

The Existence of African Jurisprudence: An Audit of Life Experience of Precolonial Anlo Traditional Society



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ABSTRACT

There is a controversy about the nonexistence of African Jurisprudence fueled by a jurisprudential school of thought known as the Skeptic school of thought on African Jurisprudence. Other scholars have contributed to the debate to dispel the stance of this skeptic school. Notable among these scholars is Idowu William who described the import of these attacks by the Skeptic school as consisting in the view that African jurisprudence is at best queasy. This research was carried out using interdisciplinary approach to legal research by combining knowledge in Jurisprudence of law and anthropology of precolonial *Anlo* society of Gold Coast to put to rest this controversy. Secondary data on plausible theories of the jurisprudence of law were assessed and used as aids to validate what is described as laws in precolonial *Anlo* society in Gold Coast. The validation of the laws identified was carried through an audit of the life experience of the precolonial *Anlo* society from secondary sources. The study findings indicate that there exists a set of ideas surrounding the rule of law which is basically developed from experiences peculiar to Africa. These have insignificant traces of western Jurisprudence hence confirming the notion that there is African Jurisprudence. It is recommended that in order not to limit the arguments refuting the claim by the Skeptic school on African jurisprudence in the future to the legal system of precolonial *Anlo* society, similar audit of other precolonial African societies should be carried out to ascertain whether African jurisprudence exists.

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INTRODUCTION

There are many western schools of thought on the limitations, nature, functions, and scope of the law. These schools of thought have helped shed light on the nature, limitations, functions, and scope of law in a given legal system which has aided legislators to fashion outlaws for social control, change and development. These schools of thought have also helped in shaping legal systems of many states like Britain, United States of America, Germany, and France towards achieving their optimum status. Due to their impact on the society and legal scholarship, Jurisprudence of law has become revered and studied in universities all over the world and is still undergoing various development from contributions by students of law and legal scholars alike. Among these western schools of thought on the jurisprudence of law are the Natural law school, Positivist school, Feminist jurisprudence, Realist school of thought, Formalist school of thought, Historical and anthropological jurisprudence, Therapeutic school of thought and Marxist school of thought. There is also a school of thought known as the African Jurisprudence but this school of thought is suffering from various criticisms from scholars from the Skeptic school of thought on African jurisprudence in its quest to attain recognition from all jurists. The Skeptic school on African jurisprudence claims among others that there is nothing like African jurisprudence but the description of what exists is queasy. This claim by Skeptic school has fueled an ongoing debate. This article therefore, seeks to examine the validity or otherwise of the claim of the nonexistence of African Jurisprudence. The plausible theories of jurisprudence of law from recognized schools of thought will be used as aids to validate the nature of what

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is described as laws in precolonial *Anlo* traditional society of the then Gold Coast. An audit of the life experience of the *Anlo* traditional society would be carried out to determine whether or not there existed African jurisprudence of law before the colonization of Africa.

The Debate on African Jurisprudence

There is an ongoing debate fueled by the skeptic school of thought on the existence of African jurisprudence. Holleman¹, Driberg², Smith³ and M'Baye⁴ are prominent members of the skeptic school of thought on African jurisprudence fingered as some of the proponents who denounce the existence of African jurisprudence. Portraying their skepticism about its existence, Holleman held the view that there is nothing like African jurisprudence,⁵ whilst Driberg alluded to the fact that Africa generally lacks the presence of police and prisons which are which he referred to as symbols of legal authority.⁶ Smith also stated that the African people only know of customs instead of law whilst M'Baye bastardized the rules governing social behaviour in traditional African society when he referred to those rules as the very negation of law.⁷ The standpoint of the skeptic school of thought on African jurisprudence has led to many scholars contributing towards the ongoing debate.⁸ Idowu⁹ and Murungi¹⁰ are also considered as prominent scholars who have made important contributions dispelling the stance of the skeptic school. They hold the view that African Jurisprudence exists contrary to the position held by skeptic school.

Idowu summed up the import of the stance of the skeptic school as significantly "...the view that even if Africans had indigenous systems of social control, it lacked substantially, any trace of legality, legal concepts and legal elements."¹¹ For Idowu, "the unwarranted conclusion often drawn from these skeptical positions is the view that the jurisprudential frame is missing and lacking in African system of rules."¹² He added that "the attack on the idea of African jurisprudence has been reduced to the idea that African rules of societal control and norms could not be distinguished from rules of polite behaviour. The basis for this assertion and the denial of African jurisprudence, perceptively, can be explained in the light of three reasons:

1. the absence of a legislative system, with the existence of a formal courts system and legal officials;
2. the absence of a recognised system of sanctions;
3. the presence on a large scale of authoritarianism which is not subject and controlled by law.

Interestingly, the import of these attacks consists in the view that African jurisprudence is at best queasy.¹³ There is a thesis known as the absence thesis which posits that in as much as there is the absence of written records or works of intellectual worth, African jurisprudence does not exist. Elias T.O.¹⁴ is one of the leading proponents of this thesis and this thesis also provides the basis for the Skeptics school of thought that African jurisprudence does not exist.¹⁵

METHODOLOGY

This study was carried out using an interdisciplinary qualitative research approach which involved integration or synthesis between different academic disciplines.¹⁶ The research approach adopted combined knowledge in jurisprudence of law and Anthropology of the people of *Anlo* in precolonial era to arrive at its findings. The purpose of Interdisciplinary Research is "to advance fundamental understanding or to solve problems whose solutions are beyond the scope of a single field of research practice."¹⁷ A limitation to the use of this approach is that there is uncertainty as to whether a

¹ Johan F. Holleman, *Issues in African Law*. (The Hague: Mouton and Co., 1974).

² Jack H Driberg, "The African Conception of Law" *Journal of Comparative Legislation and International Law*, (1934): 230.

³ Michael G. Smith, "The Sociological Framework of Law" in *African Law Adaptation and Development* (Berkeley and Los Angeles: University of California Press, 1965).

⁴ Keba M'Baye, "The African Conception of Law" *The Legal Systems of the World and their Common Comparison and Unification, International Association of Legal Science*, Vol. II (1975).

⁵ Holleman.. *Issues in African Law* 12.

⁶ Driberg, "The African Conception of Law".

⁷ M'Baye, "The African Conception of Law"

⁸ William Idowu, "Multiculturalism, Legal Pluralism and the Separability Thesis: A Postmodern Critique of 'An African case for Legal Positivism'" 2 *LSJGDJ* (2008):2.

⁹ William Idowu, "Against the *Skeptical* Argument and the *Absence* Thesis: African Jurisprudence and the Challenge of Positivist Historiography" *JPSL*, Vol 2 (2006):34.

¹⁰ John Murungi, "The Question of African Jurisprudence: Some Hermeneutic Reflections" in *A Companion to African Philosophy*. (Malden Massachusetts: Blackwell Publishing Limited, 2004).

¹¹ Idowu, "Against the *Skeptical* Argument and the *Absence* Thesis 37.

¹² Idowu, "Against the *Skeptical* Argument and the *Absence* Thesis 37.

¹³ Idowu, "Against the *Skeptical* Argument and the *Absence* Thesis 37.

¹⁴ Taslim O., Elias. *The Nature of African Customary Law*. (Manchester: Manchester University Press, 1956).

¹⁵ Idowu, "Against the *Skeptical* Argument and the *Absence* Thesis 35.

¹⁶ Garry D. Brewer, "The Challenges of Interdisciplinarity" *Policy Science*, 32 (1999): 327-328.

¹⁷ Alan L. Porter, David Roessner, Alex S. Cohen and Marty Perreault, 'Interdisciplinary Research: Meaning, Metrics and Nurture' *Research Evaluation* 15 no 3 (2006): 187-189,

clear research pattern could emerge in a qualitative research.¹⁸ Also, interpretations placed on research findings by the researcher may be affected by the researcher's biases. Lastly, owing to the smaller sample size used in this type of research, generalization of the research findings may become difficult.¹⁹ To minimize the effect of the limitations identified in using the selected research method, Secondary data on jurisprudence of law propounded by various recognized jurists from western schools of thought regarded as plausible theories of jurisprudence of law reviewed above were used as benchmarks for the research. These plausible theories were used as aids to validate what is described as laws in *Anlo* traditional society before colonization of Gold Coast through an audit of the life experience of the *Anlo* traditional society from secondary sources.

DISCUSSION

Plausible Western School of Thought on the Jurisprudence of Law

By way of looking at the plausible theories of Jurisprudence of law propounded by some revered western schools of thought and jurists referred to earlier, this section reviews theories on jurisprudence of law propounded by the following selected theorists: John Locke and Thomas Aquinas (Natural law school of thought); Herbert L. H. L. A. Hart, John Austin and Hans Kelsen (Positivists); Leopold Pospisil (Anthropological School of Jurisprudence); David B. Wexler and Bruce J. Winick (therapeutic school of thought).

Locke's version of Jurisprudence of Law

Locke argues that the state of man before laws were made to regulate property acquisition and protection of property and life, life was almost a total bliss but property was inadequately protected.²⁰ For him, it was to rectify this flaw in the state of man that man had to forfeit some of his freedoms and ceded same to an institution or body of persons to pass laws and enforce same to protect lives and properties.²¹ He holds the view however that the freedoms forfeited to the institution or body of persons which govern man, was not completely forfeited to the institution or body of persons and can therefore be reclaimed. In this regard he put forward the proposition that the purpose of government and law is to uphold and protect the natural rights of men. So long as the government fulfills this purpose, the laws given by it are valid and binding but, when it ceases to fulfill that purpose, then the laws would have no validity and the Government can be thrown out of power.²² Therefore when a government fails in its task, people have the justification to withdraw their support for the government and can even rebel against the government.²³ Locke also attached importance to the right of man to acquire property by postulating that there can be no right property unless man mixes his labour with the material objects before his acquires a right to the thing created. For Locke, the social contract preserved man's natural rights to life, liberty, property, and the enjoyment of private rights. He advocates for limited government where there are checks and balances and also calls for a minimized government size compared to maximized individual liberties.²⁴

Aquinas' version of Jurisprudence of Law

On the Natural law front, St. Thomas Aquinas identified the existence of four types of laws *viz*; *lex aeterna* (eternal law), *lex divina* (Divine Law), *Lex naturalis* (Natural Law), and *lex humana* (Positivist or man-made law). He regards laws that come into existence through divine reason known only to God as Eternal laws. These laws are regarded as God's plan for the world without which man would lack direction.²⁵ For Aquinas, Divine law was that set of principles revealed by Scripture also known as God's positive law for mankind. On the other hand, Aquinas regarded natural law as law discoverable by reason and involves the participation of the eternal law in rational creatures. For Positivist law, Aquinas held the view that it is law constructed by human beings to fit and accommodate the requirements of natural law to the needs and contexts of different and changing societies. He held the view that human law was necessary because natural law could not solve many day-to-day problems. Human law was also regarded as necessary to curb vices known to be innate in man i.e. vices like selfishness so that man can be forced to act reasonably. He added that human law is supported by reason and enacted for common good. Also, according to Aquinas, the fundamental precepts of natural law were not only ascertainable but self-evident, that is, they required no proof. Like his predecessor, Aristotle, Aquinas distinguished two kinds of reasoning: theoretical and practical. Human beings are capable of both sorts of reasoning. Theoretical reason is the capacity to apprehend certain truths, such as the truths of mathematics. A practical reason is

¹⁸ Claire Bless and Craig Higson-Smith, *Fundamentals of social research methods: An African perspective* (2nd edn. Kenwyn: Juta, 1995) 99.

¹⁹ Joanne Sale, Lynne Lohfeld and Kevin Brazil, 'Revisiting Quantitative-Qualitative Debate: Implications for Mixed-Methods Research' [2002] 36 (1) *Qual Quant* February 53, 43.

²⁰ Raymond Wacks, *An Introduction to Legal Theory*. (3rd edn, Oxford: Oxford University Press, 2012).

²¹ Wacks, *An Introduction to Legal Theory*.

²² Samuel Geoffrey, *Law of Obligations and Legal Remedies*. (2nd edn, London: Cavendish Publishing Limited, 2001).

²³ Wacks, *An Introduction to Legal Theory*.

²⁴ Wacks, *An Introduction to Legal Theory*.

²⁵ Wacks, *An Introduction to Legal Theory*.

the capacity to apprehend those principles guiding human conduct which tell man how he/she ought to live, what things should be valued, what goods should be sought, and how one ought to order his/her life.

Hart's version of Jurisprudence of Law

Hart, a profound positivist and Professor of Jurisprudence is known to have propounded a plausible theory that laws are man-made rules. For Hart the man-made rules can be classified into what he called primary rules of obligation and secondary rules as rules of recognition, change and adjudication. Hart regarded primary rules of obligation as those rules which impose duties on members of a society including the one who enacted the law to eschew behaviours like avoidance of contractual obligations, fraud, deception etc. which are vices man easily falls prey to in all human society and therefore must be suppressed to ensure peaceful coexistence in the society.²⁶ Hart regarded the secondary rules of recognition and change as rules which generally confer power on persons in the society to carry out specific tasks in the society.²⁷ His secondary rule of recognition refers to a common public standard of correct judicial decision;²⁸ whilst his secondary rules of adjudication refers to rules which impose duties largely on judges and anybody who assumes the position of a judge in adjudicating upon breaches of the primary rules. Hart held the view that secondary rules of change are necessary to allow the legislature to carry out amendments in the primary rules where defects or lapses have been identified in the primary rules. He argued that in order that the primary rules function effectively, the secondary rules must exist to provide an authoritative statement of all the primary rules. For him what he termed secondary rules of adjudication enable courts to resolve disputes over the interpretation and application of the primary rules.

In respect of what constitutes a legal system, Hart held the view that there must be the need for the existence of a valid rule of obligation which must be generally obeyed by members of the society whilst officials in the society accept the rules of change and adjudications and rules of recognition 'from the internal point of view' for there to be a legal system.²⁹ Whereby the expression 'from an internal point of view', Hart opines that there should be a critical reflective attitude to certain patterns of behaviour as a common standard, and that this should display itself in criticism (including self-criticism), demands for conformity and in acknowledgements that such criticism and demands are justified, all of which find their characteristic expression in the normative terminology of 'ought', 'must', and 'should', 'right' and 'wrong'.³⁰ Hart accepted that the rules of recognition may incorporate as criteria of legal validity in conformity with moral principles or substantive values.³¹ These propositions suggest that morality may constitute a condition for legal validity.

Austin's version of Jurisprudence of Law

Austin on the other hand also propounded a plausible theory of jurisprudence of law as a command of a sovereign directed at the governed backed by the threat of punishment for its breach.³² The proposition of law put forward by Austin best fits the description of nature of laws known as the penal laws of a community. His propositions on the jurisprudence of law however failed to also take cognizance of the fact that not all laws are commanded thereby making his proposition of limitations, functions, scope and nature of law inconsistent with the characteristics of laws like constitutional law, property law, insurance law, etc.

Hans Kelsen's version of Jurisprudence of Law

Hans Kelsen who is also a known positivist regarded a legal system as a complex series of interlocking norms which progress from the most general 'ought' to the most particular or 'concrete'. By his reference to norms, Kelsen meant 'something ought to be or ought to happen, especially that human beings ought to behave in a specific way'.³³ It also meant that legal norms and legal acts were determined by these norms and not mere norms.³⁴ The term legal norms as used above includes judicial decisions and legal transactions like contracts and wills. Where these legal norms are acted upon, they are referred to as human conduct.³⁵ Going by the proposition of the nature of law put forward by Kelsen above, the validity of a norm must be authorized by another norm which takes its authority from the higher norm in the society.³⁶ Hans Kelsen also posited among others that law is affected by the decisions of courts which in practice form

²⁶ Wacks, *An Introduction to Legal Theory*.

²⁷ Wacks, *An Introduction to Legal Theory*.

²⁸ Herbert.L. A Hart, *The Concept of Law*. (2nd edn, Oxford: Clarendon Press, 1994).

²⁹ Wacks, *An Introduction to Legal Theory* 82.

³⁰ Hart, *The Concept of Law* 56.

³¹ Hart, *The Concept of Law* 250.

³² Wacks, *An Introduction to Legal Theory*, 68.

³³ Max Knight, *Pure Theory of Law*, translated (Berkeley and Los Angeles: University of California Press, 1967).

³⁴ Anders Wedberg. *General Theory of Law and State*. Translated (Cambridge, Mass: Harvard University Press, 1949).

³⁵ Wacks, *An Introduction to Legal Theory*, 89.

³⁶ Wacks, *An Introduction to Legal Theory*, 90.

part of the hierarchical representation of what he describes as a pure theory of law.³⁷ He referred to the decisions of courts that affected the hierarchy of norms as accumulated standpoint. By his description of jurisprudence of law, Hans Kelsen's propositions on jurisprudence of law best-fit laws like Constitutional laws, contract laws, etc.

Leopold Pospisil version of Jurisprudence of Law

Leopold Pospisil who can be said to belong to the Anthropological school of Jurisprudence worked on identifying principal features of law. He in an attempt to distinguish law from custom identified what he described as for elements manifested by law *viz* sanction, obligation which he refers to as '*obligatio*', authority and universality.³⁸ He refers to '*obligatio*' as the establishment of a new relationship by the decision of an authority that determines the right of one party and the obligations of another.³⁹ For Pospisil after his numerous researches on his pursuit to find the principal features of law, resolved that there is no basic qualitative difference between primitive and civilized law.⁴⁰ He further postulated that whether a rule is custom or law depends on the extent it exhibits these four characteristics he identified as elements manifested by law.⁴¹ The works of Pospisil is significant to show that laws need not exist only because a state exists or an advanced society exist. Pospisil's element of universality and sanction of law are however questionable. This is because even though some laws appear to have universal application example International law, laws like customary law of an ethnic group may differ from that of another ethnic group. Furthermore, unlike most penal laws which have sanctions as their component, not all laws have sanctions to suggest that sanction is a determining element of law.

David B. Wexler and Bruce J. Winick's version of Jurisprudence of Law

David B. Wexler and Bruce J. Winick who studied the role of the law as a therapeutic agent by focusing on the law's impact on emotional life and the psychological well-being of citizens contributed to the development of the study known as therapeutic jurisprudence. This school of thought interrogates the issue of whether the law can be made or applied in a more therapeutic way so long as other values, such as justice and due process, can be fully respected.⁴² Though this school of thought was developed in the context of mental health law, it is seen to currently apply to all areas of the law and across cultures and is the subject of international study and development.⁴³ Wexler sees the law as a therapist or healing agent and for him in the same manner iatrogenic or harmful consequences exist in medicine, law has the potential to produce psychological harm, which he has referred to as "law-related psychological dysfunction" or "juridical psychopathology".⁴⁴ This school of thought therefore instructs that the society should seek maximization of the therapeutic consequences of the law and its intervention whilst minimizing its anti-therapeutic consequences.⁴⁵ Therapeutic jurisprudence aims at producing tangible positive change: to promote the wellbeing of all legal actors (accused person, prosecutor, Judge, Probation Officers, Law Enforcement, agencies etc.), and to improve the justice system so that it is more relevant and helpful for participants and their communities.⁴⁶ Therefore it would be appropriate going by the therapeutic jurisprudence if disputes resulting in minor offences in the category of a misdemeanor but not aggravated in felony are resolved by Victim-Offender Mediation as is permissible by the laws of the Republic of Ghana so that despite convicting an offender for a crime or an offence, both victim and offender are allowed to solve their differences.⁴⁷

Exposition of Life Experience of the Anlo Traditional Society in the Volta Region of the Republic of Ghana in the Precolonial Era.

Origin and Migration

It is said that Ewes originally came from Oyo in Western Nigeria and it is for that reason that the cultural traits of the Yoruba people like the *Anago* or *Ganu* dance, ancestral worship, deities worship and divination could also be traced among Ewes of *Anlo*. In the late 1600's, Ewes migrated from *Notsie* in their quest for more lands and foods and of their dislike for dictatorship rule of the King of *Notsie*, King *Akorgoli* and settled in *Tsevie* in present day Togo.⁴⁸

³⁷ Kelsen Hans *Pure Theory of Law*. Trans. Knight (University of California Press, Berkeley, CA, 1960) Chap 5, sec 34 – 35.

³⁸ Leopold Pospisil, *Anthology of Law: A Comparative Theory* (Harper & Row, New York, 1971); Wacks, *An Introduction to Legal Theory*. 206.

³⁹ Wacks, *An Introduction to Legal Theory*. 206.

⁴⁰ Pospisil, *Anthology of Law*, 341.

⁴¹ Wacks, *An Introduction to Legal Theory*, 206.

⁴² Idowu, "Against the Skeptical Argument and the Absence Thesis 44.

⁴³ Barbara A. Babb and David B. Wexler, "Therapeutic Jurisprudence". In: Bruinsma G., Weisburd D. (eds) *Encyclopedia of Criminology and Criminal Justice*. Springer, New York, NY (2014). https://doi.org/10.1007/978-1-4614-5690-2_203

⁴⁴ David Wexler, "Putting mental health into mental health law" *Law Hum Behav* 16 (1) (1992): 27.

⁴⁵ Babb and Wexler, "Therapeutic Jurisprudence".

⁴⁶ Babb and Wexler, "Therapeutic Jurisprudence".

⁴⁷ Enoch K., Amoah, "Justification for Implementing Victim-Offender Mediation in the Criminal Justice System of Ghana." *E-Journal of Humanities, Arts and Social Sciences*, 1 no 5 (2020): 125. <https://doi.org/10.38159/ehass.2020091>; Section 73 of Courts Act, 1993 (Act 459) read together with sec 64 of Alternative Dispute Resolution Act, 2010 (Act 798) all of the Republic Ghana.

⁴⁸ S. Lafage, *French Language Written and Spoken in Ewe Region (South-Togo)*. (Paris: SELAF, 1985) 19.

At *Tsevie*, Ewes formed a group under different leaders according to lineage and split into three – south westwards towards the Volta, northwards toward the mountain range and south-eastwards toward the sea, to frustrate the pursuit of *Agokoli* and finally they settled in their present homes. The *Anlos* were part of the Ewes who travelled from *Tsevie* as one unit, but they were later divided into two groups under the leadership of *Dutor Wenya* and his nephew *Sri*. The group led by *Dutor Wenya* crossed a sandbar and settled at a Place they named *Keta*.⁴⁹ These *Anlos* later moved and settled at the present day *Anloga* where they formed the *Anlo* Kingdom headed by a King referred to as *Awomefia*. The *Anlo* kingdom is one of the largest of the Ewe coastal tribes in Ghana with thirty-six (36) major cities. It is situated twelve (12) miles west of *Keta*. Due to the destruction caused to *Keta* by waves from the Atlantic occasion, '*Anloga* has established itself as a spiritual home, chief city and soul of *Anlo*. *Anlos* who fled *Notsie* to Ghana originally had seven clans viz *Adzoviawo*, *Bluawo*, *Vifemeawo*, *Lofeawo*, *Ameawo*, *Amladeawo*, *Bateawo*, *Kleviawo* and set up the *Anlo* State but it now has fifteen (15) clans with each having their own shrines, totems, taboos and clan cults.⁵⁰

System of Governance

At *Anloga*, *Anlos* instituted a centralized traditional political system complete with executive authority, an administrative and judicial institution which was headed by the *Awomefia* who is attributed with the powers of divinity. The *Awomefia* lives in the *Awome*, a place regarded by *Anlos* as sacred and inhabited by ancestral gods. Appointment of an *Awomefia* is vested in the *Adzovia* and *Bate* clans of *Anloga*. The *Awomefia* stool belonged to the *Adzovia* clan while the *Bate* clan acquired succession rights as a reward for a service performed by one *Togbui Adeladzea* for his uncle *Togbui Sri I*, the founder of the *Adzovia* clan. *Togbui Sri I* decreed that after his death *Adeladzea* should become the next king but succession should be reversed to his children after *Adeladzea's* death. The selection of *Adeladzea* as king of *Anlo* State created a rotary system of kinship in *Anloga*. The selection of an *Awomefia* was done by elders of the clans based on the physical appearance, intelligence and good character of the candidates presented by the clans. The *Lafe* and *Amlade* clans install all chiefs, including the *Awomefia* by performing the necessary installation rituals in line with the tenets and norms of *Anlo* culture. People of *Anlo* State hold the belief that the power of the *Awomefia* is vested in the people hence the *Anlo* adage *Du menɔa fia me o. Fiae nɔa du me* which literally means "the people do not live with the King. It is the King who lives with the people". Hence the people of *Anloga* can remove their King when they are dissatisfied with his rule.⁵¹ Below the *Awomefia* in the Political system are three senior chiefs who command three military divisions of the state.

These senior chiefs, subchiefs and head of various clans are entrusted with jurisdiction over areas under their control to investigate crimes and settle local disputes.⁵² These chiefs and headmen's courts constitute the lower courts of the *Anlo* State. Disputants who are aggrieved by the decisions of the lower courts have the right to appeal to the *Awomefia* who is assisted by two councils to deal with appeals and general matters before him. The two councils who assist the *Awomefia* at the appeal level, are constituted by council of elders from each clan and council of military chiefs.⁵³

The *Awadada* is a fetish priest of war who heads the *Anlo* war-god called *Kaklaku* and represents the *Awoamefia* on the battlefield performing the duties of; supplying reserved soldiers to any wing getting diminished, seeing to the treatment of wounded soldiers and acts as the custodian of all foods sent to the battlefield. He occupies the spot called *Atsefuma* protected with charms for avoiding enemy invasions.⁵⁴ The warriors in the military divisions provided security to the people of *Anlo* and fought in wars to ward off enemies of *Anlo* State. The military also annexed more territories by way of conquest for the *Anlo*'State and most of these lands are recognized by current laws of Ghana as properties of the people of *Anlo*.⁵⁵

Attitudes towards dispute resolution in Precolonial *Anlo* State

Criminal Justice Systems in African societies have undergone various evolutionary stages from pre-colonial era through postcolonial era to modern times. These criminal Justice Systems in precolonial times were aimed at ensuring reconciliation, unity, transparency, consensus building, tolerance, love for one another, balance and peaceful co-existence, respect for tradition and values, and fairness to all stakeholders.⁵⁶ Since Ewes migrated from *Notsie* and settled in *Tsevie* in present day Togo in the late 1600's which was in precolonial time, Ewes societies which settled at '*Tsevie*' were among

⁴⁹ K. Ladzekpo, "Anlo'-Ewe History" *dancedrummer.com*. Accessed December 21, 2019. <http://www.dancedrummer.com/history.html>

⁵⁰ C. Ahiabile, "The Anlos." *Dr. Ganu Research Center*. <http://www.kganu.net/sitebuildercontent/sitebuilderfiles/theAnlos.htm> accessed January 06, 2020.

⁵¹ G.K. Nukunya, *Kinship and Marriage among the 'Anlo' Ewe*. *London School of Economics Monographs on Social Anthropology* No. 37 (New York: Humanities Press Inc., 1969).

⁵² Alfred B. Ellis, *The Ewe Speaking Peoples of the Slave Coast of West Africa*. (Chicago: Benin Press, Ltd., 1965).

⁵³ Nukunya, *Kinship and Marriage among the 'Anlo' Ewe*.

⁵⁴ Raymond Archer, "Who rules 'Anlo' in the interim: Awodada or Regent?" *Modern Ghana*. August 31, 2004, accessed January 06, 2020.

<https://www.modernghana.com/news/115125/who-rules-'Anlo'-in-the-interim-awodada-or-regent.html>

⁵⁵ Ahiabile, "The Anlos."

⁵⁶ Olusina Akeredolu, *The Indigenous African Criminal Justice System*. (Durham, North Carolina: Carolina Academic Press, 2016).

African societies existing in Africa in the precolonial era and had a Criminal Justice System. Since *Anlos* were part of the Ewes who travelled from *Tsevie* as one unit and settled in their present day Volta Region to form the *Anlo* State in precolonial time, then precolonial *Anlo* State had a Criminal Justice System.

Tools for Behavioral Change in Precolonial *Anlo* State.

Myths were used to hold the people spellbound in fear to ensure behavioral control in the *Anlo* State. Oracles were also means by which members of the *Anlo* State's lives were affected and enlightened. Matters which are seen as mysteries were referred to oracles for explanation and it is through these explanations that members add to their knowledge about new phenomenon in their community. Decrees of Chiefs were also regarded as sacred and readily abided by. This is evidenced in the way the decree of *Togbui Sri I* which introduced a rotary system of kingship between the *Adzovia* and *Bate* clans of *Anloga* other than the customarily instituted selection of Kings from the *Adzovia* clan, was carried out to the letter to amend existing customs for selecting Chiefs.

Economic Activities in *Anlo* State in Precolonial Era

There were numerous economic activities in the *Anlo* State during the precolonial days due to its different physical features and its surrounding communities. It was a Kente weaving and fishing industry and fished heavily more than any other coast in West Africa. Farmers in the *Anlo* State were commonly into subsistence farming of crops like shallot, maize and cassava. There were Poultry and livestock farmers in *Anlo* State as well.⁵⁷ The precolonial *Anlo* State was connected to other groups of settlers in other parts of present day Ghana by trade. Market women exchanged fish and imported European goods for the Agriculture produce of the other groups.⁵⁸ Farmers of precolonial *Anlo* State practiced a pledging system referred to as *Woba* where owners of shallot beds could pledge their shallot beds for an indefinite period until the pledgor redeemed the beds or the pledgee demanded a refund of his or he money for a return of the beds.⁵⁹

Pre-colonial *Anlo* State also permitted the practice of slave trade and pawnship in support of their economy.⁶⁰ Pawnship was a means for mobilizing labour and for guaranteed profit. The pawn contract referred to as '*awobawo*' was ratified by the kinsmen of the pawn and the creditor in a formal ceremony and when concluded the creditor owned the pawn contract. The creditor however could not sell the pawn outright into slavery because pawns were not regarded as commodities. Female pawns often ended up as wives of creditors when the debt was not paid and their bride price waived whilst male pawns were released in event of nonpayment. The creditor was usually a native of *Anlo* State.⁶¹

Pre-colonial *Anlo* State permitted the practice of panyarring where upon non-payment of a debt owed, the creditor could arrange and kidnap an individual from the debtor's community in satisfaction of the debt. The members of the debtor's community were to be collectively responsible for the erasure of the debt. Thus when the debt was long overdue, the person kidnapped could be sold into slavery to recoup the debt.⁶² Further, transactions involving the creation of temporal bondage were permissible in the pre-colonial era. One such transaction involved the adoption of servant-children referred to as '*Kluvi*' where a child was handed over to a person as security for money lent. The child enjoyed limited privilege under *Kluvi* arrangement and also performed household chores for the creditor until the money was paid.

The Role of Morality in Governance of Precolonial *Anlo* State

Morality played a vital role in the governance of the *Anlo* State during the pre-colonial era. The laws of *Anlo* State could not be decoupled from values of the communities the people of *Anlo* lived in. Therefore, persons whose conducts were contrary to socially accepted values of the *Anlo* State were punished for acting the way they did. To curb vices in the *Anlo* State, the state instituted live executions referred to as '*Torkor Atorlia*' which literally means 'Fifth landing' for punishing persons deemed to be disrespectful or have flouted laws of the '*Anlo*' State. With *Torkor Atorlia*, the person deemed to have committed the crime or offence was buried alive from his toes to his neck with his head left for birds and other wild animals to prey on. The punishment was usually carried out by the warlord in the community where the offence has been committed. Children who tarnished the image of their family were handed to the warlords by their families to be punished by *Torkor Atorlia*.⁶³

⁵⁷ Archer, "Who rules '*Anlo*' in the interim: Awodada or Regent?"

⁵⁸ Kwame A. Appiah & Henry L. Gates eds., *Africana: The Encyclopedia of the African and African American Experience* (1999): 594.

⁵⁹ G.K. Nukunya, "The '*Anlo*'-Ewe and Full-Time Maritime Fishing Another View." *Maritime Anthropological Studies* 2, 2 (1989):154-173.

⁶⁰ Meera Venkatachalam, *Slavery, Memory and Religion in Southeastern Ghana, c.1850–Present*, (New York: Cambridge University Press, 2015).
<https://doi.org/10.1017/CBO9781316257852>

⁶¹ Venkatachalam, *Slavery, Memory and Religion in Southeastern Ghana*, 13.

⁶² Venkatachalam, *Slavery, Memory and Religion in Southeastern Ghana*, 13.

⁶³ Ivy Setordzie, "Torkor Atorlia: '*Anlo*' Residents Ponder a Return to Live Burial Executions." *Joy News*, December 04, 2014. Accessed June 01, 2020.
<https://m.modernghana.com/news/584652/torkor-atorlia-'Anlo'-residents-ponder-a-return-to-live-burial.html>

The Role of Traditional Religion in Pre-colonial Anlo State

The Anlo State in pre-colonial times believed in a being which was referred to as 'Mawuga Kitikata' or 'Mawu' who was believed to be all-powerful and omnipresent without a shrine or devotional ceremonies. The nature of this deity and the inability of the Anlos to physical encounter it, called for its worship through lower level divinities like what the Anlos call 'Yewe', 'Afa', 'Eda' and 'Nana'.⁶⁴ The worship of Yewe and Afa were the most popular religious practice in Anlo State, each having a membership initiation process to worship.⁶⁵ The Anlos regarded Yewe as their god of thunder and lightning. Members of the Yewe cult were given new names upon graduating from the initiation process. It became a taboo to call members of the cult by their old names. Any person who flouted this rule was brought before a council of priests to be sentenced to pay a large fine. Anlos regarded Afa as their astral god of divination, a younger brother of Yewe. Members of this cult were not given new names, however, they celebrated Afa with non-members and were distinguished from non-members by the apparel they wore which is often white clothing. With this cult, non-members cannot dance next to a member unless at a funeral. If these rituals are not followed properly, non-members are fined.⁶⁶

AUDIT

Existence of law and the concept of Sovereignty of the People in Precolonial Anlo State.

It is discernible from the above exposition that the Anlo State in precolonial era was structured around custom which for example enabled the people of Anlo State vest in their chiefs the power to rule and adjudicate upon disputes and when the people lost interest in the chiefs they could destool them hence the Anlo adage "Du menɔa fia me o. Fiae nɔa du me" translated earlier. The concept of sovereignty is also discernable from the adage and also suggests that this concept also existed in Anlo society long before colonization of Gold Coast and sovereignty of the society resided in the people. The system of governance practiced by the Anlo State during precolonial era is evidence of the fact that law existed in this society and the purpose of law is to serve the common good of the people of Anlo State. Where the law is not applied to the satisfaction of the people, the people reserve the right to replace the one charged with leading the people. This epitomizes an allusion to what John Locke espoused as the purpose of governance and law i.e. to uphold and protect the natural rights of men.⁶⁷ Therefore contrary to Smith's claim that the African people only know of customs instead of law, law existed in precolonial Anlo State and was recognized by the people of Anlo State.

The people of Anlo State regarded themselves as wielding some sovereign power of a sort like in a democratic state to remove their leader but had a governing system in place where the King was vested with the ultimate Executive, legislative and judicial power to govern them as seen in the institution of the headship of Awomefia to preside over the governance and adjudication with two Councils in Appeals and general matters as seen in the exposition. These however did not make the existence of pre-colonial Anlo State the result of a social contract or a democratic state because whereas the people of Anlo could remove their chiefs when they disapprove of their rule, selection and installation of chiefs was not vested in the people but in specific clans and therefore, the people of Anlo State do not have a say in the preferred physical appearance, intelligence and good character looked for in the candidates presented by the clans for selection. It is the elders of the various clans who select chiefs for their respective clans and therefore are the only custodians of the rules for such selections in their various clans. Hence in the exposition, it was revealed that the stool of Awomefia was ascended to by only members of the Adzovia and the Bate clans who are selected by elders of the clans and not all the people.

Hart's Secondary Rules of Change, Recognition and Adjudication in Precolonial Anlo State.

From the exposition on the life experience of the people of precolonial Anlo State, the arrangement that the appointment of an Awomefia is vested in the Adzovia and Bate clans of Anloga whilst Lafe and Amlade clans are vested with the right to install all chiefs, including the 'Awomefia' by performing the necessary installation rituals falls in line with the tenets and norms of Anlo culture. This arrangement is also evidence of the fact that in precolonial era, procedural rules for validating the appointments and installations of chiefs in precolonial Anlo State existed. These rules could pass for the rules Hart referred to as the secondary rules of recognition and change.

Also from the exposition, the fact that the lower courts could investigate crimes and punish offenders suggest that there were by custom, primary rules of conduct which the court could use as yardsticks to determine the commission of crime or an offence. This suggests that what Hart termed the primary rules of conduct existed in the Anlo State long before they were colonized but these rules evolved with time through custom. The existence of a centralized traditional political system complete with executive authority, an administrative function and judicial institutions which was headed

⁶⁴ A. Ladzekpo, "Religion." *Internet Archive Wayback Machine*. Accessed December 21, 2019.

<https://web.archive.org/web/20061209101922/http://music.calarts.edu/~aladzekp/religion.html>

⁶⁵ Ladzekpo, "Religion." *Internet Archive Wayback Machine*.

⁶⁶ Ladzekpo, "Religion." *Internet Archive Wayback Machine*.

⁶⁷ Samuel Geoffrey, *Law of Obligations and Legal Remedies*.

by the *Awomefia* in precolonial era suggest that rules for carrying out executive, administrative and judicial functions by the *Awomefia* existed. The rules will best fit the description of what Hart regarded as the secondary rules of recognition and change.

Similarly, the system of dispute settlement existing in precolonial *Anlo* State involving the lower and Appellate Courts is evidence that through customs, what Hart termed in his principle of law as rules of adjudication existed in precolonial *Anlo* States for the smooth running of the adjudicative arm of the state and these rules also evolved with time through custom. The duty of the *Awomefia* to preside over the appellate Court with two councils to entertain appeals from the lower courts is also evidence that through customs what Hart termed secondary rules of recognition and change existed in precolonial *Anlo* States empowering these named persons to preside over appeals. It is also evident that what Hart refers to as secondary rules of recognition and change existed in precolonial *Anlo* States through which senior chiefs, sub-chiefs and heads of various clans have been named as persons entrusted with jurisdiction over areas under their control to investigate crimes and settle local disputes.

Furthermore, the exercise of jurisdiction over areas under the control of senior chiefs, subchiefs and heads of various clans to investigate crimes and settle local disputes and workings of the appellant court is evidence that rules for investigating and adjudicating disputes in precolonial *Anlo* State could be equated to Hart's Secondary rule of adjudication. Therefore law existed in precolonial *Anlo* State contrary to Smith's claim that African people only knew of customs instead of law.

Existence of Hart's Primary Rules of Obligation and therefore Law in Precolonial *Anlo* State.

From the exposition on the life experience of the people of *Anlo* State, the permissible transactions discernable from the exposition included pawnship, slave trade, panyarring agreement with terms agreeable by the parties in their exercise of the principle of party autonomy in contract. These transactions were regulated by precolonial *Anlo* customary law which was enforceable in Court of competent jurisdiction.

Similarly, through custom, contracts entered into by parties particularly in barter trading seen in the exposition had elements of consideration similar to that required for most valid English contracts. *Woba*, the *Anlo* form of pledging shallot beds in which the pledgor could always recover his or her shallot beds after refunding pledge money or where the pledge could call for a refund of the pledged money in return for the pledged shallot beds is evidence of a principle long applied by *Anlo* people similar to the Equitable principle known as the mortgagor's equity of redemption. The existence of the rules of Obligation in *Anlo* State in precolonial times enabled parties to contracts or agreements to enforce the terms of the agreement or contract so as to prevent a party from taking steps to avoid contractual obligations. With the existence of the lower and the Appellate Courts, aggrieved parties to any transaction could seek redress in the Court in '*Anlo*' State through customary arbitration presided over by senior chiefs, sub chiefs and head of various clans entrusted with jurisdiction over areas under their control to investigate crimes and settle local disputes. The contractual transactions entered into by members of precolonial '*Anlo*' State with other parties outside or within the *Anlo* State were mainly oral and had all the requirements to establish a contract as required of any oral contract recognized by law in modern-day Republic of Ghana. The existence of contracts and enforcement thereof either through self-help or with the assistance of the Court is evidence of the fact that laws on oral contract existed in precolonial *Anlo* State contrary to Smith's claim that the African people only know of customs instead of law.

Existence of Kelsen's Legal Norm in Precolonial *Anlo* State.

From the two deductions in the two preceding headings, it is discernable from the activities from which these deductions were made that the decisions of the Courts in precolonial *Anlo* State, and the transactions which took place (i.e. pawnship, slave trade, and panyarring agreement), what Kelsen postulates as norms in a legal system existed in *Anlo* State. And these norms include judicial decisions and legal transactions like contracts and wills. It is therefore evident from the activities which took place in precolonial *Anlo* State that various legal norms featured in the jurisprudence of law in precolonial *Anlo* State. The existence of these norms are thus evidence of the existence of law in African terrain in precolonial era contrary to Smith's claim that the African people only know of customs instead of law.

Existence of Kelsen's Accumulated Standing Law in Precolonial *Anlo* State.

From the exposition of the life experience of precolonial *Anlo* State, the decisions of courts in *Anlo* State – i.e. lower courts presided over by the senior chiefs, sub-chiefs and head of various clans, and the appellate Court presided over by the *Awomefia* and his two councils – could affect the existing laws in the *Anlo* State thereby becoming part of its laws. For example, unchallenged decisions of the lower Courts and decisions of the appellate Court on the title to property which operate *in rem* affect any member of the *Anlo* State and cannot be litigated upon. These decisions of the Courts qualify as Hans Kelsen's accumulated standing law in his pure theory of law. This also suggest that not only did precolonial

Anlo State use customs to regulate affairs of its people but besides, custom law existed contrary to Smith's claim that the African people only know of customs instead of law.

Existence of Symbols of Legal Authority in Precolonial *Anlo* State.

From the audit of precolonial *Anlo*, the existence of traditional political system which is complete with executive authority, an administrative function and judicial institutions suggest that precolonial *Anlo* State had symbols of legal authority. Therefore the exercise of authority over the appellate court by the *Awomefia* whilst his senior chiefs, sub-chiefs and heads of various clans exercised jurisdiction over areas under their control to investigate crimes and settle local disputes are evidence of the exercise of legal authority. The existence of these symbols of legal authority is contrary to Driberg's claim that there are generally no symbols of legal authority in the African terrain.

The Existence of a Military System in Precolonial *Anlo* State hence the Existence of Legal Authority

From the exposition on precolonial *Anlo* State, it was found that below the *Awomefia* in the Political system, three senior chiefs commanded three military divisions of the state. Therefore, there existed a military system in that state made up of three divisions of a standing army. The exposition also revealed that warriors in the military divisions provided security to the people of *Anlo*, fought in wars to ward off enemies of *Anlo* State and also annexed more territories by way of conquest for the *Anlo* State. This is a clear demonstration of the existence of another symbol of legal and political authority of precolonial *Anlo* State contrary to Driberg's claim that there is generally no symbol of legal authority in the African terrain.

It is obvious from the recognition given to the existence of divisions in the military system and functions of the military which admits the fact that the mode of recruitment and criteria for recruitment into the military, selection of leadership and replacement of leaderships of these three divisions and function of each divisions in precolonial *Anlo* State were governed by rule of law.

The act of annexation of territory by conquest is evidence of the existence of rules for property acquisition in precolonial *Anlo* State which recognized conquest as a legitimate mode of acquisition of land. Hence most of these lands currently recognized by laws of Ghana as properties of the people of the '*Anlo*' included lands acquired by contest in precolonial era. This admits of the existence of some rule of law on property acquisition which appears to be similar to that propounded by Locke on property acquisition when he postulated that there can be no right to property unless man mixes his labour with the material objects before he acquires a right to the thing created. Therefore contrary to Smith's claim that the African people only know of customs instead of law, the mode of acquisition of land by precolonial *Anlo* State displaces his claim.

Existence of Tools for Regulating Social Behaviour in Precolonial *Anlo* State

Through the exposition, decrees, customs, totems, taboos and the religious believe systems were identified as tools used in precolonial *Anlo* State to cause social change. Borrowing from Pospilsil's typology of elements for determining the existence of law, the existence of these tools of social change are derived from the community and hence a component of the precolonial *Anlo* State's consciousness from which laws evolve. The existence of some of these tools for social change imposes obligations on members of the community whilst these identified tools for social change are derived from authority. A breach of some of these tools of social change carried with them sanctions and hence it can be submitted that some of these tools for social change were laws, particularly the decrees of the *Awomefia*. These tools of change in precolonial *Anlo* State could lead to evolution of conducts of members of precolonial *Anlo* State which conducts could become norms or customary practices. Decrees of kings of precolonial *Anlo* State which suffices as a rule with full force of law are not a negation of law as M'Baye would want all rules of behavioural change in African terrain to appear.

Therapeutic nature of Dispute Resolution mechanisms in Precolonial '*Anlo*' State

The exposition of the life experience of precolonial *Anlo* society revealed that precolonial *Anlo* State had a Criminal Justice System which aimed at ensuring reconciliation, unity, transparency, consensus building, tolerance, love for one another, balance and peaceful co-existence, respect for tradition and values, and fairness to all stakeholders. The Criminal Justice System of precolonial *Anlo* State is therefore fashioned out to heal wounds of victims and any other persons affected by an offender or crime committed and ensured peaceful co-existence in the community with the offender. It is therefore one which sought to maximize the therapeutic consequences of the laws in precolonial *Anlo* society whilst minimizing the anti-therapeutic consequences of law. This reflects the function of law as postulated by David B. Wexler and Bruce J. Winick as therapeutic. It also corroborates Idowu's proposition of law in African jurisprudence that the law is an instrument for the enhancement and /or restoration of social cohesion and equilibrium.⁶⁸ In other words, peace-keeping

⁶⁸ Idowu, "Against the *Skeptical* Argument and the *Absence* Thesis 44.

and the maintenance of social equilibrium stands at the heart of African jurisprudence as was explained by Idowu on his stance that African Jurisprudence was therapeutic.⁶⁹

Morality and law in Precolonial Anlo State

Finally from the exposition, it was also revealed that morality formed a critical part of *Anlo* State's laws where a breach of moral values of the community could attract sanction of live execution. This arrangement in the laws of precolonial *Anlo* State is contrary to Hart's proposition that the law should be decoupled from morality as there could be law without the application of morality. The existence of laws on live execution for dragging the reputation of one's family in the mud and the involvement of family relations of the culprit and the community in seeing to the execution is evidence of the fact that morality played a pivotal role in laws of precolonial '*Anlo*' State. A breach of some moral values was therefore one of the exemptions to members of the society's right to life.

FINDINGS

Clearly from above audit of the life experience, unlike the distinctive features found running through various schools western Jurisprudence of law which give them their distinctive classification, the jurisprudence of law found in precolonial *Anlo* State is made up of traces of tenets of various schools of western jurisprudence. The traces of tenets of various schools of western jurisprudence identified in precolonial *Anlo* State where at a time the *Anlo* State had not had any contacts with and influence from the western world hence colonialism was not a factor which shaped the jurisprudence of precolonial *Anlo* State.

Furthermore, the legal system identified in precolonial *Anlo* State had institutions of authority for making and enforcing laws similar to those of advanced societies but these institutions are different in form and their operations. Hence precolonial *Anlo* State's institutions were not fashioned around the same rules and principles regulating western institutions of authority, however laws were made and enforced to the letter. Also, there existed norms, principles, decrees, customary laws of contract and rules as part of laws of precolonial *Anlo* State which bear semblance with the western jurisprudence of law but these norms, principles, decrees, customary laws of contract and rules had distinctive features which set them apart from those from advanced societies.

It was also found that members of precolonial *Anlo* society were accustomed to obey these norms, principles, customs, decrees, customary laws of contract and rules identified as operating in the society like the known elements of law espoused by jurists from the western school of thought.

RECOMMENDATIONS

It is recommended that in order not to limit the arguments refuting the claim by the Skeptic school on African jurisprudence in future that;

- similar audit of the lives of other African societies before colonization should be carried out to ascertain whether the system of governance in those societies prior to colonization constituted a legal system;
- the research to be carried out should also ascertain whether laws and institutions for enforcement of laws existed in these societies prior to colonization.

CONCLUSION

It is therefore submitted that, from the view point of a proponent, the possibility and actuality of African legal theory exists.⁷⁰ The exposition so far made reveals that the various aspects of *Anlo* culture which have been looked at, suggests that there exists a set of ideas surrounding the rule of law which is basically developed from experiences peculiar to Africa which have insignificant traces of western Jurisprudence hence there is African Jurisprudence.

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⁶⁹ Idowu, "Against the *Skeptical* Argument and the *Absence* Thesis 44.

⁷⁰ Idowu, "Against the *Skeptical* Argument and the *Absence* Thesis 2.

BIBLIOGRAPHY

- Appiah, K.A. & Gates, H.L eds..*Africana: The Encyclopedia of the African and African American Experience*, 2nd Ed (Oxford: Oxford University Press 1999): 594.
- Ahiabile, C. "The Anlos" *Dr. Ganu Research Center*, Accessed September 12, 2017.
<http://www.kganu.net/sitebuildercontent/sitebuilderfiles/theanlos.htm>
- Amoah, E. K., "Justification for Implementing Victim-Offender Mediation in the Criminal Justice System of Ghana." *E-Journal of Humanities, Arts and Social Sciences*, 1 no 5 (2020): 125.
<https://doi.org/10.38159/ehass.2020091>
- Archer, R. "Who rules Anlo in the interim: Awodada or Regent?" *Modern Ghana*. August 31, 2004.
<https://www.modernghana.com/news/115125/who-rules-anlo-in-the-interim-awodada-or-regent.html>
- Babb B.A. & Wexler D.B. Therapeutic Jurisprudence. In: Bruinsma G., Weisburd D. (eds) *Encyclopedia of Criminology and Criminal Justice*. Springer, New York, NY (2014).
https://doi.org/10.1007/978-1-4614-5690-2_203
- Bless, C. and Higson-Smith C., *Fundamentals of social research methods: An African perspective* (2nd edn, Kenwyn: Juta, 1995).
- Brewer G. D., "The Challenges of Interdisciplinarity" *Policy Science*, 32 (1999): 327-328.
- Driberg, J. G. "The African Conception of Law" in *Journal of Comparative Legislation and International Law*, 230, 1934.
- Elias, T. O. *The Nature of African Customary Law*. (Manchester: Manchester University Press, 1956).
- Ellis, A.B. *The Ewe Speaking Peoples of the Slave Coast of West Africa*. (Chicago: Benin Press, Ltd., 1965).
- Geoffrey, Samuel. *Law of Obligations and Legal Remedies*. (2nd edn, London: Cavendish Publishing Limited, 2001).
- Hart, H.L.A. *The Concept of Law*. (2nd edn, Oxford: Clarendon Press, 1994).
- Holleman, J. F. *Issues in African Law*. (The Hague: Mouton and Co., 1974).
- Idowu, W. "Against the Skeptical Argument and the Absence Thesis: African Jurisprudence and the Challenge of Positivist Historiography" *JPSL*, Vol 2 (2006):37. <https://doi.org/10.5840/jpsl2006624>
- _____. "Multiculturalism, Legal Pluralism and the Separability Thesis: A Postmodern Critique of 'An African case for Legal Positivism'" 2 *LSJGDJ* (2008): 2.
- Knight Max, *Pure Theory of Law*, translated. (Berkeley and Los Angeles: University of California Press, 1967).
- Ladzekpo, K. "Anlo-Ewe History." [dancedrummer.com](http://www.dancedrummer.com). Accessed December 21, 2019.
<http://www.dancedrummer.com/history.html>
- Ladzekpo, A., "Religion." *Internet archive Wayback machine*. Accessed December 21, 2019.
<https://web.archive.org/web/20061209101922/http://music.calarts.edu/~aladzekp/religion.html>
- Lafage S. *French Language Written and Spoken in Ewe Region (South-Togo)* (Paris: SELAF, 1985).
- M'Baye, K. "The African Conception of Law" in *The Legal Systems of the World and their Common Comparison and Unification, International Association of Legal Science*, Vol. II (1975).
- Murungi, John. "The Question of African Jurisprudence: Some Hermeneutic Reflections" in *A Companion to African Philosophy*. (Malden Massachusetts: Blackwell Publishing Limited, 2004).
- Nukunya, G.K. *Kinship and Marriage among the Anlo Ewe. London School of Economics Monographs on Social Anthropology* No. 37 (New York: Humanities Press Inc., 1969).
- _____. "The Anlo-Ewe and Full-Time Maritime Fishing Another View." *Maritime Anthropological Studies* 2, 2 (1989):154-173.
- Sale, J. E. M., Lohfeld, L.H. and Brazil, K. "Revisiting Quantitative-Qualitative Debate: Implications for Mixed-Methods Research" *Qual Quant*, February 53, 36 (1) (2002) 43.
- Setordzie, Ivy. "Torkor Atorlia: Anlo Residents Ponder a Return to Live Burial Executions." *Joy News*, December 04, 2014. Accessed June 01, 2020.
<https://m.modernghana.com/news/584652/torkor-atorlia-anlo-residents-ponder-a-return-to-live-burial.html>
- Smith, M. G. *The Sociological Framework of Law*, Chapter 2, Kuper and Kuper, 1965.
- Venkatachalam, M. *Slavery, Memory and Religion in Southeastern Ghana, c.1850–Present*, (New York: Cambridge University Press, 2015). <https://doi.org/10.1017/CBO9781316257852>
- Wacks, Raymond. *An Introduction to Legal Theory* (3rd edn, Oxford: Oxford University Press, 2012).
- Wedberg, Anders. *General Theory of Law and State*, translated (Cambridge, Mass: Harvard University Press, 1949).