Paper Proposal

I am apt to suspect the Negroes and in general all the other species of men…to be naturally inferior to the whites. There never was a civilised nation of any other complexion than white, nor even any individual eminent either in action or speculation. No ingenious manufactures amongst them, no arts, no science - David Hume.

Introduction

The debate on the nature and texture of African philosophy has been one of the most eventful controversies to emerge with respect to the search for continuing innovations in African humanities and arts. The durable antagonism between those who affirm and/or deny its existence centres on whether what is labelled African Philosophy really conform to the universal, general principles that undergird the practice of philosophy. In retrospect, the controversies revolve around a consensual definition of what the general principles of the practice of philosophy are.

The questions then are why is Africa’s complex historical and cultural experience not fully represented in the current corpus of canonical works? Why is there so little, if any, respect for and, as a consequence, interest in African phenomena and their philosophical resonance? Why is it that there is an intellectual numbness and muteness about all that is African? In what ways are the historical and cultural heritage of Africa reproduced, projected and represented in contemporary philosophical disquisition?

In mainstream debate on the existence of African philosophy, one crucial point of evidential importance in this whole representation and projection of the African historical and cultural heritage is the fact that what constitute the definition of philosophy, the philosophy of society and its subject matter altogether has been, for some centuries, defined exclusively by the West. According to Olufemi Taiwo (1998), “It is only insofar as Western Philosophy has passed itself off as Universal Philosophy that we may talk of the peculiar absence.” The catalogues of distasteful perceptions about Africa are not limited to the sphere of philosophy alone. It reflects entirely in the sphere of the production of knowledge – philosophy, science, technology, jurisprudence, morals etc.

Objectives
One area of momentous importance in the rediscovery and explanation of African cultural and historical heritage, but often neglected in African studies, is the African philosophy of law. Any serious scholarship on the place of “law” in African realities must of necessity raise questions about prevailing concepts and theoretical approaches. This is a result of the fact that the architecture and furnishings of jurisprudential and legal researches have been by and large distilled from Europe and American experiences.

This paper is interested in interrogating the peculiar absence of African philosophy of law or better still, African jurisprudence in mainstream jurisprudence discourse. The paper posits the view that beneath the peculiar absence of African philosophy of law or African jurisprudence in mainstream jurisprudence discourse is a recourse to an Eurocentric, positive historiography which defines the past - realities, perceptions and social categories - by its own image. It is contended that beneath this positivist historiographic rejection of African realities is Eurocentrism. What then is Eurocentrism?

There have been various conceptions of this trend but I am quite at home with the conception adopted by Chandra Mohanty. According to Mohanty, Eurocentrism is produced when “third world legal, economic, religious and familial structures are treated as phenomena to be judged by Western standards…When these structures are defined as “underdeveloped” or “developing” …(1994:71). Interestingly, the major aim of Eurocentrism is the projection of the interests, concerns, predilections, neuroses, prejudices, social institutions and social categories of Europe and America as the sine qua non of what is right, what is acceptable, what is progressive, what is modern, what is utopian etc. To this end, arising from the rising tide of Eurocentric projections, Euro-Americans ideas and values have dominated the writing of human history. One effect of this Eurocentrism is the racialisation of knowledge: Europe is represented as the source of knowledge and Europeans as knowers. Indeed, Euro-American values in politics, philosophy, economics, law and jurisprudence and most significantly, morals values are not only privileged but also enshrined as an essential part in the culture of modernity.

This globalisation of Europe and American values have often played a denigrating role in divesting comprehension of the African realities. Whatever values are projected within the schema of Eurocentrism, it is a proposition too plain to be contested that without a recourse and adaptation to local realities, the contours of African political landscape will continue to witness the ills of disappointments regardless of how grand the many projects of the west may be. In actual fact, the many projects of support and sponsorship to the African continent expressing Western notion or paradigm of development has done everything except develop the continent. As a matter of fact, it has succeeded in whittling away the necessity of the continent’s history in the formation of any blue print of development and progress.

Trenchantly, what is suspected as responsible for the varying shades of the evils of Eurocentrism is the view that it subscribes to a positivist historiography that defines the past by its own image, inevitably leading to the absurd conclusion that realities, conditions, perceptions and values in non-western societies are inherently lacking and incomplete when compared to western society seen as the apex of development.
The need to transcend this Eurocentric pessimism in relation to African philosophy of law consists in the task of exorcising the Humean Ghost in African philosophy of law. David Hume supplied the foundation of positivism in jurisprudence.

The rest of the paper shall be concerned with a comprehensive exploration of the nature of African jurisprudence. In the preliminary sense, African Jurisprudence is a derivative of the existing pattern of thought and belief system prevalent in each African. In a great deal, this existing pattern of thought and belief system is radically influenced and shaped by the prevalent metaphysical outlook or framework that it bears (Oke, 1994). The preponderant and prevalent metaphysical outlook and framework in which basic relations, ideas about life, ideas about the afterlife, actions, experiences whether past or present are judged and encoded in a meaningful structure consist in what can be regarded as African traditional thought. Therefore, in this task of exorcism, what is distinctively African in jurisprudence in Africa today derives from African traditional thought and philosophy of society. This paper will treat of that body of thought as interpreted and analysed from the standpoint of contemporary African philosophy.

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