom any property belongs and that property is the property of a chief by virtue of his chieftaincy, it shall be sufficient to name such chief by whichever title such chief is known notwithstanding that no person has been duly appointed or installed as such chief or that there is a dispute in respect of such chieftaincy, and the provisions of sections 146, 147 and 154 of the criminal procedure ordinance in particular, and any other similar provisions in any other written law shall be construed accordingly.
(1) Nothing in this ordinance contained shall prejudice or prevent the trial of any cause pending before the supreme court or a magistrate’s court on the date on which this ordinance comes into operation, or any appeal from the decision of such

court in any such pending cause, or the prosecution of proceeding for giving effect to a judgment in any such trial or obtained before the coming into operation of this ordinance.
(2) For the purposes of this section, the date on which this ordinance comes into operation shall, with respect to the Northern provinces or colony, be construed to mean the date on which this ordinance is applied to the Northern provinces or to the colony, as the case may be.

W.R.L.N. 61 OF 1955

PUBLIC NOTICE

The Western Region Appointment and Recognition of Chiefs Law, 1954 (No. 1 of 1955)/

DATE OF COMMENCEMENT: 23RD FEBRUARY, 1955

In exercise of the powers conferred upon him by sub-section (2) or section 2 of the western region appointment and recognition of chiefs law, 1954, the governor, after consultation with the executive council, hereby applies part II of the Western Region Appointment and recognition of chiefs law, 1954, to chieftaincies referred to in the first column of the schedule to this notice and designates as the competent local government council in respect of each and chieftaincy the respective local government council specified opposite thereto in the second column of the said schedule.

SCHEDULE

(1) Chieftaincies to which Law is to be applied to be applied	(2) competent Local Government Council
Chieftaincies held by the chiefs referred to in the following: -	
X X X	X X
21. Paragraphs 4 and 7 of W.R. Public Notice No. 144 of1953 Public	Aiyedade District Council.
	Ede District Council.
22. Paragraphs 4 and 7 of W.R. Public	Egbedore District Council.
23. Paragraph 7 of W.R. Public Notice	Ejigbo District Council.
24. Paragraphs 4 and 7 of W.R Public	Ifelodun District council.
25. Paragraph 7 of W.R. Public Notice No. 148 of 1953	Ikirun District council.
	Odo-otin District council.
26. Paragraphs 4 and 7 of W.R. Public	Oshogbo District council.
27. Paragraphs 4 and 7 of W.R. Public	Iwo District council.
28. Paragraphs 4 and 7 of W.R. Public Notice No. 151 of 1953	Ogbomosho District council.
	Ibadan (provisional) District council.
29. Paragraphs 4 and 7 of W.R. Public Notice No. 156 of 1953	
30. Paragraphs 4 and 7 of W.R. Public	
31. Paragraphs 4 and 7 of W.R. Public Notice No. 159 of 1953	
X X X	X X
82. paragraph 7 of W.R. Legal Notice 163 of 1954 Ibarapa District Council.	…
X X X	X X

MADE at Ibadan this 23rd day of February, 1955.

By His Excellency's Command,

W.M. MILLIKEN,

Acting Secretary to Government

APPENDIX V

Supplement to the Western Regional Gazette No. 29, Vol. 6, 20th June, 1957-Part A
Assented to in Her Majesty's name this 3rd day of June,, 1957.

A.G.R. MOORING,
Officer Administering the Government
Of the western Religion

(L.S.)

No. 20 **1957**

Western Religion of Nigeria

IN THE SIXTH YEAR OF THE REGION OF
HER MAJESTY QUEEN ELIZABETH II
ARTHUR GEORGE RIXSON MOORING, C.M.G
Officer Administering the Government of the Western Region

A LAW TO PROVIDE FOR THE APPOINTMENT AND APPROVAL OF CHIEFS, FOR THE DETERMINATION OF CERTAIN CHIEFTAINCY DISPUTES, FOR THE SUSPENTSION AND DEPOSITION OF CHIEFS AND FOR PURPOSES CONNECTED THEREWITH.

(20th June, 1957) Date of commencement

BE IT ENACTED by the Legislations of the Western Region of Nigeria as follows:- Enactment

PART I - INTRODUCTORY

1. This Law may be cited as the Chiefs Law, 1957. Short title
2. In this Law, unless he context otherwise requires- Interpretation

"Chiefs means a person whose chieftaincy title is associated with a native community and includes a minor chief and a recognized chief;

''Competent council" in relation to a chieftaincy means the local government councils designation as competent by the Minister; ''the committee' in relation to a competent council means the committee of the council established by section 5;

'king-makers' in relation to a chieftaincy means the persons entitled in accordance with customary law to appoint a person to be the holder of the chieftaincy;

'Minor chief' means a person appointed to a recognized chieftaincy;

'Recognised chieftaincy' means a chieftaincy to which the provisions of Part II apply;

'ruling house' in relation to a chieftaincy means the descendants of a lineal ancestor entitled in accordance with customary law to provide from amongst their own number a candidate or candidates for appointment by the kingmakers as holder of that chieftaincy;

'the minister' means the Regional Minister to whom responsibility for local government matters is assigned in accordance with the Nigeria (Constitution) order in Council, 1954;

'the Region' means the Western Region;

Law No. 1 of 1994

'the repealed Law' means the Appointment an Recognition of Chiefs Law, 1954.

Application of Part II to a chieftaincy

3. The Minister may by order-

(a) Apply the provisions of Part II to a chieftaincy;

(b) Designate a local government council as the competent council in respect of that chieftaincy.

PART II-RECGONIZED CHIEFS

Declaration of customary law relating to selection of chiefs

4. (1) Subject to the provision of this Law, the committee of a competent council-

(a) May ; and

(b) Shall, if so required by the Minister,

Male a declaration in writing stating the customary law which regulates the selection of a person to be the holder of a recognized chieftaincy.

(2) In the case of ruling hose chieftaincy the declaration shall include-

(a) a statement of the customary law relating to the following maters-

(i) the number of ruling houses and the identity of each such ruling house;

(ii) where there is more than one ruling house, the order of rotation in which the respective ruling house are entitled to provide candidates to fill successive vacancies in he chieftaincy;

(iii) the person who may be proposed as candidates by a ruling house entitled to fill a vacancy in the chieftaincy;
(iv) the number and identity of the kingmakers;;
(v) the identity of any other person whose consent is required to an appointment made by the kingmakers and the usage regulating the granting or withholding of such consent; and
(b) where, before making of the declaration, the right of provÌding candidates has not been exercised under customary law in accordance with an ascertainable order of rotation, the recommendation of the committee as to the order in which the ruling houses should exercise that right after the coming into effect of the declaration
(3) In the case of a recognized chieftaincy other than a ruling house chieftaincy, the declaration shall contain a sufficient description of the method of selection of the holder of the chieftaincy.
(4) In exercise of their powers under this section a committee shall ensure that no family is declared as a ruling house which is not generally recognized as such at the time of making the declaration by the community with which the chief concerned is associated, and in particular shall not declare as a ruling house a family which has been in the remote past so recognized at the time of making the declaration.

Committee of council to make recommen-dations

5. (1) For every competent council there shall constituted, by virtue of the provision of this section, a committee of the council for he purpose of making declaration under section 4.
(2) The economic shall be composed of the President, if any, and all the traditional members of the council.
(3) Where the committee makes a declaration the committee shall transmit it to the council which may make such comments for consideration by the Minister with respect to the declaration as it thinks fit.
(4) Where-
(a) the number of traditional members of the competent council provided for in the Instrument relating to the council is for the time being less than thee; or
(b) more than half the number of traditional members of the competent council are for the time being unable to sit by reason of a vacancy in any of the offices the holders of which are members or by reason that the appointment of any person to any of those office has been approved under this Law.
The council may exercise the powers conferred on the committee by section 4, instead of the committee, and section 4 shall be construed accordingly.
(5) The president of the council, if any shall be chairman of the committee.

(6) Subject to the provisions of this section, the Minister may make, vary and revoke standing orders respecting the chairmanship, quorum, place of meeting and proceedings of any committee or committees constituted by this section.

Functions of local government advisers

6. (1) A competent council shall send to the local government adviser in respect of the council-

(a) any declaration made by the committee of the council under this part; and

(b) any comment made by the councils with respect to that declaration,

And the local government adviser shall submit them to the Minster.

(2)Where it appears to the local government adviser that a declaration sent to him-

(a) does not contain matters required to be included by section 4 ; or

(b) does not otherwise contain sufficiently clear statement of the customary law relating to any mater in respect of which it is made, he may, instead of submitting the declaration to the minister refer that declaration back to the committee and require the minister refer hat declaration or make a new declaration.

Power of Minister with respect to declarations

7. (1) The Minister may approve or refuse to approve a declaration made by the committee of a competent council.

(2) Before exercising his powers under sub-section (1) of this section the Minister may-

(a) cause an inquiry to be held in accordance with section 21 ; or

(b) whether or not an inquiry has been held, require the committee of the computer council to amend the declaration in any respect that he may specify.

(3) Where in respect of a chieftaincy-

(a) the committee of a competent council fails to make a declaration within six months of being required to do so in accordance with section 4 ; or

(b) the committee of a competent council fails to amend a declaration in the respects specified by the Minister within six months of being required to do so in accordance with sub-section (2) of this section.

The minister may make a declaration in respect of that chieftaincy in accordance with the power conferred on the committee.

(4) before exercising any of the power conferred by sub-section (3) of this section, the Minister may cause such inquiries to e held in accordance with section 21 as appear to him to be necessary or desirable…

(5) upon a declaration in respect of a chieftaincy being made by the Minister every declaration made under this Law or the repealed Law relating to that chieftaincy that is not approved shall be void and of no effect.

8. (1) Every declaration of the committee of a competent council approved by the Minister of every declaration made by the Minister shall be registered and retained in safe custody by such officer of the Ministry of Local Government as the Minister may direct.

Registration of Declaration

(2) no declaration shall come into effect until it is so registered.

9. Where a declaration in respect of a recognized chieftaincy is registered under this Part, the matters therein stated (including any recommendation under paragraph (b) of sub-section (2) of section 4) shall be deemed to be the customary law regulating the selection of a person to be holder of the chieftaincy to the exclusion of any other customary usage or rule

Declaration deemed to state customary law.

10. (1) A person shall, unless he is disqualified, be qualified to be a candidate to fill a vacancy in a recognized chieftaincy if-

Qualifications and disqualifications of candidates

(a) he is proposed by he ruling house or the persons having the right to nominate candidates are entitled to proposed, according to customary law,

(b) (i) he is a person whom the ruling house or the persons having the right to nominate are entitled to proposed, according to customary law, as a candidate ; or

(ii) he is unanimously proposed as a candidate by the members of the ruling house or the persons entitled to nominate candidates.

(2) No person shall be qualified to be a candidate for a recognized chieftaincy who-

(a) suffers from serious physical infirmity ; or

(b) has, under any law in force in Nigeria, been found or declared to be a lunatic or adjudged to be of unSọ́ụ́nd mind; or

(c) has, in any Britain possession-

(i) been sentenced to death or imprisonment for a term exceeding two years; or

(ii) been convicted of an offence involving dishonesty and sentenced to imprisonment therefore,

And has not be granted a free pardon.

11 (1) Where a vacancy occurs in ruling house chieftaincy and a declaration has effect with respect to the chieftaincy-

Procedure to fill vacancies to ruling house chieftaincy

(a) The secretary of the competent council shall announce the name of the ruling house entitled according to customary law to provide candidates to fill the vacancy;
(b) Not later than fourteen days after the announcement by the secretary the members of the ruling house, acting either jointly or severally, shall submit the name of a candidate or candidates to the kingmakers ;
(c) If within the time prescribed by paragraph (b) of this sub-section, ruling house named in the announcement fails to submit the name or names of a candidate, and there is more than one ruling house, the secretary shall make an announcement accordingly and the ruling house next entitled to the other of rotation contained in the declaration shall be

entitled to submit a name or names within the period of fourteen days immediately following such announcement , and so on according to the same procedure, until the name of a candidate is submitted to the kingmakers ;

(d) Within not more than seven days after the submission of the name of a candidate or candidates the kingmakers shall proceed to select a person to fill the vacancy in accordance with the provision of paragraph (e) of this sub-section;

(e) (i) if he name of only one candidate is submitted who appears to the kingmakers to be qualified and not disqualified in accordance with section 10, they shall declare him to be appointed ;

(ii) if the names of more than one candidate are submitted who appear to the kingmakers to be qualified and not disqualified in accordance with section 10, the names of those candidates shall be submitted to the vote of the kingmakers and the candidate who obtains the majority of the votes of the Kingmakers present and voting shall be declared appointed ;

(iii) in voting upon candidates the kingmakers shall have regard to the relative ability, characterized and popular support of each candidate ;

(iv) if he name of only one candidate is submitted and it appears to the kingmakers that he is no qualified or is disqualified in accordance with section 10, or if, in the case of a chieftaincy in respect of which there is only one ruling house, no candidate is submitted to the kingmakers, they shall inform he ruling house and the secretary according and the ruling house shall be entitled to submit a further name within fourteen days of being so informed and thereafter the procedure contain in paragraphs (c) to (e) of this sub-section shall apply.

(2) For the purpose of paragraph (a) of sub-section (1) of this section an announcement shall be made-

(a) (i) by delivering a notice in writing to the ruling house concerned ; and

(ii) by publishing a notice in the manner required by the Local Government Law, 1957, for the publication of notice of a council ; and

(iii) by giving notice in any manner required by customary law, within fourteen days of the occurrence of the vacancy ; and

(b) by notification at the earliest practicable ordinary meeting of the competent council to be held after the occurrences of the vacancy.

Procedure to fill vacancies in other chieftaincies

12. Where a vacancy occurs in a recognized chieftaincy, other than a ruling house chieftaincy, and a declaration has effect with respect to the chieftaincy, a qualified person shall be nominated,, selected and appointed in accordance with the customary law relating to that chieftaincy within thirty days of occurrence of the vacancy.

13. (1) Where-

Default in performance of functions

(a) the secretary to the competent council or the kingmakers fail to discharge any function conferred upon them by section 11 within the time required ; or

(b) in the case of a recognized chieftaincy, other than a ruling house chieftaincy, any persons entitled to nominate, select or appoint to a vacancy fail to exercise their powers within such time as appears reasonable to the Minister,

The minister may appoint such persons to exercise and perform those powers and duties as he may think fit, in place of the secretary, kingmakers or other persons in default.

(2) Subject to the provisions of sub-section (1) of this section, the performance, after the expiration of the period prescribed, of any function under section 11 by the secretary or kingmakers or any function under section 12 by any persons entitled to nominate select or appoint to a vacancy shall not, by reason only of its being performed out of time, be invalid.

Consent of other persons

14. Where under customary law the appointment of a recognized chief requires the consent of any person-

(a) if that person is the holder of a recognized chieftaincy and his office is vacant, no proceedings shall be taken to fill a vacancy in the chieftaincy to whose appointment consent is required until a person is approved under this part as the holder of the consenting chieftaincy and sections 11 and 12 shall be construed accordingly;

(b) the persons responsible under customary law for obtaining that consent shall make application for the same not more than seven days after the declaration of an appointment;

(c) the consent shall not be unreasonably withheld.

Secretary to inform Minister of appointments

15.As soon as practicable after he declaration of an appointment the secretary of the competent council shall inform the Minister thereof and, if the consent of any person is required to the appointment, whether the consent has been granted or withheld.

Approval of appointments

16. (1) Subjected to the provision of this section, the Governor in Council may approve or set aside an appointment of a recognized chief…

(2) The Governor in Council shall not approve or set aside and appointment within the period of twenty-one days after notification in accordance with section 15 and during that period—

(a) an unsuccessful candidate ; or

(b) a ruling house in respect of he chieftaincy which alleges that the proper order of rotation has not been observed,

May make representations to the Governor in Council in the manner prescribed that the appointment be set aside…

(3) In determining whether to approve or set aside an appointment under this section the Governor in Council may have regard to-

(a) whether the provision of section 11 or section 12 have been complied with;
(b) whether any candidate was qualified or disqualified in accordance with the provision of section 10 ;
(c) whether the customary law relating to the appointment has been coupled with ;
(d) whether the Kingmakers, in the case of ruling home chieftaincy, had due regard to the ability, character or popular support of any candidate ; or
(e) whether the appointment was obtained corruptly or by the undue influence of any person;
And may, notwithstanding that it appears to him the appointment had made in accordance with the provisions of this Law, set aside an appointment if he is satisfied that it is in the interests of peace, order and good government to do so..
(4) Approval of the appointment of a chief may be given under this section, notwithstanding that the consent of any person required by customary law has not be obtained.
(5) Where the Governor in Council sets aside an appointment he shall-
(a) in the case of a ruling house chieftaincy require a ruling house in respect of the chieftaincy to submit the name of some other person as candidate to the kingmakers and he ruling house and the kingmakers shall then proceed in accordance with section 11 as if the name of that ruling house had been announced by the secretary of the council;
(b) in the case of any other recognized chieftaincy, require the person responsible under customary law for the nomination and selection of a person to fill the vacancy in that chieftaincy to appoint another person in accordance with that customary law within such time as he may specify;
(6) The decision of the Governor in Council under this section shall be final and shall not be questioned in any court.

Offences

17. (1) Where a vacancy has occurred in a recognized chieftaincy and no person has been approved as successor thereto by he Governor in Council in accordance with this Part, any person who installs or purports to install a person as such chief or any person who permits himself to be installed as such chief shall be guilty of an offence and shall be liable on conviction to imprisonment for two years.
(2) Any person-
(a) who installs or purports to install a person as a recognized chief other than he person approved by the Governor in Council in accordance with this part ; or
(b) Who, not being the person approved by the Governor in Council in accordance with this Part, permits himself to be installed as a chief.

Shall be guilty of an offence and shall be liable on conviction to imprisonment for two years.

(3) Where a person has been approved as a recognized chief in accordance with this Part any other person who-

(a) holds himself out as such chief or wears any of the regalia of such chief ; or

(b) by any means challenges or impugns the valÌdity of the appoint of such chief,

Shall be guilty of an offence and shall be liable on conviction to imprisonment for two years.

(4) Where a person has been approved as a recognized chief in accordance with this Part any other person who-

(a) without the authority of the recognized chief takes possession of any residence, regalia or other property attaching to such recognized chieftaincy ; or

(b) prevents or obstructs the recognized chief or his authorized servants or agents from taking possession of any such residence, regalia or other property,

Shall be guilty of an offence and liable on conviction to imprisonment for three years.

(5) Any person who prevents or obstructs the holding of an Iwuye Ceremony or any other ceremony connected with he installation of a person whose appointment as a recognized chief has been approved by the Governor in Council in accordance with this Part shall be guilty of an offence and shall be liable on conviction to imprisonment for one year.

PART III - MINOR CHIEFS

Authority to approve appointment of and determine disputes as to minor chiefs

18. (1) The Governor in Council may appoint, in respect of the area of any local government council or group of council, a person (in this part referred to as the prescribed authority) to exercise the chief whose chieftaincy title is associated with a native community in that area.

(2) Where a person is appointed, whether before or after the commencement of this Law, to fill a vacancy in the office of a minor chief by those entitled by customary law so to appoint and in accordance with customary law, the prescribed authority may approved the appointment.

(3) Where there is a dispute whether a person has been appointed in accordance with customary law to a minor chieftaincy the prescribed authority may determine the dispute.

(4) The decision of the prescribed authority-

(a) To approve or not to approve an appointment to a minor chieftaincy; or

(b) determine a dispute in accordance with sub-section (3) of this section.

Shall be final and shall not be questioned in any court.

Orders prohibiting assumption of chieftaincy titles

19. (1) The Governor in Council may by order apply the provisions of is section to any area in respect of which no prescribed authority is appointed under section 18.
(2) Where the provisions of this section are applied to an area, no person, other than a recognized chief, shall-
(a) hold himself out as a chief whose chieftaincy title is associated with a native community in that area; or
(b) take part in any ceremony installing or purporting to install him as a chief whose chieftaincy title is associate with a native community in that area ;
Unless the office of chief and his appointment thereto are approved by the Governor in Council.

Offences

20. (1) Where there is a vacancy is a minor chieftaincy after the commencement of this Law in an area in respect of which a prescribed authority is appointed any person who-
(a) installs or purports to install a person in that chieftaincy who is not the person whose appointment is approved by the prescribed authority; or
(b) not being the person whose appointment is approved by he prescribed authority permits himself to be installed in that chieftaincy,
Shall be guilty of an offence.
(2) Where the appointment of a person to a minor chieftaincy has been approved by the prescribed authority or by the Governor in Council-
(a) any other person who holds himself out as the holder of such chieftaincy or wears the regalia of such chieftaincy; or
(b) by any means challenges or impugns the valÌdity of such appointment,
Shall be guilty of an offence.
(3) Any person who obstructs or prevents the holding of an Iwuye Ceremony or any other ceremony connected with the installation in a minor chieftaincy of a person whose appointment is approved y the prescribed authority or the Governor in Council shall be guilty of an offence.
(4) Where an order under section 19 is in force with respect to an area, any person, other than a recognized chief or a person approved by the Governor in Council, who-
(a) holders himself out as a chief whose chieftaincy title is associated with a native community in that area; or
(b) taken part in any ceremony installing or purporting to install him as a chief whose chieftaincy title is associated with a native community in that area;
Shall be guilty of an offence.

(5) Where the appointment of a person to a minor chieftaincy has been approved by the prescribed authority or the Governor in Council, any other person who-

(a) without the authority of the minor chief or his authorized servants or agents from taking possession property attaching to such chieftaincy; or

(b) prevents or obstructs the minor chief or his authorized servants or agent from taking possession of any such residence, regalia or other property, shall be guilty of an offence.

(6) A person convicted of an offence under the provisions of this section shall be liable on conviction to imprisonment for six months.

PART IV – GENERAL

Inquiries

21. (1) The Minister may cause such inquires to be held at such times and in such places and by such person or person as he may consider necessary or desirable for the purposes of this Law.

(2) The provisions of the First Schedule to the Local Government Law, 1957, shall apply in relation to an inquiry under this Law as they apply in relation to an inquiry under that Law.

Suspension and deposition of chiefs

22. (1) The Governor in Council may suspend or depose any chief whether appointed before or after the commencement of this Law, if he is satisfied that such suspension or deposition is required according to customary law or is necessary in the interests of peace, or order or good government.

(2) Where a chief is suspended under sub-section (1) of this section the Governor in Council shall specify the powers and duties under customary law or under any written law that shall not be exercised or discharged by such chief and may make such provision for the temporary exercise and discharge of such powers and duties by another person as he shall think fit.

(3) (a) Where a prescribed authority is appointed in accordance with section 18, the Governor in Council may be notice in the Gazette delegate to that authority the powers conferred by sub-sections (1) and (2) of this section with respect to minor chiefs whose chieftaincy titles are associated with a native community in the area for which the prescribed authority is appointed.

(b) Any such delegation shall be revocable by the Governor in council and no delegation shall prevent the exercise by the Governor in Council of any power.

Deportation of convicted person or suspended chief

23. (1) If any person shall have been convicted of an offence against the provisions of this Law or have been suspended or deposed under the provisions of section 22 and the Governor in Council shall consider that in the interest of peace, order and good government an order of deportation to any place in the

Region should be made, he may be writing under his hand order such person to be deported accordingly.

(2) If a person ordered to be deported is sentenced to any term of imprisonment, such sentence shall be served before the order of deportation is carried into effect.

(3) An order of deportation may be expressed to be in force for a limited time or for an unlimited time and may required the deported person to report himself to the nearest administrative officer or officer of police at such intervals as may be prescribed by the order.

(4) An order of deportation shall be sufficient authority to all persons to whom it is directed or delivered for execution to receive and detain the person therein named and to carry him to the place named.

(5) If a person leaves or attempts to leave the district or place to which he has been deported, while the order of deportation is still in force, without the written consent of the Governor in Council, which consent may be given subject to any terms as to security for good behaviour or otherwise as to the Governor in Council may seem good, or willfully neglects or refuses to report himself as ordered, such person shall be liable to imprisonment for six months and to be again deported on a fresh warrant under the original order or under a new order.

(6) In this section the word "deported" with its grammatical variations and cognate expressions means deportation from the place in the area of the native community associated with the chieftaincy where the chief concerned resides to any other place in the Region.

Exclusion of jurisdiction of courts

24. Notwithstanding anything in any written law whereby or whereunder jurisdiction is conferred upon any court, whether such jurisdiction is original, appellate or by way of transfer, no court shall have jurisdiction to entertain any civil cause or matter.

(a) instituted for the determination of any question relating to he selection, appointment, installation, deposition, suspension or abdication of a chief; or

(b) instituted for the recovery or delivery up of any property in connection with the selection, appointment, installation, deposition, suspension or abdication of a chief:

Provided that any recognized chief whose appointment has been approved by the Governor in Council or any minor chief whose appointment has been approved in accordance with Part III shall not be precluded from taking action in a court of competent jurisdiction for the recovery or delivery of such property and related damages

(c) calling in question anything done in the execution of any of the provisions of this Law or the repealed Law or in respect of any neglect or default in the execution of any such provision by the Governor in Council, the Minister, a local government council, or its secretary, a committee, a ruling house or a kingmaker; or

(d) Calling in question anything done by the Governor with respect to a chief or chieftaincy (whether before or after the application of this Law to such chief or chieftaincy) under the provisions of the Appointment and Deposition of Chiefs Ordinance. Cap. 12

Description of ownership of property of chiefs in criminal cases

25. Where in any criminal proceedings it is necessary to name the person to whom any property belongs and that property is the property of a chief by virtue of his chieftaincy, it shall be sufficient to name such chief by whichever title such chief is known notwithstanding that no person has been duly appointed or installed as such chief or that there is a dispute in respect of such chieftaincy, and the provisions of section 146, 147 and 154 of the Criminal Procedure Ordinance in particular, and any other similar provisions in any other written law shall be constructed accordingly.. Cap 43.

Rules as to representations

26. The Governor in Council may make rules prescribing the manner and form in which representation may be made to him for the purpose of section 16.

PART V – TRANSITIONAL AND REPEALS

Transitional provisions relating to section 3

27. Until other provision is made under section 2

(a) Part II of this Law shall apply to every chieftaincy to which the provisions of Part II of the repealed Law applied immediately before the commencement of this Law:

(b) the competent council in respect of every recognized chieftaincy shall be the competent local government council designated in respect thereof immediately before the commencement of this Law in the exercise of the powers conferred by sub-section (2) of section 2 of the repealed Law.

Effect of declarations under repealed Law

28. (1)Subject to the provisions of this section, every declaration (a) made under the provision of Part II of the repealed Law;

(b) registered with a local government inspector under the provisions of Part II of the repealed Law,

Shall have effect as if it had been made or registered, as the case may be, under the provisions of Part II of this Law.

(2) The following provisions shall apply in relation to declarations made under Part II of the repealed Law, and in respect of which the date of registration or re-registration is before the fifteenth day of March, 1956
(a) every such declaration shall be submitted to the local government adviser to the Minister for approval and shall cease to have effect until again registered under the provisions of Part II of this Law;

(b) the provision of section 7 shall apply in relation thereto;

(c) where at the date of the coming into force of this Law proceedings have been commenced in accordance with the provisions of Part II of the repealed law to fill a vacancy in respect of a chieftaincy to which that Part applies but no appointment has been made:
(i) No further step shall be taken in those proceedings;
(ii) when a declaration is approved and registered with the prescribed officer of the Ministry of Local Government, proceeding shall be commenced *de novo* in accordance with the provisions of part II of this Law to fill the vacancy as if it had occurred on the date upon which the declaration was registered after being approved by the Minister.

Appointments under repealed Law

29. Any person whose appointment to a recognized chieftaincy
(a) was made in accordance with a declaration under Part II of the repealed Law;
(b) was approved by the Governor under the provisions of that Law;
Shall be deemed to have been approved in his appointment under the provisions of Part II of this Law.

Appointments in absence of declaration.

30. (1) Where a vacancy occurs in a recognized chieftaincy after the application of Part II of this Law but before the making of a declaration
(a) the vacancy shall be filled in accordance with the customary law applying to that chieftaincy
(b) the Governor in Council may approve the person so appointed or set aside the appointment.
(2) Any person
(a) whose appointment is approved under sub-section (1) of this section; or
(b) whose appointment to any recognized chieftaincy was approved under the Appointment and Deposition of Chiefs Ordinance and who holds that Chieftaincy immediately before the commencement of this law; or

Cap. 12

(c) who is notified by the Governor in Council by notice in the Gazette to have been the holder of any chieftaincy immediately before the application to it of Part II of this Law;

Shall be deemed to have been approved in his appointment under the provisions of Part II of this Law.
(3) (a) Where it appears to the Minister that there is a dispute as to the appointment to any recognized chieftaincy in respect of which no declaration has effect, the Minister may notify the competent council that a dispute exists in respect of the chieftaincy and thereupon.
(i) no proceedings shall be taken by the committee of the council to make or register a declaration without the consent of the Minister;
(ii) the Minister shall cause such inquiry to be made into the dispute as appears to him necessary.
(b) The report of the inquiry shall be submitted to the Governor in Council who may gave his decision with respect to the appointment in dispute and any such decision shall be final and shall not be open to question in any court.

Repeals

31. The Appointment and Deposition of Chiefs Ordinance, the Chieftaincy Disputes (Preclusion of Courts) Ordinance, 1948, and the Appointment and Recognition of Chiefs Law, 1954, are hereby repealed.

This printed impression has been carefully compared by me with the Bill that has passed the Western House of Chiefs and the Western House of Assembly, and is found by me to be a true and correctly printed copy of the said Bill.

J.M. AKINOLA,
Acting Clerk of the Regional Legislature

APPENDIX VI

Supplement to the Western Regional Gazette No. 42, Vol. 2, 5th November, 1953-Part A

Assented to in Her Majesty's name this 29th day of October, 1953.

T.M. SHANKLAND,
Officer Administering the Government of the Western Region

No. 8 **1953**

Western Religion of Nigeria

IN THE SECOND YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II

THOMAS MURRAY SHANKLAND
Officer Administering the Government of the Western Region

A LAW TO AMEND THE WESTERN REGION LOCAL GOVERNMENT LAW, 1952.

(5th November, 1953) — Date of commencement

BE IT ENACTED by the Legislations of the Western Region of Nigeria as follows:- — Enactment

This Law may be cited as the Western Region Local Government (Amendment) Law, 1953. — Short title

Amends section 24 of Law No. 1 of 1953 by addition of new sub-sections

1. Section 24 of the Western Region Local Government Law, 1952, hereinafter referred to as the principal Law, is hereby amended by re-numbering this section as 24 (1) and by the addition of the following new sub-section:-

   "*(2)* Notwithstanding the provisions of section 23, no person shall be entitled to be elected or appointed. As a member of a council without the consent, in writing, of the Regional Authority, who has, within a period of ten years immediately before the data of election or appointment, been an unsuccessful candidate for any office or title of chief in or associated with the area of such council.

(3) For the purpose of sub-section (2), the term "unsuccessful candidate" shall mean any candidate, claimant, pretender or contestant for any office or title of chief, other than the person expressly recognized as the holder of such office or title by the person or body entitled to accord such recognition, who has been a party in a dispute within the provisions of sub-section (2) of section 2 of the Appointment and Deposition of Chiefs Ordinance or any Law or Ordinance."

Amends section 60 of Law No. 1 of 1953.

3. Section 60 of the principal Law; is hereby amended:-

(a) by deleting in line 3 of sub- section (1) the words "land tenure" and substituting the words "any subject" therefor ;

(b) by deleting in line 7 of sub-section (2) the words "land tenure" and substituting the words "any subject" therefor ; and

(c) by deleting the words "land tenure" in lines 2 and 7 in sub-section (3) and substituting the expression "the subject to which it relates" therefor.

Amends section 71 of Law No. 1 of 1953 by insertion of new paragraphs.

4. Section 71 of the principal Law is hereby amended:-

(a) by inserting immediately after paragraph (47) the following new paragraph-

"(47a) prohibit, restrict and regulate the migration of persons from or to the area of the council; " ;

(b) by inserting immediately after paragraph (72) the following new paragraph—

"(72a), regulate child betrothals;"; and

(c) by inserting immediately after paragraph (81) the following new paragraph—

"(81a) regulate and control native marriage, including the fixing-of "dowry", and divorce;".

Amends section 77 of Law No. 1 of 1953 by addition of new sub-section

5. Section 77 of the principal Law is hereby amended! By re-numbering- sub-sections (2), (3), (4), (5) and (6) 'respectively and by inserting immediately after sub-section (1) the following new sub-section—

"(2). The- Regional Authority may by Instrument declare that subject to such limitations conditions as he may impose a council may make bye laws relating to the use and alienation, whether upon devolution by will or otherwise of interest in land of any description whatever within the area of the authority of the of the council and without derogation from the generality of these provisions specially in respect of any or all of the following matters:-

(i) the control of any or all powers of alienation of land or of any interest therein to strangers or to persons other than strangers;

(ii) the control and use of communal land and of family land either generally or specifically and with special reference to the cultivation thereof and the type of crops which may be grown thereon ;

(iii) the control of mortgaging with special reference to the approval of the- mortgagee and the use to which the land may be put when mortgaged;

(iv) the control of the borrowing, of money or money's worth secured upon standing crops;

(v) making the purchaser at any sale, whether such sale is by order of any court whatsoever or not, subject to the approval, of the council or of a specified individual of individuals and providing, in the case of a sale by a court, that the land' shall again be sold if the vendor is not approved under the bye-laws;

(vi) for the recording or filing of documents; relating to the alienation of land or interest therein;

(vii)for the- control either generally or specifically of the size or extent of communal land or family land over which any individual or group of persons may exercise rights or be permitted to exercise rights; and

(viii) the regulating of the allocation of communal land or family land and specifying the person or persons who may allocate such communal land subject to such special or general directions as the council may require.

In this sub-section—

"land" means all land including everything, attached to the earth in the Western Region, other than freehold lands, Crown lands and any lands which are the subject either of a lease under the Crown Lands Ordinance or the Native Lands Acquisition Ordinance; and

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"stranger" means any native of Nigeria or native foreigner who is not eligible by local customary law to inherit land or the use of land within the area of jurisdiction of the council' making the 'bye-law.'

Amends section 152 of Law No. 1 of 1953

6. Section 152 of the principal Law is hereby amended by the deletion of the expression "section? 205" and by the- substitution therefor of the expression "sections 205 to 205c".

Amends section 174 of Law No. 1 of 1953 by addition of new sub-section.

7. Section 174 of the principal Law is hereby amended by renumbering sub-sections (1), (2), (3) and (4) as (2), (3), (4) and (5) respectively and by inserting the following; new subjection immediately before sub-section (2)

Superintendence and visitation of prisoners.

(1) The Inspector-General of Prisons shall have the general superintendence of prisons established under this Law, shall advise the councils .thereon, and[1] shall, submit to the Regional 'Authority an annual report on the administration of the prisons and such other reports as the Regional Authority OB the Inspector;-General 'of Prisons ma}' consider necessary."

8. Section 185 of the principal Law is hereby amended by inserting immediately after sub-section (4) the following new subsection—

(5) After the expiration of three years from the date of the establishment of a council all land vested in such council in accordance with sub-section (1) in respect of which there shall be no dispute shall be deemed' to be vested in- such council for the estate or interest claimed, free from all adverse or competing rights, titles, interests, trusts, claims and demands- whatsoever.

Amends section 185 of Law No. 1 of 1953 by addition of new sub-section.

Amends Law No. 1 of 1953 by addition of new sub-section.

9. The principal Law is hereby amended by inserting the following new sections immediately before section 206—

"Notice of suit to be given to council by intending plaintiff.

2Q5A (1) No suit shall be commenced against a council until one month at least after written notice of intention to commence the same has been served upon the council by the intending plaintiff or his agent.

(2) Such notice" shall state the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims.

Limitation of suits against council

2Q5B. When any suit is commenced against any council for any act done an pursuance or execution or intended execution of any Law or Ordinance or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Law or Ordinance, duty or authority, such suit shall not lie or be instituted unless it is commenced within six months next after the act, neglect or default complained of, or in the case of a continuance of damage or injury, within six months after the ceasing therefor.

Mode of service on council

205c. The notice referred to in section 205A of this Law and any summons, notice or other document required or authorised to be served on a council in connection with any suit by or against such council, shall be served by delivering the same to, or by sending it by registered post addressed to, the chairman of the council at the principal office of the council:

Provided that the court may with regard to any particular suit or document order service on the council to be effected otherwise, and in that case service shall be effected in accordance with the terms of such order.

Appearance of council in legal proceedings.

205D. In any prosecution by or on behalf of a council and in any civil cause or matter in which a council is a party the council may be represented by any councillor, officer OE employee duly authorised in that behalf by the council.

This printed impression has been carefully compared by me with the Bill that has passed the Western House of Assembly and the Western House of Chiefs, and is found by me to be a true and correctly printed copy of the said Bill.

FRANCIS McGRATH,
Clerk of the Western House of Assembly

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