

The Òrìṣà Legal Tradition

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Abstract This article advances the claim that the Òrìṣà tradition is best conceived of as a legal tradition. Notwithstanding the fact that scholars have written extensively about the tradition from the perspectives of *religion* (W. Abimbola 1976; Hucks 2012; Murphy 1995; Olupona & Rey 2008; Stewart 2005), *philosophy* (K. Abímbólá 2018; K. Abímbólá 2006; Hallen 2000; Makinde 1988; Taiwo 2004), *the arts* (Abiodun 1975; Thompson 1984; Pemberton III 1977), and many other domains of inquiry, I maintain that the extant scholarship has underrated the significance of tradition, and has almost completely overlooked the fact that the primary function of Òrìṣà is the improvement of social interaction through the governance and regulation of conduct—which makes it a legal tradition.

Keywords Òrìṣà, Culture, Legal Tradition, *Ifá*, *ẹbọ*

1. INTRODUCTION

Over the last two decades, several scholars have written extensively about the implications of globalization for the discipline of law. Twining 2009; Tamanaha 2008; Teubner 1997; Singer 2004; Pogge 1989; and Glenn 2014; all present vital explanations of how law and jurisprudence require transformation in light of globalization. This article's aims are similar

but different. *Òrìṣà* is a global indigenous practice and, as such, focusing on the implications of globalization for a worldwide practice would be rhetorical. So, I focus on the impact of *Òrìṣà* on the discipline of law and on rejecting the received view of *Òrìṣà* as a *religious practice* in favor of its actual image as a *legal tradition*.

To this end, this article achieves the following goals:

1. It characterizes the *Òrìṣà* tradition as an indigenous and global, cosmopolitan, culture.
2. It gives an account of the network of commitments that, uniquely, distinguish the *Òrìṣà* tradition from other traditions.
3. It identifies the basic structures of the *Òrìṣà* legal tradition.

The combined effect of the preceding, I shall maintain, is a fuller, richer, and more precise understanding of a tradition that has, for far too long, been incorrectly conceived of, primarily, as a religious tradition.

Èbò—a concept, a practice, a way of life, and the basis of all social obligations—is of primordial importance to the decisive transformation in the understanding of *Òrìṣà* that I want to inaugurate.

2. ÒRÌṢÀ: A GLOBAL TRADITION AND CULTURE

The *Òrìṣà* tradition was transplanted from Africa to the Americas and other parts of the world during the period when African peoples were enslaved. Today, the *Òrìṣà* tradition is practiced by about 256 million people in all regions¹ of the world. In all these places, the *Òrìṣà* tradition plays significant (and transformative) roles in the arts (e.g., music, dance) and in the regulation of everyday life.

The homeland of the *Òrìṣà* tradition is in Africa. Due to the European colonial policy of division, this homeland now spans across the West African countries of Nigeria, the Benin Republic, Togo, Ghana, and Sierra Leone. Various myths, legends, and stories enshrined in *Ifá* (the Sacred Scriptures of the *Òrìṣà* tradition) proclaim *Ilé-Ifẹ̀* to be the place where the Earth and all its inhabitants were created. The name “*Ilé-Ifẹ̀*” comes from the noun *ilé* (which means “home” or “house”) and the verb *ifẹ̀* (which means “to expand” or “to spread out”). The belief that *Ilé-Ifẹ̀* is the cradle of life is one of the critical elements of the *Òrìṣà* tradition in Africa and the Diaspora. To this end, the Monarch of *Ilé-Ifẹ̀*, who is called the *Ọ̀ṣẹ̀ni*,

also known as *Ọlófìn Ayé* (Law-Giver of the Earth) is globally regarded as a demi-God who is the supreme judge of Òrìṣà chthonic law, tradition, and custom.

It is estimated that the population of the *Yorùbá* in West Africa is 60 million. This makes the *Yorùbá* one of the largest groups in sub-Saharan Africa. Their greatest concentration is in the southwestern parts of Nigeria, where they number about 50 million. With an estimated population of 22 million, Lagos (also known as *Èkó* in *Yorùbá*) is their most populous metropolis. In the Benin Republic, which borders Nigeria to the west, about 3 million *Yorùbá* people live in that country's central and south-eastern parts. Some of the main *Yorùbá* cities in the Benin Republic include *Kétu*, *Sabe*, and *Porto Novo* (known as *Àjàṣé* in *Yorùbá*). In Togo, the *Yorùbá* occupies the south-central regions of the country. Togo's third-largest city, *Atakpamé* is a *Yorùbá* city. The *Yorùbá* peoples of Togo are known as the "*Ifẹ-Aáná*" in the *Ifá* Literary Corpus. There are about 200 *Yorùbá* villages in Ghana. Enslaved *Yorùbá*-speaking peoples were settled in Sierra Leone after the abolition of the trans-Atlantic slave trade.

As a result of trans-Atlantic enslavement, contemporary economic migration, and voluntary cultural identification, close to 140 million "black," "white," and multiracial peoples in Argentina, Australia, Brazil, Canada, Columbia, Cuba, France, Haiti, Italy, Jamaica, Mexico, Spain, Trinidad and Tobago, the United Kingdom, the United States, and Venezuela organize their daily lives based on Òrìṣà beliefs and cultural practices. Brazil has the largest concentration of *Yorùbá* people in the Diaspora. Although demographic data is not readily available, field research by this author and others suggests that close to 50 million people in Brazil will readily identify their tradition as Òrìṣà (or *Candomblé*, *Santería*, *Umbanda*, *Macumba*, or *Batuque*—which are all denominations of the Òrìṣà tradition in Brazil).

Cuba deserves a special mention, not just because of its citizens who trace their ancestry to West Africa, but also because it was, primarily, via Cuba that the Òrìṣà tradition made its way to the United States, which now has close to ten million practitioners of Òrìṣà tradition and culture. In addition to their presence in these parts of the Western world, practitioners of the culture are to be found in varying numbers in all regions of the world, from Australia to Japan, China, Russia, Iceland, and South Africa. My rough estimate is that there are about 50–66 million practitioners in these other regions.

The question, then, can be asked: how can a tradition be so widespread, so well-studied, and yet be so misunderstood, as I am claiming? The answer, I believe, lies in the fact that not enough attention has been given to *tradition* by scholars of Òrìṣà culture, and that many still uphold a Eurocentric, parochial, and Westphalian conception of law according to which legal systems must have two, and mainly two, types of orderings, namely, municipal state law and the public international laws that govern the relations between states.

Tradition, Gods, and Anti-Gods

For some people, “tradition” is about time-honored orthodox doctrines that have been fossilized and are, as such, anachronistic. Following T. S. Elliot 1948; Martin Krygier 1986; and H. Patrick Glenn 2014, I do not use “tradition” in this anachronistic sense. For me, “tradition” is a repository for more than relics of generations past that are exhibited in art, dance, drama, and etiquette. Instead, tradition is about a worldview—be it ancient or contemporary—whose components can be tracked in time and place to a group of people’s thoughts and practices. So, while tradition must be historical, it must also be dynamic and responsive to change and modification.

One of the essential elements of *tradition* identified by Elliot 1948 is its *pastness*. Pastness, in this sense, connotes more than “age” because while the notion of a “young age” makes perfect sense in various contexts, to describe a tradition as a “young tradition” is, at best awkward, and worst oxymoronic. Even if the quantum of pastness that is required for something to qualify as a tradition is fuzzy, it must, at least, have existed (or must have been existing) or occurred (or occurring) in earlier times (or since earlier times).

But existence from earlier times, alone, does not suffice to establish a tradition. Elliot 1948, Krygier 1986, and Glenn 2014 emphasize the point that *pastness* must have an inherent, indwelling, or *authoritative presence* within a *particular social context*. And this, inevitably, means that, for something to qualify as a tradition, it must be relevant to a specific social group in its daily life. *The transmission of pastness through reception and authoritative presence within a social context* is an indispensable element of tradition.

Glenn 2014 maintains:

That which is brought from the past to the present, in a particular context, is information. A tradition is accordingly composed of information, and it would be inappropriate to see it . . . as “an indefinite series of repetitions of an action.” This would confuse the results or impact of the tradition, its immediate manifestation, with the tradition itself. If there is a “traditional way of doing things,” the tradition is in the way and not in the doing. Once they take place, acts or decisions disappear forever if they are not translated into communicable information. In the future, one may, or may not, act upon the information, but without it, there can be no concept of tradition, only a grim reality of human entropy. (13–14)

Glenn’s view is that “information” is that which is brought from the past to the present by a tradition. I will augment Glenn’s view with the claim that an indispensable pool of “information” transported by a tradition includes its *strong network of ontological, epistemological, and axiological commitments*.²

Ontological here refers to assumptions about the types of entities that populate the world, the nature of these entities (i.e., whether they are purely material, purely spiritual entities, or both spiritual and material), and the properties of these entities (i.e., their various attributes and qualities). Epistemology deals with questions about theories of knowledge; what do we know, how do we know what we claim to know, the roles that knowledge play in our daily lives. Axiology deals with goals and values (i.e., what goals and values people have in traditions and how they aspire to achieve them?). We have a bonafide tradition when there is a constellation of ontological, epistemological, and axiological commitments that provides members of a society with a map of the world. Moreover, this map must function simultaneously as a satellite navigation system for piloting through the world (as conceived within that tradition).

What, then, is the constellation of ontological, epistemological, and axiological commitments to which members of the Òrìṣà tradition are committed? According to *Ifá*, the sacred Scriptures of the Òrìṣà tradition,

the culture has a pantheon of 600 + 1 supernatural powers. *Ifá* identifies two main categories of these powers:

Irinwó o mọlẹ ojùkòtún, 400 primordial supernatural powers of the right,
Igba mọlẹ ojùkòsìl òwúrọ. 200 primordial supernatural powers of the left.

In this excerpt from an *Ifá* poem, the Cosmos is divided into two halves: the right-hand and the left-hand. There are 400 primordial powers on the right, and 200 primordial powers on the left, making 600 primordial forces. The powers on the right-hand side are the *Òrìṣà*. They are benevolent, but they sometimes punish humans and themselves for corrupting society. Practitioners of the tradition pray and offer sacrifices to the *Òrìṣà* to achieve their desires. Also included on the right-hand side are all-natural entities because they are regarded as good by nature, even though, in practice, they are often evil and negative. These are presented in Figure 1.

Inhabitants of the left-hand side are the *Ajogun* (the “anti-Gods”), and they are irredeemably malevolent. The word *Ajogun* literally means “warrior;” hence, the *Ajogun* wage war against both humans and the *Òrìṣà*. The eight warlords of the *Ajogun* are *Ikú* (Death), *Àrùn* (Disease), *Òfò* (Loss), *Ègbà* (Paralysis), *Ọ̀ràn* (Big Trouble), *Èpẹ* (Curse), *Èwọ̀n* (Imprisonment), and *Èse* (Affliction).

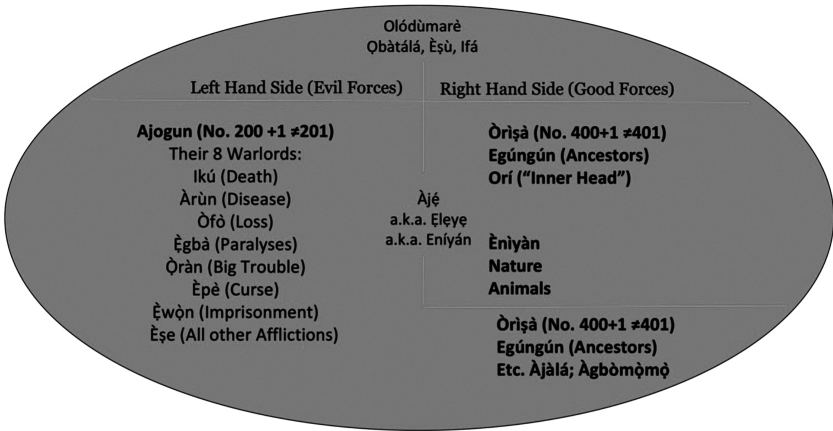


FIGURE 1 | Òrìṣà Tradition's Ontological Commitment

There are, however, three supernatural forces that straddle the left-right divide. These are *Olódùmarè*, the *Àjé* (usually, but improperly, translated as “witches”), and *Èṣù* (the universal policeman). *Olódùmarè*, the Yorùbá High God, straddles the left-right divide in the sense that *Olódùmarè* is a genderless Pure Spirit that is the source of all life.

Èṣù is a neutral element in the sense that He is neither good nor bad. He is simply the mediator between all the entities and forces on both sides of the right-left divide. Because of *Èṣù*’s neutrality and the fact that He is neither benevolent nor malevolent, He is regarded as a *Òrìṣà*. He has His iconography, liturgy, and priesthood; therefore, He is counted as one of the 400 primordial divinities.

Human beings are also on the right-hand side of the universe. Although humans are not regarded as supernatural powers, the belief is that every human person has the potential to become an ancestor, and ancestors in this constellation of commitments are considered to be powerfully important allies.

The “+ 1” referred to above in the “600+1” supernatural powers do not pick out any particular entity. Instead, it is a principle of elasticity by which the *Òrìṣà* tradition accounts for any newly deified *Òrìṣà* and recently identified evil powers. So, any human deified after death is encompassed by this principle of elasticity. The 400 *Òrìṣà* of the right include those and only those primordial divinities that were in existence before the creation of *Ayé* (the Earth) and *Ilé-Ifẹ̀*. All other additional *Òrìṣà* are encompassed by the principle of expansion or elasticity, the “plus 1” category of *Òrìṣà*. This “plus 1” principle allows new beliefs, new thought systems, and new deities to be brought into the fold of the *Òrìṣà* tradition.

In Nigeria, for instance, only two (or three) entities can legitimately be included in the +1 set, and these are *Ṣàngó* and the *Ìbẹ̀jì* (twins). The Yorùbá parts of Nigeria have one the highest rates of twinning in the world, and from very early on in Yorùbá culture, the status of *Ìbẹ̀jì* was elevated to that of *Òrìṣà*. Hence, unlike many other societies, twins were venerated, worshiped, and positively welcomed in Yorùbá societies. So, depending on whether we count the twins as a pair or as two separate persons, *Ṣàngó* and the twins are the only two (or three) bona fide entities that can legitimately be included in the + 1 set of *Òrìṣà* in the southwestern parts of Nigeria.

In the Benin Republic, there are over ten entities that one could legitimately include in the + 1 set of non-primordial entities. In Brazil, there are over 100 newly deified entities in their + 1 set of *Òrìṣà*. Although the number of entities in the + 1 set varies from region to region in different parts of the world, all denominations of *Òrìṣà* have the same number of entities, namely: 400 primordial (i.e., pre-*Ilé-Ifẹ̀*) *Òrìṣà* (Gods), 200 primordial *Ajogun* (anti-Gods), and the +1 (plus 1) set of all newly created (i.e., after the creation of the Holy City of *Ilé-Ifẹ̀*) *Òrìṣà* or *Ajogun*.

3. IFÁ, ẸBỌ, AND THE ÒRÌṢÀ LEGAL TRADITION

Ifá is central to the understanding of *Òrìṣà* tradition and culture. Although *Ifá* has different layers of meanings, in its core meaning, it is an epistemological process, called *Ifá Dídá*, through which the members of the tradition communicate with the supernatural world. In this communicative process, diviners interpret poems from the *Ifá* Literary Corpus, and these interpretations are used as action-guiding heuristic principles for resolving disputes. The process of *Ifá Dídá* itself has two parts: divination and *ẹbọ*. Divination is the hermeneutic process in which poems from the Literary Corpus are selected, interpreted, and applied to the context of the supplicant; and *ẹbọ* (usually, but inadequately, translated into English as “sacrifice”) concerns praxis and heuristics. The *ẹbọ* gives several prescriptive action-guiding principles for conflict and dispute resolution and practical action.

Ifá has, at least, seven layers of meaning:

1. *Ifá* (also known as *Ọ̀rúnmilà* or *Orunla*) is the name of the God of knowledge and wisdom.
2. *Ifá* also refers to the divination process related to the God of knowledge and wisdom. This is known as *Ifá dídá*, (i.e., *Ifá* divination).
3. The body of knowledge associated with *Ifá dídá* (the divination process) is also called *Ifá* (i.e., the *Ifá Literary Corpus*). This body of knowledge is the Sacred Text of the *Òrìṣà* tradition in Africa and the Diaspora. The Corpus is made up of 256 *Odù* (i.e., “books” or “chapters”). Each *Odù* contains between 600 and 800 poems.³

4. *Ifá* (or *ẹṣẹ*) also refers to any specific poem from any “book” of the *Ifá* Literary Corpus.
5. The word also refers to any special herbal mixture or talisman prepared for medicinal purposes; the recipes for these are explicitly stated in some *Ifá* poems.
6. Some unique *Ifá* poems function as incantations or powerful words. When uttered, these words are said to *reveal the truth* in the sense that whatever they state will come to pass. These *Ifá* incantations are used mainly for medicinal purposes. For example, reciting one such poem appropriately “calls out” the venom of certain types of snakes from the human body. These special incantations are also called *Ifá*.
7. *Ìwàpẹ̀lẹ̀*, which are the morale of *Ifá* poems, also constitute an indispensable layer of *Ifá*.

Babaláwo (*Ifá* priests) and *Iyanífá* (*Ifá* priestesses) are the custodians of the *Ifá* Literary Corpus. Every *Ifá* priest/ess must commit to memory at least five poems from each of the 256 books. Although a small number of these poems have been written down, most have not. Some poems are as short as four lines when written down, while others are about twenty pages. Because of the oral nature of their studies, *Ifá* priests and priestesses undergo training involving about fifteen years of full-time study or up to thirty-five years of part-time study. There are thousands of *Ifá* priests practicing in Nigeria.

To understand the tradition’s epistemological and axiological commitments, we need to pay attention to the roles of *Ifá* within the tradition; and to understand fully what *Ifá* is, we need to set it within the context of *ẹbọ* (usually inadequately translated as “sacrifice”). The axiological set of commitments to which members of the Òrìṣà tradition are bound is described as *ìwàpẹ̀lẹ̀* (*ìwà* for short, which is: good or gentle character). *Ìwàpẹ̀lẹ̀* is the fundamental organizing category of all the seven layers of *Ifá*. As we shall see later in this article, every *Ifá* poem contains at least one *ìwà*. These *ìwà* function as the *rationes decidendi* of *Ifá* poems. All types of rules, principles, and standards for the regulation of personal and interpersonal affairs in the Òrìṣà tradition are ultimately derived from *ìwàpẹ̀lẹ̀*. *Ìwàpẹ̀lẹ̀* is a conglomeration of virtues for the regulation of personal and interpersonal conduct in society. These virtues are explained in all *Ifá*

poems. The most important of these principles include *sùúrù* (patience), *ìtẹ̀rība* (respect), *inú rere* (kind-heartedness), *ìwòntunwònsí* (proportionality), *òdodo* (honesty) and *òtító* (truth) (W. Abimbola 1975). The relationships among spouses, parents, children, buyers, sellers, persons, groups, Gods, anti-Gods, nature and all other types of interpersonal relationships are governed by the standards of *ìwà*. The Ifá corpus contains various stories that serve as exemplars and interpretative benchmarks for assessing interpersonal conduct.

Consider, for instance, the following poem from the *Odù Ifá* known as *Òṣẹ̀olósùn*:

TABLE 1

<i>Ká rán igba ẹ̀ni níṣé,</i>	Delegating responsibility to 200 Ambassadors,
<i>Ọ̀ sà ju kágbàlagbà ó fì ara rẹ̀ tukò lẹ̀;</i>	It is preferable to know-it-all leadership;
<i>A dífá fun Amúnìmì,</i>	Divination was performed for the Swallower,
<i>Tíí ẹ̀ Ọ̀ba ẹ̀yẹ̀ láàrin igbẹ̀.</i>	Monarch of birds in the bush.
<i>Ẹ̀yẹ̀ ní ẹ̀:</i>	Birds are chirping:
<i>“Ẹ̀ wá wo Amúnìmì Ọ̀ba wa o,</i>	“Hail the Swallower our Monarch,”
<i>Amúnìmì Ọ̀ba ẹ̀yẹ̀!”</i>	“The Swallower is the Monarch of Birds.”
<i>Ẹ̀ jẹ̀:</i>	[Olókun’s] Command:
<i>“Olóríi wa mà rẹ̀é o,</i>	“Hail our new leader,”
<i>Ògòhò Ọ̀ba ẹ̀yẹ̀!”</i>	“The Ostrich is now the Monarch of birds!”

In the story that goes with this poem, the feared and reclusive Monarch of birds, called *Amúnìmì* (the Swallower), decided that she could no longer trust the Ambassadors who represented her at the yearly festival that Goddess *Olókun* holds. *Olókun* is regarded as the second richest entity in the Cosmos (second only to *Ajé*, her daughter). At each annual event, *Olókun* gives goody bags of gold, silver, money, and so forth, to all attendees. But Monarch Swallower felt that her Ambassadors had been helping themselves to some of the gifts. Monarch Swallower went to the divine and was given the following *ìwà*: “Delegating responsibility to 200 Ambassadors is preferable to know-it-all leadership.” Monarch Swallower did not heed the advice, went to the festival where Goddess *Olókun* and the whole world saw her for the first time, and they realized that

the “Swallower” was nothing more than a tiny Sparrow. Goddess *Olókun* promptly removed her from office and installed the Ostrich as the new Monarch of Birds. The moral of this poem (“Delegating responsibility to 200 Ambassadors is preferable to know-it-all leadership”) is the *ratio decidendi* (the “reason” or “the foundation for” action) that will be binding on supplicants who come for an *Ifá* Divination—if this poem is the one that is similar to the supplicants’ concern.

The tradition’s strong network of commitments functions as a benchmark for regulating all aspects of behavior based on virtues and values that the members of this tradition share. The strong networks of commitments that uniquely identify the Òrìṣà tradition are those that I claim are exhibited in its cultural practices.

The word “culture,” however, is as overused as the word “tradition.” Culture has at least two everyday usages: on the one hand, it is often used to mean “high culture”—that is, the “best” exemplars of a society’s achievements and products in the arts, literature, music, science, and technology. The second sense of culture is a much older usage in which it means the artificial cultivation and growth of microscopic organisms, species, and plants. This second sense of the word derives its meaning from the verb “to cultivate” or “to husband” (in the sense of agricultural techniques). These two meanings of “culture” are linked because not only are they achievements in the arts, literature, science, and so on, “artificial” in the sense that they are human creations, but also the elements of “high” (and, of course, “low”) culture must be cultivated, learned, nurtured, and transmitted—otherwise, they will wither away and die. I am not focusing on any of these two senses of “culture” in this article.

I take “culture” to mean the following:

(a) Culture as Communal Practices

One clear sense of “culture” is that in which it “refers to the distinctive way of life of a group of people, their complete ‘design for life’” (Kroeber & Kluckhohn, 1952, 86). Thus understood, culture is communal: It is the shared set of beliefs and practices that make up the collective bank of a group’s beliefs and practices. Culture in this communal sense is reflected in the social activities of a people *as a group*. Although there are no clear-cut boundaries on those aspects of communal practices we can include within this understanding of culture, we can safely have art, food,

language, oral and written literature, music, philosophy, modes of dressing, and religion. This list is by no means exhaustive, and I do not wish to suggest that there is a clear-cut distinction between the various items on the list. After all, traditional Òrìṣà art, for instance, is inseparable from religious beliefs. And Òrìṣà religious beliefs are themselves the very basis of Òrìṣà philosophy. Irrespective of all these subtleties, the central point is that culture in its communal sense is *sociologistic*.

Also, consider food and drink in the Òrìṣà tradition. Food is an integral part of Òrìṣà culture. Each Òrìṣà has their favorite food. We offer these food items to the divinities in sacrifices. *Ṣàngó's* favorites include *gbègìrì* (a soup made out of black-eye beans and condiments), *ọkà* (yam-flour pudding – this is also called *àmàlà*) and *orógbó* (bitter-kola), while palm oil is one of *Èṣù's* favorites. Most of these food items are readily available wherever you find Òrìṣà peoples around the world. I do not wish to suggest that the availability of traditional Òrìṣà food items ipso facto means that we have individuals who are committed to the practice of the culture. Instead, my point is that traditional food items form an integral part of a people's way of life. Enjoying Òrìṣà cuisine is at the very least symptomatic of the prevalence and cultivation of traditional attitudes and values.

Art constitutes another essential part of Òrìṣà culture. Indeed, for many practitioners of the tradition, art is an integral part of religious expression. Art is not merely aesthetic. The same comments apply to music. For practitioners of the tradition, music is not simply a form of aesthetic expression. Art and music are also expressions of theological beliefs, ideas, and principles that play essential roles in the religious liturgy. Understanding these aspects of art is vital to understanding the traditional religious and theological expressions of a people.

As Herskovits rightly observed, culture in this sociologistic sense has some key characteristics:

1. Culture is learned.
2. Culture derives from the biological, environmental, psychological, and historical components of human existence.
3. Culture is structured.
4. Culture is divided into aspects.
5. Culture is dynamic.
6. Culture is variable.

7. Culture exhibits regularities that permit its analysis by the methods of science.
8. Culture is the instrument whereby the individual adjusts his total setting and gains the means of creative expression. (Herskovits, 1948, 625.)

(b) Culture as Individual Beliefs

Culture and tradition are not just about socially variable customs. In the contemporary United States, for example, many of the communal aspects of the Òrìṣà tradition are prevalent within the community. The Òrìṣà tradition is a living tradition because there are individuals who organize, regulate, and conduct their lives based on this worldview. The elements of culture are also psychologistic because they have ideational content that includes beliefs about ontology, epistemology, and axiology.

So, a second fundamental way I use the word “culture” is that in which the communal aspects of a living culture give meaning to the concepts, ideas, words, semiotic, linguistic, and other symbolic structures that are *relied on* in social contexts. In this sense of the word, “culture” is not just about the beliefs and values of a group or society; it is also about how individuals internalize the norms, beliefs, and values assumed in their socio-cultural facts, social systems, and institutions. For example, a French person and an American may both distinguish the French and the United States flags from an array of flags. Still, the individual commitments the American has to the American flag (and the French citizen to the French flag) would be qualitatively different.

(c) Practical Beliefs (the Culture Within)

Culture can be found not only in communal practices. Nor is culture confined to explicitly proclaimed individual beliefs. *Culture can also be found in unstated psychological assumptions about how the world works.* Psychologistic culture is not just about explicitly declared beliefs; it is also about those implicit convictions that implicitly guide and govern practical conduct. We may refer to these dimensions of culture as *practical beliefs*.

When beliefs and ideas form part of the (often implicit) assumptions on the basis of which an individual navigates interpersonal relationships, these beliefs and ideas are *practical*. The practical beliefs that form the unity of the Òrìṣà tradition and culture include:

1. The common belief in *Ilé-Ifẹ̀* as the cradle of the Earth and its inhabitants—hence, practitioners of the tradition make holy pilgrimages to *Ilé-Ifẹ̀* to invigorate their lives with meaning, direction, and *ìwàpẹ̀lẹ̀*.
2. The multi-layered meanings of *Ifá* and their roles in the daily lives of *Òrìṣà* practitioners—hence, they seek knowledge, clarity, and conflict resolution through *Ifá* divination at every critical moment in their lives—at birth, death, annually, after successes, after failures, etc.
3. The tradition's pantheon of Gods and anti-Gods functions as a navigator for interpreting and framing social life. Hence, living becomes a three-way process that involves a network of relationships among natural entities, natural and supernatural entities, and supernatural and supernatural entities.
4. The unique and anomalous roles of the gender-neutral High "God," *Olódùmarè*.
5. A holistic approach to health, wellness, and wholeness.

These three senses of culture operate in tandem on an *Òrìṣà* practitioner who: (a) goes for *Ifá* divination; then (b) receives the *ratio decidendi* of poems identified in the divination; and, who consequently, (c) voluntarily performs the *ẹ̀bọ* specified by the diviner.

The relationship between divination and *ẹ̀bọ* is comparable to the relationship between legal precedents and their application to new disputes. All legal systems adhere to the so-called doctrine of *stare decisis*: "stand by decided matters." When a court makes a ruling in a new case before it, the court is bound to apply the precedent established in previous rulings. The *ratio decidendi* ("the point in a case that determines the judgment") of a precedent is binding on courts of the same or lower level and must be applied to the new case before the court (unless there is a new legislative statute or a higher court ruling, that overrules that *ratio decidendi*).

Each of the 204,800 *Ifá* poems contains *rationes decidendi*. Once poems are introduced into the *Ifá* literary corpus, they function as the precedents identified by diviners when supplicants come to consult *Ifá* for guidance. And once the *rationes decidendi* of poems are identified, supplicants are

obligated to follow through on the actions, prescriptions, and recommendations identified by the diviner. In other words, *Ifá* divination and the corresponding *ratio decidendi* that the divination identifies, creates *ẹbọ obligations* that require supplicants to participate or refrain from certain activities because of their agreement with *Ifá* and Èṣù, under the system of communal, individual, and practical-belief cultures. The obligations spelled out in *ẹbọ* set moral or legal duties that require supplicants to perform (or refrain) from specific actions. The injunctions contained in *ẹbọ* are morales or laws that command and require supplicants to perform various actions.

The Òrìṣà called Èṣù maintains order through the instrumentality of punishment and reward in the Òrìṣà tradition. It is after one offer sacrifices that Èṣù intercedes to bring about order in that person's life. Therefore Òrìṣà tradition has the saying:

Ẹni ó rúbọ ni Èṣù ú gbè. Èṣù assists only those who offer sacrifices.

4. THE ÒRÌṢÀ LEGAL SYSTEM

The process of globalization has introduced some critical challenges to the study and understanding of the law. Western conceptions of law are committed to a set of anachronistic assumptions that William Twining (2009) outlines as follows:

- a. Law consists of two principal kinds of orderings: municipal state law and public international law (classically conceived as ordering the relations between states);
- b. nation-states, societies, and legal systems are largely closed, self-contained entities that can be studied in isolation;
- c. modern law and modern jurisprudence are secular and now largely independent of their historical-cultural roots in Judaeo-Christian traditions;
- d. modern state law is primarily rational-bureaucratic and instrumental, performing certain functions and serving as a means for achieving particular social ends;
- e. law is best understood through the “top-down” perspectives of rulers, officials, legislators, and elites with the points of

- view of users, consumers, victims, and other subjects being at best marginal;
- f. the main subject matters of the discipline of law are ideas and norms rather than the empirical study of social facts;
 - g. modern state law is almost exclusively a Northern (European/Anglo American) creation, diffused through most of the world via colonialism, imperialism, trade, and latter-day postcolonial influences;
 - h. the study of non-Western legal systems is a marginal and unimportant part of Western academic law; and
 - i. the fundamental values underlying modern law are universal, although the philosophical foundations are diverse. (p. 5–6.)

As Twining (2009), Glenn (2014), and others have rightly pointed out, from a global cosmopolitan perspective, this image of law is parochial and limited in the sense that it does not supply an adequate conceptual framework for the understanding of many social facts and processes within a global setting. The network of commitments, to which practitioners of the Òrìṣà tradition are committed to, places ẹbọ at the center of a structure of rules, principles, and standards of *ìwàpẹlẹ́*. These *ìwà* from *Ifá* poems regulate and govern daily life. Moreover, since there are no formal institutions that operate like courts or the police, adherence to the standards of the tradition is a matter of individual choice and not coercion.

Every legal tradition requires a procedure or process for identifying and interpreting its laws: officials, procedures, hierarchies, training processes, adjudicating, and so forth. The Òrìṣà tradition has all of these. The tradition is presided over by His Imperial Majesty, the *Ọ̀ṣẹ̀ni of Ifẹ̀*, who is the spiritual leader of all practitioners. The *Ọ̀ṣẹ̀ni of Ifẹ̀* is the *Ọlófín Ayé* (“Law-Giver” or “Maker of Laws” of the natural world.) The *Ọ̀ṣẹ̀ni* is the one who appoints the Sixteen Diviners (the *Àràbà Àgbáyé*, the *Akódá Àgbáyé*, the *Aṣẹdà Àgbáyé*, the *Àwíṣẹ Àgbáyé*, etc.) who oversee the practice of *Ifá* globally. The *Ọ̀ṣẹ̀ni* is also the person who sits as the supplicant for all Òrìṣà practitioners during the annual *Ifá* divination that is done on the first Saturday of July each year.

Here, for example, are some of the *rationes decidendi* from the Annual *Ifá* reading for the year 2021:

TABLE 2

IFÁ ỌDÚN ÀGBÁYÉ ÒKÈ ÌTASÈ, ILÉ-IFÈ, JUNE 5, 2021 ODÙ IFÁ: ỌŞẸKÀNRÀN	ANNUAL IFÁ READING FOR THE YEAR 2021 READING PERFORMED AT MOUNTAIN OF ÌTASÈ, ILÉ-IFÈ, JUNE 5, 2021 THE ODÙ IFÁ DIVINED: ỌŞẸKÀNRÀN
1. <i>Ifá ní kí á ọ́ra fún àlẹ̀ yíyàn.</i>	1. <i>Ifá</i> says we should not have illicit extra-marital affairs.
2. <i>Kí á ọ́ra fún àlẹ̀jò gbígba sílẹ̀ nítorí ìnira fún onílẹ̀.</i>	2. We should be careful of receiving overnight guests to avoid unnecessary difficulties for household members.
3. <i>Kí á ọ́ra fún ọ̀rẹ̀ ẹnu, pàá pàá jùlọ, fífí ènìyàn ẹ̀ yẹ̀yẹ̀.</i>	3. We should use our spoken words wisely, in particular, not to make fun of other people.
4. <i>Ifá ní kí o ní ìyàwó kan, tí ọ̀nà bá dí mọ ọ, kí ó lẹ̀ fẹ̀ ìyàwó m̀ìràn, kí ọ̀nà ire gbogbo le ba à là fúun.</i>	4. <i>Ifá</i> says in situations where someone has one wife, and she cannot have children, it is acceptable to marry another wife so that the blessings of children can come into that household.
5. <i>Kí á ọ́ra fún ìrìn alẹ̀.</i>	5. Be exceedingly careful when you travel at night.
6. <i>Ifá ní kí á má ẹ̀ ẹ̀ gbé ọ̀kàn lé òdògùn, kí á má a dá Ifá, kí á sì má a rúbọ.</i>	6. <i>Ifá</i> says we should not rely on magic, charms, and amulets, that we should instead consult <i>Ifá</i> and always perform our ẹ̀bọ.

All these instructions come from the *rationes decidendi* of some the *Ifá* poems from *Odù Ọşẹkànràn* that was divined when the *Ọlófín Ayé* sat as a supplicant for all the estimated 256 million practitioners of Òrìṣà religion. All over the world, these practitioners make serious life-regulating decisions based on these moral instructions from the divination. Consider, for instance, injunction 1 (no illicit-extra marital affairs) and injunction 4 (it is acceptable to marry a second wife in situations where a woman cannot give birth to children). At first, they might appear to be contradictory, until we bear in mind the fact that in many countries of the world where Òrìṣà practitioners live, polygamy is legal. Therefore, applying these two injunctions means that this option is open only in regions where the marrying of a second wife is allowed. Moreover, in those places where polygamy is permitted, injunction 1 (no illicit affairs) would imply that the first wife must agree to the marrying of the second wife (otherwise, it would be an illicit affair).

The *Odù Ifá* (*Ifá* Literary Corpus) is a compendium of poems. These poems are classified into 256 groups (called “*Odù*”), and each of the 256 *Odù* has about 800 poems, making a total of 204,800 poems. The shortest poems cannot be shorter than four lines. However, most poems come to about two to five pages of written text, with some poems (called “great *Ifá*”) running to about fifty pages of written text.

As Wande Abimbola (1976) has shown, *Ifá* poems have eight parts:

Part 1: Each poem must start with a record of the name (or names) of the diviner(s) who first applied that poem to the resolution of the dispute recorded in the poem.

Part 2: Here is recorded the name(s) of the person(s) who brought the dispute before the diviner(s) (i.e., the supplicant). Thousands of *Ifá* poems record all-natural beings (including animals) as both supplicants and/or diviners (see W. Abimbola 1976).

Part 3: Each poem records the precise nature of the dispute that the supplicant has brought to the diviner for resolution.

Part 4: This is a record of the *ẹbọ* that was prescribed as a solution to the dispute.

Part 5: A record of whether the supplicant heeded the advice of the diviners and performed the prescribed *ẹbọ*.

Part 6: This records the consequences or effects of Part 5 by telling us whether the dispute was resolved in those situations where the supplicant performed the *ẹbọ*; alternatively, how the problems multiplied in those situations where the supplicant refused to perform the *ẹbọ*.

Part 7: This either gives a concise summary of Parts 1-4 or restates the significance of Part 6.

Part 8: Each poem concludes by stating its *ratio decidendi*.

Parts 1-3 and Part 8 of each poem are compulsory in the sense that whenever that poem is applied in the resolution of a particular dispute, these four parts *must* be recounted and narrated verbatim in the Yorùbá language. The other four parts are optional in the sense that they could be skipped altogether, or they could be narrated in a freestyle manner that allows the diviner to use their own words. In all regions of the world

where the Òrìṣà tradition operates today, Ifá is used in the resolution of disputes and conflict.

Ifá poems function as *precedents* that establish the authority of the principle, rule, value, or standard recorded in Part 8 of each poem as *ratio decidendi*. The function of the diviner in Ifá *dídá* is that of finding and interpreting similar poems that apply to the dispute brought before them by the supplicant. Each supplicant must decide of their own volition whether to accept the authority of that *ratio* as persuasive and binding.

The objection could be raised that there are no judges in this so-called legal system, there are no police officers, there are no courts, and above all, it is up to each supplicant to decide whether the authority of a poem's *ratio* is binding. This is not law properly so called; it could be objected! Such an objection, however, is misguided as it is founded on the very type of parochial conception of law that Twining (2009), Glenn (2014), and Tamanaha (2001) have identified as implicit in Westphalia conceptions of law.

In the British Government's White Paper, *Modernising Justice*, the bankruptcy of Westphalian conceptions of law was proclaimed:

The justice system is top-heavy – it is dominated by lawyers, courts, and outdated legal practices, and jargon. The Government will refocus legal aid spending on social welfare cases, and expand the role of voluntary advice agencies, so helping to correct this imbalance. The Government is also seeking to improve the range of options available to people for resolving disputes without a formal court adjudication process. There are several different models of “alternative dispute resolution” (ADR), including mediation, arbitration, and ombudsman schemes. We are considering what contribution these can make to a fair and effective civil justice system. (Lord Chancellor's Department Press Office, 1998, p. 9)

Even though there are no Westphalian-style agents, in addition to the sixteen diviners appointed by the *Ọ̀ṣ̀ni of Ifẹ̀* to oversee the worldwide direction of Òrìṣà Practice, each major *Yorùbá* city has a group of appointed, high-ranking diviners who play specific roles in the coordination of divination, the performance of *ẹ̀bọ̀*, and the training of diviners for their towns. For instance, in addition to the *Àràbà Agbáyé* and the *Àwíṣé Agbáyé*

(and all the other fourteen members of the group) appointed by the *Ọ̀ṣàni*, every *Yorùbá* city also has its own “*Àràbà*” (the official leader of all diviners for that city) and its *Àwíṣẹ̀* (“the person whose words on *Ifá* are law”—so, in situations of disagreement, disputes or lack of clarity on poems, it is the *Àwíṣẹ̀* who gives the authoritative interpretation). Those appointed by the *Ọ̀ṣàni* have the suffix “*Agbáyé*” (meaning for the world). So, there is a legal hierarchy: in the situation of inter-city or global disputes, the *Àwíṣẹ̀ Agbáyé* makes the authoritative interpretations. For disputes that are within a city, the *Àwíṣẹ̀* of that city is in charge of dispute resolution.

Moreover, in response to the growth and rise of *Òrìṣà* Religion in the Diaspora, over the last 40 years, the *Ọ̀ṣàni* has appointed people to the newly created offices of *Àràbà* of the United States, *Àràbà* of Cuba, *Àràbà* of Brazil, *Àràbà* of Venezuela, and *Àwíṣẹ̀* of the United States.

The existence of law should not simply be tied to the type of actors and institutions there are in any one system, say, for instance, “judges,” “courts,” “trials,” and “lawyers.” Instead, the existence of law should be determined by law’s core functions, which are those of preventing disputes, settling disputes, the delivery of justice, and the regulation of civil, social, family, and personal conduct. The *Òrìṣà* tradition has a system that has been in existence for thousands of years that perform these precise roles and is, therefore, a legal tradition.

5. CONCLUSIONS

Although much has been written about the *Òrìṣà* tradition and culture, the central role of this tradition as a legal tradition has been overlooked because (a) the notion of tradition has not been taken seriously enough in the literature; and (b) many still assume that the Western nation-state conception of law is the only valid model for the understanding of “law.” Consequently, the significance of the *Òrìṣà* tradition as an alternative to Westphalia conceptions of the law of obligations has been completely overlooked in the extant literature.

The ontological, methodological, and axiological assumptions on the basis of which the *Òrìṣà* world operates are not just about “faith.” Nor can they simply be characterized as “religious.” Instead, they function as *the* strong network of commitments for social interaction, education, politics, the arts, science, technology, business, and commerce. This strong

network of commitments regulates all other aspects of life, death, the human condition, and they also govern the interaction between the natural and supernatural worlds. Characterizing Òrìṣà as a religion is at best too limited, and at worst a misnomer. The Òrìṣà world is not primarily religious. It is, above all, a legal world in which *Ifá* functions as the global positioning system (GPS) for the regulation of social interaction. This GPS encapsulates *pastness* into *Ifá* poems, and the *rationes decidendi* of *Ifá* poems (i.e., precedents) have continual authoritative presences through the performance of *ẹbọ* obligations.

NOTES

1. For example, Argentina, Australia, the Benin Republic, Brazil, Cuba, France, Germany, Ghana, Haiti, Italy, Jamaica, Japan, Mexico, Nigeria, Sierra Leone, Spain, Togo, Trinidad and Tobago, the UK, the USA, Venezuela, and several other places.
2. See Laudan (1984) for a comprehensive description of commitments in science and knowledge.
3. Actually, there are two divination systems: *Ifá* divination with its 256 *Odù* and *ẹ́rìndílógún* (sixteen cowries). *Ẹ́rìndílógún* condenses the 256 *Odù* of *Ifá* into sixteen *Odù*, and instead of the divination chain or sacred palm nuts used in *Ifá* divination, it uses sixteen cowries.

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