

ABIBISEM

JOURNAL OF AFRICAN CULTURE AND CIVILIZATION

*A Publication of the Department of History
University of Cape Coast, Ghana*



VOL. 5, 2012 & 6 2013

425.02

ABIBISEM

JOURNAL OF AFRICAN CULTURE AND CIVILIZATION

A Publication of the Department of History
University of Cape Coast, Ghana



Volume 5, 2012 and Volume 6, 2013

© Department of History,
University of Cape Coast, Ghana

The Origin of Legal Regulation of Chieftaincy Disputes in Yorubaland, 1930 – 1945

Lawrence Kolawole ALO

Abstract

Chieftaincy dispute was one of the major challenges faced by the Colonial administration in Nigeria. This subject has attracted much attention from scholars, but the aspect of legal regulation of chieftaincy matters and disputes have been neglected. This study, therefore, examines 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. It further examines the causes of persistent chieftaincy disputes, assesses the extent to which the various ordinances, laws and the courts were able to resolve the problem of contestations with a view to determining its achievement. The study has established that law is a veritable instrument of administration, in both colonial and post colonial period. Colonial law, to a great extent, provided the desired social order that the colonial administration required for the exploitation of the economy.

Key words and phrases: Challenges, chieftaincy disputes, colonial administration, legal regulations, Yorubaland

Introduction

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 deciding 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. 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 1904–1908.² The details of this agreement have been discussed elsewhere. It is the significance of this agreement that is of relevance to us here.

Sequel to the signing of the agreement on the 8th August, 1904, an Ordinance: Yorubaland Jurisdiction Ordinance was promulgated on the 7th September, 1904.³ 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.⁴ 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.⁵ 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.⁶

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 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.⁷

Literature Review

Very few literatures exist on the subject of legal regulation of chieftaincy disputes in Yorubaland. Professor Oyemakinde's article titled "The Chiefs' Law and the Regulation of Traditional Chieftaincy in Yorubaland" explains the salient provisions of the Chiefs' Law of 1957.⁸ The article discusses the issue of succession in traditional Yoruba society, providing insight into the traditional system of "*Idi-Igi*" as it applies to succession rather than inheritance.⁹ Oyemakinde believes that since chieftaincy was regarded as a legacy like any other item of inheritance, it's

sharing had to be through the same “*Idi igi system*”. By the “*Idi-igi system*”, he noted that the children of the deceased king would be grouped according to the circumstances of their maternity.¹⁰

In another of Oyemakinde’s work¹¹ is the view that British imperialism in Nigeria ushered in a new form of administration. Though it did not remove the erstwhile basis of power and authority, but it modified and utilized it. In this work, several culture areas were examined: Kano, representing Hausaland, Ilorin, 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 either ‘to prop up’ their authority and prestige or ‘to exile’ them when their influence might jeopardize the success of British enterprise.¹² He discussed their various historical and traditional basis of the positions of rulers within the context of their different environments. This work, no doubt provides an understanding of the basis of power and authority of Nigerian traditional rulers.

Atanda’s ‘The Changing status of the *Alaafin* of Oyo under Colonial Rule and Independence’, provides an insight into the pre-colonial status of the *Alaafin*.¹³ He was able to show that the *Alaafin* was an absolute King, though in theory. The excesses of the *Alaafin* were checked by the *Oyo-Mesi*. He believed that the colonial authorities felt that the *Alaafin* was the most powerful potentate in Yorubaland whose position could be used to achieve the desired aim of administering the people “indirectly”.¹⁴ The process of elevating the *Alaafin*, according to Atanda, started between 1883 and 1894. This continued till about 1898-99. By 1903, the *Alaafin*’s authority had been extended beyond the limit of Oyo’s initial boundaries. The *Alaafin* enjoyed an unprecedented power and prestige up to about 1931. Though Atanda extensively explained the fact that there was virtually no chief or *Alaafin* who became one illegally, he did not fail to point out the fact that succession to the throne of the *Alaafin*, was interfered with by the colonial authorities.¹⁵ He indicated that the British exploited the succession process in Oyo 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 *Alaafin* Adeniran Adeyemi II became the *Alaafin*, what used to be the power and authority of the office of the *Alaafin* had considerably reduced. Atanda concludes that *Alaafin* Adeyemi III’s intolerance of the colonial authorities and the rising elite of his days eventually culminated in his deposition.¹⁶

*Nigerian Chiefs: Traditional Power in Modern Politics, 1890s – 1990s*¹⁷ 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 competition for state power in colonial and postcolonial Ibadanland.¹⁸ He examines the period between 1960 and 1966 as that of 'acrimonious competition' that had a very serious effects on chieftaincy structures. He further elucidates that the Action Group politics hand in hand with the other political groups in the west as essential pivot for intensifying communal clash of ethno-regional interests. Vaughan tries to show that chieftaincy policy of Muritala/Obasanjo military regime was described as the policy of 'chieftaincy rationalization'.¹⁹ This he examines from two different angles. One, he examines the 1976 Guidelines for Local Government Reforms, and second, the 1978 Land Use Decree. Though the Local Government Reform introduced significant changes but 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 chieftaincy ordinances and the Chief's Laws which were important instruments used by the colonial authorities to regulate chieftaincy succession, appointment and deposition.

Another recent work, *Chieftaincy and Civic Culture in a Yoruba City*²⁰ 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 chieftaincy ordinances and the Chiefs' Laws. No doubt her work examines incisively chieftaincy system in Ibadan. It is important to note that chieftaincy succession in Ibadan is by rotation. This has tended to reduce the possibility of dispute in Ibadan society. Disputes were and are only still noticeable at the *Mogaji* level. This perhaps may be responsible for Watson's non discussion of significant issues as chieftaincy ordinances and the chiefs' laws.

Inez Sutton²¹ discusses the manner in which law was used by the colonial government in Ghana to resolve chieftaincy disputes and how in the process creating other avenues of disputes. He is of the view that problems were created with the judicial system introduced in Ghana. Hence, he asserts 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 decentralised 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 unending litigations. This consequently led to almost a 'paralysis in the workings of the state.'²² Ghana had a different deal in respect of the management of Chieftaincy disputes, given the difference in socio-political milieu.

Again, in *Chieftaincy and Politics in Ghana since 1982*,²³ Kwame Bofo-Arthur examines chieftaincy in Ghana in a 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. Bofo-Arthur considers the revolution that was ushered into Ghanaian society in the 1980s. This revolution, he asserts, went as far as depriving the chief 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.²⁴ The chiefs, according to Bofo-Arthur had amazing resilience. Their resilience was not arbitrary; they had the support of the youth behind them to sustain the institution of chieftaincy. Secondly, they supported them because "traditional authorities did not share in the prerogatives of the post-colonial state, they also did not suffer from the fall-out associated with state decay."²⁵

Bofo-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).²⁶ Despite Bofo-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. Apparently, it seems obvious that serious chieftaincy dispute became more prominent in post-colonial Ghana. This 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.

In his *Itaji; History and Culture*,²⁷ Olaoba asserts that history, is made to serve as an arbiter for dispute settlement. He cited the dispute that ensued at Itaji after the death of *Oba* Samuel Faderin Anjorin in October, 1943. Two rival groups were to slog it out in a dispute: the *Odofin* and the *Aro* groups. These two chiefs were said to be members of the *Iwarefamefa*. The contention was that the *Odofin* picked Samuel Fakeyesi single-handedly. The *Aro* and the masses in Itaji were in favour of James Fadipe Adeleye 'as the legitimate candidate who satisfied all conditions of eligibility.' The claim of the *Aro* 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 *Odofin* from pressing forward the claim of installing Samuel Fakiyesi.²⁸ It was clear in Olaoba's work that the solution to the dispute was not only the reference to

the Intelligence Report but to a committee, an administrative one at that, 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 any Law was invoked to regulate or manage that dispute at Itaji.

Isola Olomola discusses the problem of chieftaincy dispute in an engaging manner.²⁹ He presents chieftaincy 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 breaks out every now and again, in most parts of Yorubaland. Olomola explains that the re-ordering that 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 thereby generated tremendous socio-cultural mutations in Yorubaland. They believed that native law should be changed, if necessary, to pave way for a 'civilizing' and emerging community. Olomola's work presents a good insight to the study of chieftaincy disputes in Yorubaland. Although he did not examine the confusion created with the promulgation of ordinances and laws, which used to regulate chieftaincy matters.

In *Chieftaincy and the Law*, Kusamotu³⁰ incisively considers the chieftaincy institution and the law. 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 create an enabling environment for the administration to exploit the resources of the entire Yorubaland as elsewhere in Nigeria.

In "Odógbolú Chieftaincy Dispute in Historical Perspective",³¹ Adeniji presents the unsavoury struggle for paramountcy among three quarter heads in Odógbolú, an Ijèbú town. The contest was between *Elési* of Orulé Efiyàn, the *Orémádégún* of Orulé Odóláyanran and the *Móládá* of Orilé Ìlódà. Abolade shows that for reasons bordering on collective security at such a time of war and serious insecurity in Yorubaland, these three groups of Ijèbú communities along with some other five (making about eight quarters in all),³² they agreed to migrate and settle together at the present location of Odógbolú. 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 Ìjèbú Province. This league included the *Awùjalè* of Ìjèbú-Òde, the *Àjàlórùn* of Ìjèbú-Ife, the *Olówu* of Òwu Ìkijà, the *Dágbùrewá* of Ìdowá, and the *Mólòdá* of Òdógbolú.³³ Each of the members of the league, except the *Dágbùrewá* of Ìdowá, 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 *Mólòdá* was left out.

The arrangement made for his salary showed that he was not reckoned with as a ruler. Both he and *Elési* received only sixteen pounds per annum.³⁴ To make matters worse, about a decade later, this arrangement was further amended. In 1927, *Òrémádégún* was surprisingly made the overall head of the confederate quarters that became Òdógbolú town.³⁵ This step, taken by the colonial administration, stirred up a serious protest by the *Mólòdá*. His protest was supported by the *Elési*, 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 1984³⁶ 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.

Falola³⁷ posits that *Obas* 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 Ògbómoso*³⁸ 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 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 *Sòún* of Ògbómòşò that was raised in Oduwobi's work did not show an understanding of the reason(s) why Chieftaincy Declaration was put in place.³⁹ 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 *Sòún* after his refusal in 1956 to support the selection of Atóyèbí. Oduwobi shows that *Sòún*'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 *Sòún* noticed that his position was to be rubbished that he consented in 1958.⁴⁰ 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,⁴¹ 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.⁴² 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 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.⁴³ 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. 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/*Obasanjo* affected the sensibilities of traditional authorities during this period because of the many reforms that were promulgated.⁴⁴ The Local Government 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*,⁴⁵ 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 aims at analyzing the judgment of J. Swart in the recent case of *Nwamitwa v. Philia and Others*. 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.⁴⁶

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 disputes in Yorubaland. This article sets out to fill the gaps that exist in the various works reviewed. Most of the literature reviewed in this study did not have direct relationship with the present study but they all provide insight and useful information for the current study. This study examines the origin of legal regulation of chieftaincy disputes in Yorubaland and considers how such disputes were managed under the various legal instruments promulgated by the colonial administrations. It also considers the reactions of the people to the promulgation and implementation of the Appointment and Deposition of Chiefs Ordinance in particular.

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.⁴⁷ 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 tradition and culture of the people.⁴⁸ Its essence was recalled whenever it was required. The advent of colonial rule brought about the 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.⁴⁹ 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.⁵⁰ A typical example is the case of the *Olomu* of *Omu* chieftaincy dispute. S. A. Soile who was a major contender in the dispute was said to be a member of the *Ramuja* ruling house. His opponents contended that the *Ramuja* ruling house was not actually a "ruling house" in *Omu-Ijebu*.⁵¹ Investigation(s) into the dispute later revealed that the confusion came because what was known with that ruling house was the name *Adekiyeri*, rather than *Ramuja*. It was later confirmed that S. A. Soile was actually a member of the *Adekiyeri* 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.⁵² Most chieftaincy positions in Yorubaland are connected to chieftaincy land. Major Yoruba towns have a number of villages that are directly subservient to the paramount chief, i.e. the *Oba*. For example, the *Alaafin* of Oyo, the *Awujale* of Ijebu-Ode, *Owa Obokun* of Ijesaland, the *Olubadan* of Ibadan and the *Alake* of Abeokuta, to mention just a few, have chieftaincy land under their jurisdiction.⁵³ As a result, the *Oba* 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 Yoruba, 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 *Oba* should not sell or alienate land even though he is regarded as the leader of the community, but it must be said that several *Obas* and others with chiefly positions have misrepresented their role in community land management,⁵⁴ 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 alienation of land or its ownership. An example was the case between David Jegede and Chief David Ibadapo, the *Lemodu* of Ilesa in 1947.⁵⁵ David Jegede was claiming declaration of title to all the portions of land situated at Okesa street, 'which is occupied by the CMS Bookshop'⁵⁶ but the plaintiff inherited the land from his father who

was a previous *Lemodu* of Ilesa. 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 *Owa Aromolaran I*, before his demise.⁵⁷ This he did through Chief *Lemodu Ajayi* who was David Ibidapo's predecessor. When this came to the Native Court in Ilesa for hearing, it was determined in favour of Chief David Ibidapo, the *Lemodu*, perhaps 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 *Owa's* previous recognition of the land as chieftaincy land stood in contrast with his later acceptance of the land as private property.⁵⁸ 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.

The **Sorundi Chieftaincy dispute** is another case in point.⁵⁹ That dispute can be seen from two directions. The first concerned the legitimacy of Chief Aogo Falabonu, the Sorundi of Ilesa, 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 Ilesa. Petitions were not only written to the colonial government over this dispute but other letters of protest were written and sent to the *Owa Aromolaran I*. This dispute went on till the reign of the *Owa Ajimoko II* who became the *Owa* in 1946. Several attempts were made to unseat the Sorundi Falabonu but these were to no avail.

The second aspect of this dispute started in 1949. Again, Chief Falabonu was accused of alienating 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 *Owa Ajimoko 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.⁶⁰ 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 penalized for alienating the said *Sorundi* Chieftaincy land, but a letter was sent to him from the Native

Authority Council Office that he should stop further alienation of chieftaincy land as it belonged to the entire *Sorundi* Chieftaincy family. It was clear that Chief Aogo Falabonu gave the *Owa Ajimoko II* perquisite in respect of the sale of the said chieftaincy land.⁶¹ This must have been responsible for the smooth sail that the dispute enjoyed before the *Owa Ajimoko II* during this period. Again, it must be said that the memory of the consequence of the 1941 riot in Ilesa went a long way in ensuring peace.

Another significant factor for chieftaincy disputes was the spate of bribery.⁶² 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 candidates into such chiefly positions. For example, complaints were leveled against the *Olubadan* of Ibadan of receiving bribe from *Timi Memudu Lagunju* during the *Timi* of Ede chieftaincy dispute between him and *Adetoyese Laoye*.⁶³

The popularity of the idea of an educated *Oba* also contributed to the wave of chieftaincy disputes in Yorubaland.⁶⁴ For instance, the clamour for S. A. Adedeji as the new *Risawe* of Ilesa 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.

Origin of Legal Regulation of Chieftaincy Disputes

In many parts of Yorubaland during our period, any time there was a vacant stool caused by the demise of the incumbent chief, stiff succession dispute arose.⁶⁵ The existence of stipulated succession procedures among the people could not checkmate the ugly trend. 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.⁶⁶ 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.⁶⁷ It was for this reason, that on the 16th December, 1947, a motion

was moved by the second member for the Oyo Province, Chief J. R. Turton, *Risave* of Ilesa, 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.⁶⁸ Chief Turton was of the opinion that:

... there was no reason why we should put ourselves in a predicament where the Supreme and Magistrate Courts must appoint our chiefs and *Obas* for us or where through some technicalities in law, not easy to understand or appreciate, the will of the people through their *Oba* may be set aside by the courts.⁶⁹

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 Yoruba, 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 that 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 Ladigbolu Adeyemi as the *Alaafin* at Oyo.⁷⁰ Though, Atanda has argued that Ladigbolu Adeyemi was a popular choice of the Kingmakers, it must be mentioned that it was Captain Ross who tipped the choice of Ladigbolu Adeyemi. It can then be argued that the Kingmakers could not have blatantly opposed the nomination of Ladigbolu 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 Ijebuland 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 candidate, government will not hesitate to make its own selection.⁷¹

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 *Gbeleguwa* royal family), nomination as the *Awujale*-elect was ratified and approved by the Governor against public opinion.⁷² 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 *Oba* 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".⁷³ 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 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 Epe 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'.⁷⁴ To him, he believed this could best be done by the arrangements embodied in the ordinance, which, while recognizing 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.

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'.⁷⁵ 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.⁷⁶

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'.⁷⁷

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. Criticisms against this ordinance also created a lot of tension among the administrators. This generated several correspondences which were mainly to ask 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.⁷⁸

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 *Alara* of Ilara, in the Eredo Area of Epe Division died, a dispute ensued as to who was to become the new *Alara*.⁷⁹ After his demise, one Bakare Onomade was selected to hold the title without opposition, but he could not be recognised as such. Though, the *Alara* of Ilara chieftaincy was a member of the Eredo 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 of 1930,⁸⁰ yet under the new Appointment and Deposition of Chiefs Ordinance of 1930, he could not recognise the *Alara* of Ilara by himself. This situation in Ilara 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 Ilara which was in Epe Division of the Colony of Lagos, the Chief Secretary to the Government responded to the problem at Ilara 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.'⁸¹

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 invidious distinction between colony and protectorate. Looking at it critically, the Ordinance seemed to seek 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.⁸² 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.

Again, 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.⁸³ 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 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.⁸⁴ 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.⁸⁵

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 General.⁸⁶ 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.⁸⁷ 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.⁸⁸ 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 deciding any chieftaincy dispute or deposing a chief.

Reactions to 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 typical example was what happened at Osogbo in 1941, when the *Ataoja* (of Osogbo) claimed that he was usually disobeyed by one of his principal chiefs, the *Jagun* (of Osogbo), Chief Sule Akanbi.⁸⁹ Consequently, the *Ataoja* 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 *Ataoja*, he, the *Jagun* was of the opinion that the *Ataoja* 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 *Ataoja* was reported to have handled the administration of Osogbo Native Authority (O.N.A.) affairs.⁹⁰ He made the *Ataoja* to understand that he was surprised at how he 'bickered in such an unseemly manner' and that he could have refrained from "recreminations".⁹¹

The attitude of the *Ataoja* 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 in 1947. It was clear that little or 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.⁹²

Again, in July 1941, the *Olufon* of Ifon Osun installed one Latunji as the 'new' *Ikolaba* of Ifon without any reference to either the *Olubadan* (who was the Sole Native Authority) or the D.O. who was the administrator in charge of that district, the Ibadan Northern District.⁹³ In his explanation, the *Olufon* claimed that the *Ikolaba* chieftaincy at Ifon 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 *Olufon* felt he could just go ahead to install Latunji as the *Ikolaba*. The D.O. was still not satisfied with the explanation of the *Olufon*. The dissatisfaction of the D.O. can be explained from the point of view of the violation by the *Olufon* of the Appointment and Deposition of Chiefs Ordinance which made it compulsory for him, not only to inform the *Olubadan* but also the District Officer, who was to seek approval from the Resident.⁹⁴ The D.O. reminded the *Olufon* that no salary could be paid to any chief who was installed without approval. The *Olufon* swung into action. He wrote again to appeal to the D.O. and to the *Olubadan*, apologising that his action was not in any way to despise their offices. The matter was settled and rested when the *Olubadan* wrote to the D.O. in support of Latunji's choice as the *Ikolaba* of Ifon Osun.

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 statute 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.⁹⁵

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."⁹⁶ 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 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."⁹⁷ 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.

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.⁹⁸ 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 came during our period. What were the causes of these chieftaincy disputes? How were these disputes resolved? What were the consequences of these disputes on the different locations? The answers to these and several other questions will be the business of the next section.

By about the 1940s, the rate at which chieftaincy disputes were coming up was very alarming and left much to be desired. All over Yorubaland, as elsewhere, in the entire country, chieftaincy contestations took a new dimension.

Irawo Chieftaincy Dispute

At Irawo, in Oyo Division, there was a dispute over who should be installed as the new *Ajorinwin* of Irawo in 1947.⁹⁹ The dispute was between one Adeola and Aroyeun. It was said that Aroyeun was the rightful claimant to the throne of Irawo, as he descended from the only royal house in the town, the Edu royal House. Adeola, the other claimant, was not a member of the Edu royal House and as a result, could not be installed as the *Ajorinwin* of Irawo. One significant issue to note in this dispute is that the *Alaafin* had earlier on supported the choice of Adeola who was believed not to be a descendant of Edu, the founder of Irawo.¹⁰⁰

The reason for Adeola's support by the *Alaafin* was not immediately known, it became obvious afterwards that Adeola had given the *Alaafin* money and gift.¹⁰¹ This he did in order to win the favour of the revered Yoruba monarch. It was not long when another candidate showed his interest in the contest, in person of one Adeyemi.¹⁰² As a testimony to the fact that the *Alaafin* 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.¹⁰³ 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 *Alaafin* himself. The *Okere* did this as a mark of respect for the *Alaafin*.

How was it known? It is apparent that the office of the *Ajorinwin* of Irawo was not under "the Appointment and Deposition of Chiefs Ordinance" because the *Ajorinwin* was not a Native Authority, hence his appointment was entirely a matter for the *Alaafin* and his Council to handle. It was this opportunity that the *Alaafin* cached-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 *Alaafin* sent his messengers to Irawo, to install Adeola. But from the day of his installation the people in Irawo unanimously opposed his installation. It was obvious that there was not going to be peace in Irawo as the choice of Adeola was not acceptable to the generality of the people. From the date of Adeola's Installation onwards, a 'flood' of petitions from either side reached the District Office.¹⁰⁴ On his part the District Officer, with the assistance of committees of the Oyo Native Authority made several investigations into the dispute at Irawo. The first of these enquiries was carried out by the Assistant District Officer, Oyo Division, in November, 1948. At this time the town was hopelessly divided over who should be installed as the *Ajorinwin* of Irawo. Based on the first enquiry, the District Officer saw no reason why the initial decision to install Adeola should be rescinded.

However, while the Resident was considering the report of the District Officer, the *Alaafin* summoned Adeola the *Ajorinwin*, to Oyo and forbade him from re-entering the palace at Irawo for the time being. Early in July, 1949, Adeola was re-installed after the District officer had communicated his approval. This dispute took another dimension when in 1950; Aroyeun received the permission of the *Alaafin* to collect tax. He began to behave like an *Ajorinwin*.¹⁰⁵ He wore the royal silver bangles, the royal insignia of the *Ajorinwin*. It was surprising to those who saw the royal silver bangles on Aroyeun. These bangles had been 'removed' by Aroyeun's followers from the palace while Adeola was at Oyo to visit the *Alaafin* in 1949. In 1950, Adeola was re-instated by the Resident, Oyo Province. But Aroyeun's possession of the royal silver insignia continued to cause trouble. The *Alaafin* sent a letter to the District Officer, Oyo Division, that the "family side" of the *Ajorinwin*, in Irawo was 'obstructing the entrance of the newly installed *Ajorinwin* in person of "YESUFU ADEOLA into the official residence of *Ajorinwin*. I suggest that I should send some policemen and my messengers to Irawo...to enforce the order and to keep peace."¹⁰⁶

In February, 1951, the Chieftaincy Committee of the Oyo Native Authority conducted an enquiry at Irawo. Several sections of Irawo town came to the venue of the enquiry to speak in respect of who should be the *Ajorinwin* of Irawo. The year 1951 was a year of terrible confusion in Irawo. It was in the same year that Aroyeun the major contender to the throne with Adeola was arrested for collecting tax.¹⁰⁷ Although he was released immediately, tension still filled the entire town as a result of the *Ajorinwin* chieftaincy dispute. In the same year the dispute was brought before the Divisional Council at Oyo. The report of the enquiry favoured Adeola. However, the *Alaafin* objected to the choice of Adeola.¹⁰⁸ What could have caused this swift change of mind? It became obvious that the majority of Irawo people were behind Aroyeun and it was possible that the *Alaafin* 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 *Alaafin* from Aroyeun 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, 1951.¹⁰⁹ After a very thorough enquiry, this committee reported in November, 1951, in favour of Aroyeun. The report was accepted by the Executive Committee of the Oyo Native Authority on the 21st February, 1952, but this was rejected by the full Council on the following day.¹¹⁰ After a further acrimonious meeting of the Divisional Council in May, 1952, the two major contestants were summoned to Oyo to the Council meeting. It was at this meeting that the silver insignia of office of the *Ajorinwin* was collected from Aroyeun and handed over to Adeola. 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 Obafemi 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 Aroyeun heard the news of the decision at Oyo, they began to leave Irawo to a virgin land of about 'one and a half miles' away, that was cleared and named the new Irawo settlement. Aroyeun's supporters claimed that they would only pay their tax through Aroyeun and not through Adeola.¹¹¹ 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 Oyo. The *Alaafin* was forced by the Chiefs and the Councilors to throw his support behind Adeola and not Aroyeun. 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 Aroyeun's insurgent behaviour under control. The Oyo Native Authority and the Saki District Council, with the consent of

the Attorney-General, were both convinced that legal action should be taken against Aroyeun under Section 40 sub-section 2 of cap 140 of the Native Authority Ordinance, on a charge of "holding himself out as a chief."¹² It must be said that one issue for contention was that the history of Irawo did not in any way show that Adeola hails from any royal family. The Saki council councilors who influenced the Oyo Divisional Native Authority in arriving at the decision to oust Aroyeun for Adeola were the ones who created the problem at Irawo. The Executive and General Purpose Committee met to determine what to be done to stop Aroyeun 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 Aroyeun. It was suggested that he be deported for a period of two years from Oyo 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 *Ajorinwin* was not a member of a Native Authority Council. It was decided that the earlier suggestion to take an action against Aroyeun with the consent of the Attorney General, under section 40 (2) of the Native Authority Ordinance Cap. 140 was finally agreed on. This chieftaincy dispute is very significant as it led not only to crisis and confusion in Irawo, but the "establishment" of a new settlement which the Colonial Government found very difficult to resolve.

Conclusion

In this study, I have argued that the colonial administration found it necessary to regulate chieftaincy institution and every dispute that ensued from it. This was 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. Again, 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.

The use of the law to regulate Chieftaincy matters and disputes went some way during our period. It can be said that law and the court considerably helped 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. Just as the colonial administration used law to regulate

chieftaincy affairs, the Western Regional Government also used the promulgation of the law to regulate local government administration in the region. Colonial law, to a great extent, provided the desired social order that the colonial administration required for the exploitation of the economy of Yorubaland.

Endnotes

1. *Encyclopedia-Americana*, International Edition, Vol. 17 (Danbury, Connecticut: Grolier, 2003), p. 116.
2. 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 detail in O. Adewoye, "The Judicial Agreements in Yorubaland, 1904-1908", *Journal of African History*, Vol. XII, No.4 (1971), pp. 621-628.
3. O. Adewoye, *The Judicial System in Southern Nigeria*.
4. *Ibid.*
5. *Ibid.*, p. 20.
6. NAI, CSO, 5/8/4, Instructions dated 13 January 1888, clause 31. See also NAI CSO 5/8/4, Instructions dated 28 February 1886, clause 36.
7. NAI, CSO, 26, 17005, Vol. II, Appointment and Deposition of Chiefs Ordinance, pp. 32-35.
8. W. Oyemakinde, "The Chiefs Law and the Regulation of Traditional Chieftaincy in Yorubaland", *Journal of the Historical Society of Nigeria*, Vol. 9 (1997).
9. *Ibid.*
10. W. Oyemakinde, "The Derivation of Traditional Power and Authority in Nigeria", *African Notes*, Vol. VIII, No. 2 (1981), pp. 25-35.
11. *Ibid.*
12. *Ibid.*
13. J. A. Atanda, *The New Oyo Empire: Indirect Rule and Change in Western Nigeria, 1894-1934* (London: Longman Group Ltd., 1977), p. 35-49.
14. *Ibid.*
15. *Ibid.*
16. *Ibid.*

17. Vaughan Olufemi, *Nigerian Chiefs: Traditional Power in Mo—
Politics 1890s-1990s* (Rochester: University of Rochester P—
2000), p. 49.
18. *Ibid.*
19. R. Watson, *Civil Disorder is the Disease of Ibadan: Chieftaincy
Civic Culture in a Yorubá City* (USA: Ohio University Press, 200—
20. *Ibid.*
21. I. Sutton, "Law, Chieftaincy and Conflict in Colonial Ghana: —
Ada Case", *African Affairs*, Vol. 83, No. 330 (January, 1984),
41–62.
22. *Ibid.*
23. K. Boafor-Arthur, "Chieftaincy and Politics in Ghana Since 198—
West Africa Review (2001).
24. *Ibid.*
25. *Ibid.*
26. *Ibid.*
27. O.B. Olaoba, *Itaji: History and Culture* (Ibadan: John Arch—
(Publishers) Ltd., 1999), pp. 78–93.
28. *Ibid.*
29. I. Olomola, "Managing Chieftaincy Disputes in Yorubáland: T
Past and the Present", *Local Approaches to Conflict Transformati
in Nigeria* (Ibadan: John Archers (Publishers) Ltd., 2007), pp.19
203.
30. G. Kusamotu, *Chieftaincy and Law* (Ibadan: Sulek-Ten
Publishing Company, 2001).
31. A. Adeniji, "Odógbolú Chieftaincy Dispute in Histori
Perspective", in Toyin Falola and Ann Genova (eds.), *Yori
Identity and Power Politics* (New York: University of Roches
Press, 2006), pp. 161–180.
32. *Ibid.*
33. *Ibid.*
34. *Ibid.*
35. *Ibid.*
36. *Ibid.*
37. *Ibid.*

38. T. Oduwobi, *Post-Independence Chieftaincy Politics in Ogbómòsò* (Lagos: University of Lagos, Faculty of Arts Monograph Series, 2009), pp.1–69.
39. *Ibid.*
40. *Ibid.*
41. Olufemi, *Nigerian Chiefs*, p. 49.
42. *Ibid.*
43. *Ibid.*
44. *Ibid.*
45. O. Mireku, *Judicial Balancing of Parallel Values: Male Primogeniture, Gender Equality and Chieftaincy Succession in South Africa*, www.enelsyn.gr/papers/w14/paper%20Prof%200beng%20 (retrieved on May 21, 2011).
46. *Ibid.*
47. "Chieftaincy Bill Meets Opposition", *Southern Nigeria Defender* (Wednesday, July 28, 1948), p. 1.
48. Adewoye, *The Judicial System in Southern Nigeria*.
49. NAI, Nigeria: Government Gazette, 1930 – Chieftaincy Disputes (Preclusion of Courts) Ordinance.
50. *Southern Nigeria Defender* (Saturday, June 28, 1947), p. 2.
51. NAI, *Western House of Chiefs Debates* (Ibadan: Government Press, 1948).
52. "Chieftaincy Bill Meets Opposition".
53. *Ibid.*
54. *Ibid.*
55. Land Dispute between David Jegede and Chief David Ibidapo, the *Lẹ̀mọ̀dù* of Ilẹ̀ṣà in 1947
56. *Ibid.*
57. *Ibid.*
58. *Ibid.*
59. Sorundi Chieftaincy Disputes
60. *Ibid.*
61. *Ibid.*
62. D.O. Olupayimo, "The Impact of Judicial Intervention on Chieftaincy Institution in Old Oṣun Division, 1946-1991", A Thesis submitted in partial fulfillment of the requirement for the award of

- Master of Philosophy Degree in History, Department of History, Obafemi Awolowo University, Ile-Ife (2005), pp. 59–60.
63. NAI, CSO 26, 54007/ S.2, Ibadan Province: Annual Report, 1953. Entry on: Chieftaincy Disputes.
 64. Adewoye, *The Judicial System in Southern Nigeria*, p. 38.
 65. Interview with Mr. J.O. Ògúnbona, Aged 67 years, on the 23rd June, 2008, at Ìjẹ̀bú-Òde.
 66. "Chieftaincy Bill Meets Opposition".
 67. *Ibid.*
 68. NAI, CSO 26, 17005, Vol. I, Appointment and Deposition of Chiefs Ordinance.
 69. *Ibid.*
 70. J.A. Atanda, "The Changing Role of the *Aláàfin*", *West African Chiefs: Their Changing Role* (London: Longman 1980).
 71. NAI, CSO 26, 17005, Vol. I.
 72. *Ibid.*
 73. *Ibid.*
 74. *Ibid.*
 75. *Ibid.*
 76. *Ibid.*
 77. *Ibid.*
 78. NAI, CSO 26, 17005, Vol. IV, Appointment and Deposition of Chiefs Ordinance. Correspondence of the Secretary of State for the Colony the Chief Residents in Western Provinces, dated 24 August 1935.
 79. *Ibid.*
 80. NAI, CSO 26, 17005, Vol. I.
 81. *Ibid.*
 82. NAI, CSO 26, 17005, Vol. III, Appointment and Deposition of Chiefs Ordinance.
 83. *Ibid.*
 84. NAI, CSO 26, 17005, Vol. IV.
 85. *Ibid.*
 86. *Ibid.*
 87. N. A. I. CSO 26, 17005, Vol. III.
 88. *Ibid.*

89. *Ibid.*
90. *Ibid.*
91. *Ibid.*
92. *Ibid.*
93. *Southern Nigeria Defender* (Saturday, June 28, 1947), p. 2
94. NAI, Ōṣun Div. 1/1, 175A, Appointment of Chiefs – Ōṣogbo and District, pp. 300–302.
95. “Nigeria: A Land of Ordinances”, *Southern Nigeria Defender* (Wednesday March 12, 1947), p. 2.
96. NAI, CSO 26, 17005, Vol. IV.
97. *Ibid.*
98. J.S. Coleman, *Nigeria: Background to Nationalism* (Berkeley CA: University of California Press, 1958 (1972)), p. 284.
99. NAI, Ōyọ Prof I, 1048/23, Ìrąwọ Chieftaincy Dispute.
100. *Ibid.*
101. Interview with Mr. Yusuf Alamu, Aged 71years, at Okeho, on 12th October, 2009.
102. NAI, Ōyọ Prof I, 1048/23, Ìrąwọ Chieftaincy Dispute.
103. *Ibid.*
104. *Ibid.*
105. *Ibid.*
106. *Ibid.*
107. *Ibid.*
108. *Ibid.*
109. *Ibid.*
110. *Ibid.*
111. Interview with Mr. Yusuf Alamu.
112. NAI, Ōyọ Prof I, 1048/23, Ìrąwọ Chieftaincy Dispute.