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ATOM 1.0

RSS 2.0

RSS 1.0

Information

For Readers

For Authors

For Librarians

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Home / Archives / Vol. 1 No. 2 (2022): FUOYE Journal of Criminology and Security Studies (FJCSS)

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Articles

CRIME NEWS AND ITS AFTERMATH ON THE SOCIETY: EVIDENCE FROM LITERATURE

Mustapha Olalekan RUFAI, Toyin Segun Onayinka

 Download PDF

Women's Experiences of Covid-19 Pandemic in Nigeria: Towards a Sociological Anatomy of Violence against Women during the Lockdown.

ADEFOLAKE. O. ADEMUSON

 Download PDF

Children violence against Parent: A neglected form of Domestic Violence in sub-Saharan Africa

Stephen Okechukwu Chukwudeh

 Download PDF

Policing and Criminal Victimization: The Case of Armed Banditry in Northwest Nigeria

Paul Mmahi Okoro , Chidi S. Mba

 Download PDF

PREDATORY RISK FACTORS, PARENTAL CONFLICT AND JUVENILE DELINQUENCY AMONG SELECTED STUDENTS IN BORSTAL HOME GANMO, KWARA STATE

Chiedu Akroraro ABRIFOR

 Download PDF

Pipeline Vandalism and Its Implications on the Environment: The Ogoni Experience

Felix Amadi, Uthman A. Abdulqadir

 Download PDF

From Begging Bowl to AK47

Folakemi Jennifer Ayemo

 Download PDF

Sex for money: Issues in female students' engagement in Federal University of Lafia, Nasarawa State, Nigeria

David B. Ugal, Imam Hassan, Francis Ayade

 Download PDF

HUMAN SECURITY AND THE PERVADING HERDERS-FARMERS CRISIS IN IGANGAN AND IGBO-ORA COMMUNITIES, OYO STATE.

Ganiyu Rasak Omokeji, Ayodele Austin

 Download PDF

GAMBLING BEHAVIOUR AMONG YOUTH IN BENIN CITY: A CRIMINOLOGICAL INQUIRY.

EMMANUEL IMUETINYAN OBARISIAGBON, OKORIE OKO UME

 Download PDF

IMPLICATIONS OF INSECURITY AND CRIME ON SOCIOECONOMIC ACTIVITIES IN NORTH CENTRAL NIGERIA: A MICROSCOPIC REFLECTION OF THE LARGER PICTURE

Kevin Akpanke Akan

 Download PDF

INSECURITY AND STATE: THE CONSEQUENTIAL SURGE OF INFORMAL SECURITY APPARATUS IN NIGERIA.

Monday Oriabure OJEIZELE

 Download PDF

THE PREVALENCE AND THE CRIMINALITY OF RESIDENTIAL BURIAL PRACTICES IN IBADAN, NIGERIA

Abdullahi Kayode Ibrahim, Tawheed Adedotun Adebayo-Onisile, Monsurat Isiaka, Abdulrauf Salihu Habeeb,



Salihu Isiaka Onimajesin, Tejjidin Toyin Olayinka

 Download PDF

Incidence of Intimate Partner Violence and Coping Mechanisms among Pregnant Women in Selected Hospital in Ibadan North Local Government Area, Nigeria

Patricia Awa Taiwo, Favour Akindele

 Download PDF

TYPES OF INSECURITY AND CONTINUITY OF PUBLIC SENIOR SECONDARY SCHOOL STUDENTS IN OYO-SOUTH SENATORIAL DISTRICT OF OYO STATE.

MUSTAFA ADELANT AKINFALABI, JOSEPHINE AZUKA ONYIDO, NGOZI EZINMA KALU

 Download PDF

UNITED NATIONS AND GLOBAL EFFORTS AGAINST INTERNATIONAL TERRORISM

Salifu Achile Momoh

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THE PREVALENCE AND THE CRIMINALITY OF RESIDENTIAL BURIAL PRACTICES IN IBADAN, NIGERIA

By

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Abstract

Residential burial has been the major practice of Ibadan people that is culturally inherited from their ancestors. It is a general belief among the Yoruba people that the spirit of the dead protects the living and burial ground serve as a historical background for the family. The practice of residential burial has been criminalized under Nigeria Criminal code Act C38 No 246. Residential burial is a criminal offence which the offender is guilty of misdemeanor and is liable to six (6) months imprisonment. The greater percentage of the Yoruba people is ignorant of the residential burial law and this has been the major boost to the practices. This study is aimed at empirically examined the prevalence and criminality of residential burial practices among the Yoruba people of Ibadan Oyo state Nigeria. The study adopted qualitative method and this includes; observation, Key Informant Interview, In-depth Interview and Case Study. Data was collected and analysis was done using verbatim quotation. Therefore, the research found out that, majority of the respondents are ignorant about the existence of the criminal code that prohibits residential burial; hence, its practice becomes inevitable. The research discovered that, most people believe that cemeteries are not safe for corpses and there are normative cultural values that are embedded in residential burial practices in Ibadan Nigeria. The study recommended that; government should educate members of the community (Ibadan residents) about the danger of burying corpses in the home of residence through several awareness programs.

Key Words: Criminal Code, Residential burial, Normative value, Ritualists, corpse and mutilate.



Introduction

Throughout history, almost all societies have employed different practices of disposing off the dead and one such form is the burial system (Laneri 2013). Culturally, many communities in Africa place great emphasis on burial location as the basis for asserting land rights, origin, identity, and belonging. In the life of traditional African people, the ancestors are believed to control domestic productivity, luck, wealth, and fertility (Wilfred, 2016). This practice is related to similar domestic patterns in West Africa where the presence of ancestors in the yard served to link the people to the community and the community to its past (Armstrong and Fleischman 2003). According to Geschiere and Nyamnjoh (2000) many Cameroonians consider burial locations as a key determinant of belonging. In this regard, the proof of one's belonging in a given society is to show where one's ancestors are buried, and failure to show where ancestors have been buried means that one does not belong there.

Many studies of prehistoric mortuary practices have put specific emphasis on issues concerning burial placement when considering the relevance of burials to the social and symbolic worlds of the living (Ashmore and Geller 2005). Residential burials materialize the efforts of the living to maintain a strong connection to the past by venerating, remembering, or commemorating the ancestors (Adams and Kings, 2011). Residential burial practices are very common among the Yoruba ethnic

group in Nigeria due to widespread belief that communication between the living and the dead is possible and also protection of the living by the spirit (dead). The presence of human remains within residential areas forces a particular consideration of the role of the deceased in the lives of the living (Ron and King, 2011). Traditionally, for burials to be considered proper according to most African societies, the dead are supposed to be buried in their ancestral land (Henry 2004). In South-Western Nigeria for example, tradition often demands that chiefs are not buried in public cemeteries but in secret locations preferably at home and this practice has been flawed and currently, not only chief are buried at home but anybody (Olajide and Abiodun 2013). Corpses are now buried indiscriminately in homes, front and back gardens without any recourse to the effect this practice may have on the environment and the legal implications (Olajide and Abiodun 2013).

Schwartz (2007) linked residential burial to age of the deceased with the observation that infant and children were often interred within the private domestic spaces while adults were interred in public contexts. Residential burial gives more importance to the deceased by giving the deceased a special place in a residence in other to secure the deceased's property therefore, the fixing of the dead in the land is a social and political act which ensures access and rights over natural resources (Schwartz, 2007, Adams 2004; Bond 1987; Clarke, 2001;



Hayden 2009; Hayden, Villeneuve and Perodie, 2001).). Yoruba people often believe that dead are still part of the family and those who bury their dead in cemeteries are believed to have thrown their loved ones away to a foreign land. Though burial locations vary, especially among the elite class, the vast majority of burial data from the period comes from within residential structures. The pattern is so well established, in fact, that lack of sub-floor burials has been used as a reason to invalidate a structure as residential (Adams and Kasumawati, 2011; Hoder and Cessford, 2004; King, 2011; Kuijt, 2001,2008; Joyce, 2001).

The practice of residential burial in Nigeria has been criminalized (see the section 1234 of the criminal code act 2004, law of the federation of Nigeria applicable in the southern geopolitical zone of Nigeria). Despite the promulgation of this regulation, residential burial is still widespread among the people. The focus of this study therefore goes beyond the cultural practices of residential burial. It focuses on the deviant act of the people toward criminal code against residential burial. Thus, the thrust of this paper is to examine the prevalence and the criminality of residential burial in Ibadan southwest Nigeria. Various studies have been carried out in Sub-Saharan Africa and Nigeria on the socio economic, environment and health implications of residential burial but only few or none of these studies on the prevalence and the criminalization of the practice in the sub-region. It is therefore imperative to close this knowledge gap. As a result, the aim of this study is to look at people's perception towards the criminalization of residential burial in Ibadan and also to examine the normative

value that supports residential burial in Ibadan Nigeria.

Theoretical Explanation

Symbols are central to the understanding of social life. People act, react and can even fail to act based on the meanings and interpretations of phenomena physical, social or otherwise. Symbolism sets itself against realism and explores human action and behaviour from the angle that meanings attached to things is what matters most. Nothing is truly what it is except what people attach to it in form of meaning. In sociology, symbolism has been advanced with a layer of interaction so the theoretical position can fully explain human actions. Mere meanings of things are not enough but how this meaning shape behaviour and interaction between people in society is of utmost importance in sociology. The theory of symbolic Interactionism was developed by a number of sociological thinkers like George Herbert Mead, Charles Horton Cooley, W.I Thomas, Herbert Blummer and Ervin Goffman. The term symbolic Interactionism originated with Herbert Blummer, who described it as a "somewhat barbaric neologism" coined in an article written in *Man and Society*. The term somehow caught in and is now in general use (Blummer, 1969).

Symbolic Interactionism perspective relies on the symbolic meanings that developed and rely upon in the process of social interaction. Although symbolic Interactionism traces its origins to Max Weber's assertion that individuals act according to their interpretation of the meaning of their world; this theory analyzes society by addressing the subjective meanings that people impose and behave



based on what they believe and not just on what is objectively true. Thus, society is thought to be socially constructed through human interaction. People interpret one another's behaviour and it is these interpretations that form the social bond. These interpretations are called definition of the situation. It is the interpretation that people give to life after death and this make them to call on their dead relative for help and protection if need be. For example, it is symbolic interpretation that Yoruba people give to their dead relative as ancestor or a spirit that makes them see life in the dead and as a protective spiritual being on the entire family. Therefore, if a family member died, people (relatives or children of the deceased in Yoruba) reminds the dead not to forget those he or she left behind.

Some fundamental aspects of our social experience and identities can be understood through symbols. For example, different deaths are given different names based on their occurrence. There are different categories of death in Yoruba land; there is Oku-oyo (bad death) and good death. There are different bad deaths like; Abiku (born-to-die), there is ikuoji (sudden death), death by thunder, death by drowning and all other forms of bad death. The good deaths on the other hand are mostly the death of the adult members and are given a well befitting burial in a residential home and they are accorded the title of an ancestor. All these categories of death are socially constructed and attached with different forms of rituals before they are buried which gives them a symbolic interpretation.

Due to socially constructed meanings of residential burial in Yoruba land, the wife(s) of the deceased is made to be in-door for

forty-one days without going out to perform any form of social and economic activities like sales, visitation and so on. Nevertheless, this restriction would elapse after forty-one days. Meanwhile on this day, members of the family and friends come together to celebrate and bid the dead farewell. It is therefore symbolic for the Yoruba people to treat this day as a special both for the dead and the widow. But such is not the case in a situation of Abiku (born-to-die), ikuoji (sudden death), death by thunder and other forms of bad death as such deaths are seen as unexpected.

Methodology

The study adopted qualitative research technique and was conducted in Ibadan south east local government area of Ibadan. The study area was purposively selected by virtue of the fact that the area occupies the ancient people of Ibadan who practices residential burial as it is being practiced among the Yoruba people. Ibadan South East Local government is the earth of Ibadan which has surrounding historical target territories like; Bere, Oja Oba, Idi-Arere, Oje, and other indigenous places located very close to the study area. Instruments of data collection were Key Informant Interview (KII) conducted with 15 individuals who are highly informed and with great experience of Yoruba's culture of residential burial. Primary data were collected from purposively selected persons such as the Community heads, Family head, legal practitioners, Law enforcement agents, Herbalists, because of their knowledge on the cultural practices of the people on residential burial and its implications. In-Depth Interviews (IDI) conducted with 25 individuals who include residents, traders,



artisans and civil servants and Case study for religious head. Data were analysed using content analysis. Effort was made to observe relevant ethical issues on human subjects in social scientific research work. This study respected the ethical standard given that human subjects are involved. The sole purpose of maintaining the standards is to ensure that the researcher protects the rights, integrity and safety of the subjects of the research. Therefore, an informed-consent form was presented to each respondent before the interview was conducted.

Discussion of the findings

The following themes and sub-themes emerged from asking participants on the prevalence and the criminality of residential burial practices in Ibadan, Nigeria.

Knowledge about Criminal Code against Residential burial

Residential burial is seen as a cultural practice of the Yoruba people in Nigeria, this was gathered from the survey study done where all the respondents attested to the cultural practice of residential burial. Due to the cultural practice, people deviate from the Criminal Code Act C38 No 246 which criminalizes residential burial. This criminal code was enacted in 2002 and some citizens are still ignorant about the existence of the law. The Criminal Code states that; *"Residential burial is a criminal offence which the offender is guilty of misdemeanor and is liable to six (6) months imprisonment"*.

Despite this, people deviate from the law. In this objective, two themes are identified and are categorized into; No knowledge and Knowledge".

- a. **No Knowledge:** Most of the respondents have no knowledge of the law that criminalise residential burial; this is due to lack of proper awareness on the law and prosecution of the offenders by any government agency that is responsible for enforcement of law on different sections of the society. A respondent said-

*"I do not have any knowledge about the code but the past head of the family used to tell us that once there is no space in the house to bury corpse, the corpse should be buried in the land of the deceased secured before his/her death"*Source: KII/Male (Family Head), 2019

The above response of the respondent of no knowledge about the criminal code hinders these respondents from given details about the code. Despite the law, no prosecution or investigation has been made so far on the part of the government according to the majority of the respondents. Hence, encourages people in the practice of residential burial despite the criminal code against it. Nevertheless, a respondent encouraged the government on proper prosecution and he said-

"Burying corpses in residential areas is a common practice here in Ibadan". People hardly bury their dead outside their residence because it's part of Yoruba's culture in southwestern Nigeria. Although it's a common practice here, but I have never seen any government agency coming here to carry out investigation or get people arrested for residential burial before. Maybe if they even start coming, people will see the



disadvantages in it"Source: KII/Male/ (Community Head) 2019

Therefore, proper enforcement and prosecution will discourage people from burying their corpses in a residential home

b. Those who have Knowledge but choose not to comply

While the majority of the respondents are ignorant of the law, some are aware about the law due to their literacy, profession and awareness of the Nigerian Criminal code. Despite the awareness, they choose not to adopt the law. Some respondents opined that it's only in Government reservation area (GRA) that residential burial practices is not allowed. Some of these respondents have these to say-

*"There is a law which prohibits burying corpses in our residential home but in this part of the world, the law is not being enforced except in our government reserved areas (GRA). If you have a plot of land or building in GRA, you are not allowed to bury your corpse in GRA residential home"*Source: KII/Male/ (Legal practitioner), 2019

In another dimension, a respondent who happens to be a law enforcement agent (Police officer), Understand the existence of a law that prohibit residential burial in the country. The respondent was of the opinion that culture is an important element of social life in Nigeria particularly among Yoruba ethnic group. Burial of the dead is very crucial among the tribe and the law often bends to support people's culture in these parts of the country. In the life of traditional African people, the ancestors are believed to

control domestic productivity, luck, wealth, and fertility (Wilfred, 2016).

The respondent submitted that,

"As a police officer, I am conversant with the fact that residential burial is an offence and it's punishable under the criminal code of this country. I have knowledge about it but in this part of the world, the rules are bent to support the cultural belief". People disobey the law because of the culture and tradition of the land. I will advice people particularly the Yorubas to be law abiding and uphold the constitution of federal republic of Nigeria". Source: KII/Male/ (Police Officer), 2019

In a case study example, a respondent who happens to be a religious leader opined that the law actually exists but tradition is paramount in Yoruba land. According to most people in Yoruba land, the tradition and cultural value must be retained and this is superior to any other law of the land. It was also emphasized that law against residential burial is being adhere to in the new areas being built by the government.

A respondent responded thus;

"Some of us are aware that the law exists but the tradition of our fore-fathers must be retained. In New-Bodija, there is nothing like a residential burial and more so, the law of Nigerian is against it. Though we have a family cemetery, but we still bury our corpses in our compound Source: Case Study/Male/ (Religious Leader) 2019.



Therefore, the law that criminalize residential burial do exist but residential burial practices can be seen as a historical background of Ibadan being a home for the warriors and Bere-Ojaaba which is the historical setting of the Ibadan people. Most of the warriors were buried in their home of residence. Olufunke, (2016) ascertained that Allen records that "the bones of an influential chief in this quarter who was killed in the last Ijesa war were brought for burial at home". Also, Basorun Ogunmola was buried in his residential home. Generally, the culture of Yoruba people supports residential burial which is indicative in the response of the respondents both in In-depth Interview, Key Informant Interview and the case study. Their responses therefore show that the people's cultural belief cannot be extracted away from them despite the criminal code which is against residential burial practices.

Normative values that supported residential burial practices

Therefore, there are some variables identified in these objectives which are the factors responsible for residential burial, this are; decision makers, Ancestral belief, Cost consideration, Family value, theft of corpse.

A. Ancestral Belief: The social, material, and symbolic worlds of the living are shaped by their connection to and interaction with ancestors. (Ashmore and Geller 2005; Gillespie 2002; McAnany 1995). Most of the respondent linked why corpses are buried in a home of residence to ancestral belief. The ancestors accepted and supported residential burial and this gives the people leverage to bury their corpses at the compound of residential home while others bury corpses inside the house for

protection, communication between the living and the dead and identification of the burial space (Oju-Ori) by the generations unborn. Some respondents' retorts-

*The ancestral belief on residential burial is that the spirit of the dead protects the living. Our ancestral belief accepts burying our corpses in home of residents most especially the traditionalist belief in burying corpses inside the room "Awo ti ko bani ile lori, olosiawoni" (A traditionalist without a home is a poor traditionalist)*Source: KII/Male/Herbalist, 2019

In relation to the affirmation above, some respondent believed that burying corpses in the residential home is like a security for the family and a way of protecting the living. People believed that burying corpses at home often protect the family members from external attack or aggression. It waves evil or remove bad luck from the family members. One of the respondents who is an artisan has this to say;

*"The dead of the old people are perceived as a security that protects and safe guard the family from external aggression. They protects the family because if anyone want to harm the family, the dead rise against such person and prevent the person from harming the family"*Source: IDI/Male/ (Artisan), 2019.

Generally, there is a belief that there is connection between the living and the dead. The living society is viewed in terms of their connection to deceased ancestor in line with a paradigm that has been referred to as an "ancestral-descendant" (Rakita and Buikstra, 2005). Therefore, the ancestral belief is entrenched in the present society which was passed from the past generation.



B. Family Value: According to Hodder and Cessford (2004), sub-floor burials at particular houses, repetitive practices concerned with social memory. This is true in this survey done due to the value people attached to residential burial which to most of the respondents serve as historical place to both the present and the unborn generations. The memory of people is therefore recalled through every day or occasional visit to the residential home to see the burial ground of their ancestors. Some of the respondents said-

"Residential burial has served as an historical place for the family members and the children as they are aware of how powerful our family is in Ibadan as one of the families who will eventually become the Olubadan of Ibadan Land at any time. In view of these importance, the family members come together yearly to mark the family day at the family house situated in Bere-Oja Oba where the children and grand-children come in contact in order to socialize the new generation into the family heritage, history and as well familiarize them with the aged and the young members". Source: KII/Male/Family Head, 2019

Another respondent believed that;

"In those days, it was a common practice that we bury our dead within our compound. Some even go to the extent of burying their dead inside their rooms. I believe the reason for doing it that way then was that successive children of the family will be able to know the resting place of their ancestors or fore-fathers. In fact, those places serve as a form of historical places to be tagged as tourist centers" Source: KII/Male/ Herbalist, 2019.

While some value burying their corpse in a residential home as an historical place and identification of the burial ground by the unborn generations, some families have a family cemetery which serve as historical place for the family.

C. Decision Makers: Before a corpse is being buried, some certain people make decision within the family on where the corpse would be buried. However, the result of this field work shows that most decision on where to bury a corpse are made by the head of the family while others ascertained that the children of the corpse make decision depending on the circumstance surrounding the dead person. Some people emphasize on the impact of the family in the determination of burying the dead. According to most respondents, they believe that the family of the dead be it the head of the family, relatives or the first son often determine the nature of burying the dead. One of the responses of a respondent says thus;

"It is the head of the family that makes decision on where the corpse will be buried. If the head of the family is not available, the younger ones in the house make such decision". The decision making on where to bury a corpse depends on the circumstances; it could be the family head (Baale) and sometimes the children of the deceased" Source: IDI/Male/ (Resident), 2019

In contrast, very few of decision on where a corpse would be buried are made by the corpse before death. Some of the corpses before their death identify a particular portion of the residential home where he/she would be buried to their children, relatives



or tenants as the case may be. According to a respondent-

"Before the death of my landlord, he told my husband on where he will be buried in case his children are not around. He said "As long as you are still residing in my house, do not take me to my home town in Ijebu but bury me in this particular space in my house" and his wish was granted after his death."

Source: IDI/Female/Resident, 2019

D. Cost Consideration: This research has shown that corpses are buried in a residential home as against criminal code of Nigeria due to cost of securing a space at the cemetery which to most of the respondents, it is costlier to bury a corpse at the cemetery than residential home while some don't look at the cost. According to some respondents-

*"The cost to secure a space at the cemetery is high as you can see in our family compound here; there are still free spaces that can accommodate corpses. Why then the need of taking our corpses to the cemetery where we will spend money before a space is given to us?"*Source: IDI/Male/Resident 2019

Another respondent ascertained that the cost is not always the problem but most cemeteries in Ibadan are not well kept. The agency regulating and those in charge of maintaining cemeteries are not doing a good job in Ibadan. The respondent emphasised on the poor maintenance of the cemetery and this is one of the factors that discourage people from taking their corpse to the cemetery. He proclaimed that;

"Public cemeteries like the one in "Sango" is not save for the corpses. Apart from the

theft of corpses, the cemetery is not well kept and you find giant grasses and threes at the cemetery. The place is not a good home for the dead so, for me, residential compound is just the best place for a resting place of the corpse" Source: IDI/Male/Civil Servant, 2019

It is evidence that cemeteries both government and private cemeteries are business enterprise that brings more revenue. Revenue accrues to government from allotment of spaces in public and private cemeteries in many countries and even in Nigeria where cemeteries have been known to be a big business enterprise (Douglas, 2013). This therefore discourage people from taking their corpse to either public cemeteries or private cemeteries, hence, limit them to bury their corpse in a residential home or Church/Islamic cemeteries which are free.

E. Theft of Corpse/Ritualists: Theft of corpse at the cemetery is now the most common occurrence in our society in which the security is bribed to get part of human body. So, most people are scared of taking their corpse to the cemetery. Majority of the respondents considers cemetery as insecure place for the corpse because their body is always mutilated by the ritualists. Some respondents said-

*"When you have physically challenged people like those who have hunch-back, albinos and many more, people will prefer to bury them in their compound because if they are buried outside, there is a risk of people going to exhume them in order to use the body for ritual purpose"*Source: KII/Male/ (Community head), 2019

Another respondent made important point concerning the criminalization of the



cemetery in recent times. According to most respondents, most burial grounds are exposed to criminal activities where dead bodies were mutilated and probably used for ritualism. This is against the tradition of the land and no family members will be happy if this happens to them. The respondent said;

"Most of these burial grounds are exposed to criminal activities where people go and cut human heads and their parts. Nobody will want his or her own family mutilated. It is never good. It is better you put them where you will be able to protect them. It is a disgrace to the family where the dead ones are being mutilated"

Source: IDI/Male/Civil

Servant, 2019

Discussion of Findings

Findings from this study show that knowledge of residential burial as crime is low as most respondents were unaware of the existence of the Criminal Act. However, despite low awareness of the law, respondents expressed awareness of the fact that in some areas and places (Government Reserved Areas and in Lagos) residential burial is not allowed. But, educated respondents expressed knowledge of the criminal nature of residential but were also conscious that the law is not enforced because of cultural beliefs and because persecutions and investigations are rarely made. Lack of serious implementation and prosecution of offenders by the appropriate government agency are also the major problem here. Legally, residential burial is a crime but based on the cultural leanings and overall perception of the people, it is legal to them. Prime in the justification for residential burial is the notion that the dead protect the living. Practices of praying for

the dead, seeking their help and attempts to make them at peace with the living needs them (corpses) to be buried close to the home for easier access. This correlates with the position of Ashmore and Geller (2005) who opined that connection and interaction with ancestors and the continued connection of a lineage to their land are crucial dimensions in understanding residential burial. More so, there is general notion that the dead are not gone, they have only ascended into another realm and the best way to keep them close is to bury them at home or inside the house.

Perceived problems and negative perception about cemeteries are common among those who practice residential burial in Ibadan, Nigeria. Many consider that the cost of burying the dead in a cemetery is expensive and can be channeled into other productive ventures. It has also shown in the study that citing of a burial location or where a corpse is buried can be determined by both family head and the eldest son of the deceased. In some cases, the deceased before his/her death specifies a particular location in residential home to the family members. Ritual theft of corpses is greatly feared, especially of special people like hunchbacks, blind people, albinos among others. It is believed that the remains of a dead person can be used to attain some spiritual powers and for money rituals. Many respondents hold that ritualists steal corpses from public cemeteries. The fear of their corpse being stolen and used for rituals is a motivation for snubbing the cemeteries. Lack of proper care and management of public cemeteries in Ibadan is also a problem.

The research also shows that the normative values that supports residential burial



depends on religious belief which is rooted in the ritual performed by the religion. According to Austin (1976) people employ rituals to demonstrate where they belong and who they are. Rituals are performative actions. The rituals performed are therefore seen as cultural rules guiding residential burial which is mostly found among the traditional religion. Different forms of death are attached with different rules and rituals. Those who died prematurely, the born-to-die (abiku), sudden death (iku-ojiji), those who died from smallpox (sonponna) and other forms of bad death are buried away from residential home which are mostly in the bush (Olufunke, 2016). The ceremonies involve is therefore dependent on the religion of the people. How people choose to make their last farewell, and how they choose to remember their dead can therefore be regarded as part of their individual and collective self- presentation (Goffman, 1967).

Residential burial is deeply rooted in culture and traditional belief as such, cultural practices when burying the dead traditionally are centered on the home. Also, in this research, residential burial is seen as historical background which gives the unborn generation the opportunity to identify the burial location (oju-ori) of their fore-fathers and most especially, those who have held a very strong position in the society or are warriors. According to Scheller and Miller (1986), in almost all investigated Maya center researchers have found royal tombs, rich with offerings and accompanied by clear evidence of repeated visitation. Also, to Hodder and Cessford (2004), sub-floor burials at particular houses, repetitive practices concerned with social memory. That is, it gives the family

opportunity to remember the dead ones as this is mostly done through everyday contact with the burial ground. Sometimes, prayers are offered on the graves to seek protection of the family from the spirit of the dead.

The home of the dead is where certain rituals, prayers and events to convey the spirit of the dead peacefully to the spirit realm are carried out. Cemeteries and burial away from home does not allow for total adherence to these burial practices and events. In most African communities, the burial of a family member outside of his or her ancestral land is considered a taboo which can be compared to throwing away the corpse of the deceased person and it carries a lot of stigma (Wilfred, 2016).

Conclusion and Recommendation

In conclusion, there is no standard, formats or universal solution to some laws made by the Government on any public section adopted and implemented depends on the impact of the agencies of the government and the acceptability of the members of the society who are the public. It is important to know which condition made a law feasible and how the effectiveness of the law changes and affect the life of the people and its environment. To this end, the problem of residential burial practices in our society which has been criminalized by the law is not only the responsibility of the government to solve, but also collective effort of the members of the society to educate them on the effect of residential burial. Government should therefore on their part create awareness program through it agencies to educate the people on the criminal code against residential burial and the penalty accorded to it.



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