

A Discursive Critique on Justice in ESAN Tradition

Felix Ayemere Airoboman

Abstract

This study surveys the character of social and supernatural justice in Esan culture, including some perverted forms of justice. Since Esan tradition does not have independent and universal dictions on justice recognized in time and place, the study employs the orthodox nomenclatures and identifies where they supervene on or aligned with the Esan traditional understanding of justice. It analyses some conventional conceptions which either support or are at variance with the Esan traditional idea of justice. The study also analyses some Western conceptions which support the perverted forms of justice in Esan tradition. It makes a critique of justice general and analyses some of the limitations which inhibit the enthronement of justice – whether in Esan or elsewhere. It concludes that although there are glaring manifestations of injustices in our day to day life, we would not want to be treated unjustly; besides, that does not legitimize injustice. Therefore we should strive to ensure the enthronement of justice.

Key Words: *Esan tradition, Social justice, Supernatural justice, Punishment, Social order, Virtue, Injustice, Perverted justice, Myth of justice.*

THE CONCEPT OF JUSTICE

It is worthwhile to begin this study with an understanding of the meaning justice. The understanding of the concept of justice has been a subject of philosophical rumination since ancient period. It can be described as just treatment or the quality of being just. To be just is to treat someone with fairness. Questions of justice arise anytime people are treated either unequally or inequitably. Cephalus opines that “justice seems to lie in speaking the truth and paying your debts”. Polemarchus modifies the view of his father Cephalus, and holds that justice consists “in the giving to each man of what is proper to him” (Barker, 1960: 178). These conceptions are commonly referred to as traditionalism because they underlie traditional morality. Another ancient philosopher who talks about justice is Thrasymachus (Omogbe, 1991: 28-29; Russell, 1961: 96). Thrasymachus revolutionized existing conceptions of justice before him. He puts forward a critical view usually referred to as radicalism. Since justice is understood as “the standard and rule of action for a man living in a community”, Thrasymachus defines “justice as the interest of the stronger”. In his opinion, “might is right” (Barker, 1960: 180). Thrasymachus argues that “the imperium of a state merely lays down as the law whatever is to its own interest, and simply makes into justice, in virtue of its own superior power, the rights which it claims as the strongest”. According to Thrasymachus, the standard of action for a man living in a community is thus “the will of a ruler who wills his own good”. He maintains that “this... is what one will inevitably see, if one looks at the facts with an unblinking eye. For while every man acts for himself, and tries to get what he can, the strongest is surest to get what he wants” (Barker, 1960: 180). This conception is of course a perverted form of justice.

Senior Lecturer Department of Philosophy Faculty of Arts University of Benin P.M.B. 1154 Benin City, Nigeria E-Mail: Felix.Aioboman@Uniben.Edu

For Plato justice is giving everybody his or her due. Elsewhere he puts it that justice is doing what is proper to one's nature without interfering with other people's activities; it is everybody minding his own business. Ernest Barker puts Plato's definition this way: "it is simply the will to fulfil the duties of one's station, and not to meddle with the duties of another station; and its habitation is therefore in the mind of every citizen who does his duty in his appointed place" (Barker, 1960: 203-204). In contemporary time, while John Rawls defines justice as fairness (Rawls, 1972), Robert Nozick (1974) defines it as entitlement.

THE IDEA OF JUSTICE IN ESAN TRADITION

Culturally, Esan people inhabit Esanland located in the central part of Edo state, Nigeria. Her neighbouring cultural groups include Owan, Etsako, Bini and Agbor. In the present geopolitical arrangement in Nigeria, Esan geographical area constitute Edo Central Senatorial District, made up of five local government areas (Esan Central, Esan West, Esan South East, Esan North East and Igueben) in Edo state in the South-South geopolitical zone.

Given this brief geo-political background, this section will focus on social and supernatural justice – justice as dispensed by man and supernatural forces respectively.

Social Justice: In Esan tradition, elders and various assemblies are part of the dispensers of justice. Part of their functions as dispenser of justice is to denounce all forms of injustices in the society. They would insist, that "every member of the society hate evil, love good, maintain justice..." (Ehianu, 2005:324; Alli 2011:61). They resolve differences honestly and amicably by reconciling warring parties, punishing offenders, placating the offended and rendering warning or advice where necessary, all according to wisdom, common-sense and cultural ethos. Some common cases among which these various assemblies adjudicate includes, quarrel, fight, stealing, failure to participate in community work and moral failures. There are other infrequent cases such as adultery, rape, murder, manslaughter, carnality, and so on, which are also mediated but more especially by the enijie (kings) or their accredited delegates. This set of crimes requires ontological cleansing.

In Esan tradition, there is division of labour in the dispensation of justice. The edion (elders) form the village council dealing with crimes involving native laws and custom such as adultery, bad medicines, disobedience, and so on, likely to disrupt peace and order in the village. More serious offences such as murder and rape are within the jurisdiction of the onojie (king) to adjudicate (Okojie, 1994: 49). There are also the Igene and egbonughele age grades that not only settle issues to ensure justice among their members, but are also involved in ensuring the implementation of justice by the edion when physical strength need to be exercised. Each grade has its own meetings and even where a matter is so serious as to warrant a general meeting, each grade sits and deliberates apart. Each of these grades takes instructions from edion. (To avoid duplication, their functions will be discussed in more detail under distributive justice).

Each grade maintains disciplines amongst its members by fines and seizures of fowls. The Edion, in their dignity, seize goats. No other grade in the village has the power of going as far as seizing or making any offender pays the equivalent of a goat. Whatever is thus seized can be redeemed

by begging or payment of an amount not necessarily up to the cost of what had been seized. Where the reason given for the omission or commission is cogent and a sincere apology rendered, both fines and the animal seized can be foregone (Okojie, 1994: 50).

This tripartite age grade among males is the easiest and most universal in Esan,(Okojie, 1994: 57) although there are other complicated, less glaring organizational structures that do not merit considerations here.

Nevertheless, there is also the women association which maintains some law and order among women folks in Esan communities. But the more serious cases are referred to edion for arbitration. Christopher Okojie incorrectly writes that “[w]ithout self-deceit Esan people in every sphere of life maintain that there is no place for the woman in society. Thus women have no recognized associations. Even if there is a meeting of women in the village only the recognized married women attend” (Okojie, 1994: 57). This is an over-generalization. If this Okojie’s claim is true at all in any part of Esan, there could be exceptions. For example, there is a place for women at Udowo-Irrua. Here, women have functions (to be elaborated on below under supernatural and distributive justice). Sometimes, they resolve or deal with issues involving women and make contributions in general assembly. In women assembly, all married women are recognized. But it is indisputable fact that their rank and frequency of meeting do not equal those of men in comparison.

On comparative ground,there is high regard for women in some other cultures. For example, in Delta North (Anioma) of Delta state, Nigeria, there are 60 recognized traditional institutions, each with Obi as the traditional head of both men and women of each kingdom. Each of these kingdoms has Omu as the women head or royal highness, who is only next to obi in the kingdom. She is the mother of the kingdom, head of women and in charge of markets. She renders administrative and spiritual advice to the obi, and plays a lot of ontological roles. She leaves her husband’s house to her father’s house to assume this role when elected. It could also be hereditary depending on the clan. She would no longer live under any man when she assumes this position. Part of the reasons for this is that she needs complete independence and avoidance of man’s subjugation at that position. Very importantly, she needs to be near to the state of perfect chastity to be able to exercise her functions as a mediator between the supernatural (ancestors and divinities) and her people and get information from them which she communicates to her people. She renders services of expiation, atonement and reconciliations between human and the supernatural. This shows that women can assume exotic positions in some cultures (NTA Network Documentary, 2016)and exercise functions to ensure justice among humans and between humans and the supernatural.

SUPERNATURAL JUSTICE

Divinities are part of the dispensers of justice and morality in Esan society. These divinities have power to enforce compliance to virtue, righteous and unwritten but legislated morality and punish offenders. Issues regarding adultery, incest, murder, community sacrilege, desecration and desacralisation of deity and the like, require ontological recourse and cleansing. Adultery is considered as one of the serious crimes which attract anger and vengeance from deities. Calamities often result from such angers if not addressed immediately to restore the ontological harmony such adultery disrupts in the community of beings. “Women usually meet to... punish

an adulterous woman or to curse round the town usually with the name of their genitals, when there is an epidemic or frequent deaths, particularly of children. The use of this part of the body to curse someone is very much dreaded and is strictly forbidden for a woman to direct such a curse to her husband” (Okojie, 1994: 57). The reasons for these include, among others, to restore the harmony that has been disrupted among the community of beings, redress ontological injustices, and avert the calamities which threaten from the disruption of the ontological harmony among beings. These are put in place in Esan tradition to ensure justice, order and peace and to quell the anger of deities and the calamities which should have resulted from them in implementing supernatural justice and restoring ontological balance.

Cases such as infliction of sickness, diabolism and matters where truth is elusive (like a case of adultery, waist or rib tickling and so on, when a partaker agrees and indicts another as a collaborator, but where such collaborator denies blatantly) are referred to divinities for vindication. For example, Okojie writes that

[i]f a man tried to seduce another man’s wife ...where the two men belonged to the same community, ... he would be fined a goat which was slaughter at the ancestral shrine of the Egbele; certain additional fines were made to be given to the aggrieved husband for purification of the woman before she and her husband could live as man and wife again. If the accused denied the allegation he had the following alternatives: he invited his accuser to swear on a named juju, which if done he would be prepared to suffer any just punishment the Edion might prescribe... recourse might be had to trial by ordeal – ITAN (Okojie, 1994: 95-96)

for instantaneous justice. Then the Edison can now act based on the outcome. But if he still denies, he can nevertheless be punished with the belief that he is just unyielding or the matter is reserved for divine vengeance. The position described above by Okojie may be a true reflection of justice. But in some cases, it is the woman who pays for the goat, provides whatever is required for the cleansing and suffers the physical ordeal – the atonement of igbechiebholo – described briefly below.

The woman is paraded round the community naked or half-naked with basket of sand and a particular itching herb (called ewale) placed on her head. Then water is continually applied to ensure that the water dripping from the basket of sand and itching herb can drop regularly on her body during this period. She is paraded round the village by the married women in such village, accompanied with mockery and derogatory songs. During this cleansing process, men avoid seeing the woman’s nakedness since it is a taboo to want to see the nakedness or any nude erogenous zone of the wife of another man. Violation is an act of desecration which attracts ontological repercussion and requires ontological cleansing. The man with whom this adultery is committed does not undergo the ordeal which the woman undergoes and he pays only an inconsequential token in some communities. He owes no obligation to the woman’s husband.

Putting aside all the cultural paraphernalia that justifies such procedure, in contemporary society, this could be seen as a clear case of gender injustice -inequitable and unequal punishment - particularly by human rights activists and feminist ideologues. But for Esan people, this prescribed procedure described above is to counteract the impending consequences by making divinities relent in implementing supernatural justice on the adulterous woman’s husband, children and sometimes on the entire community. Neither the traditional Esan man nor woman perceives this expiating act as injustice.

With regard to incest “[s]exual relationship between a brother and a sister or people of blood relationship up to second cousin in Esan was not permissible”. If committed, reparation which consists of the slaughtering of Ebhe-ibhalen (I do not know goat) is required for

appeasement to placate the ancestors who considered such act as disapproving (Okojie, 1994: 96-97; Alli, 2011: 41). In their independent works, Christopher Okojie (1994: 97) and Peter Alli (2011: 40-41) write that there are certain crimes more of incest than adultery such as having carnal knowledge of one's mother-in-law or any member of his wife's family. According to them, they are serious crimes "crying to the spirits of the departed ancestors for immediate vengeance". They are customarily punishable with payment of a goat in addition to forfeiture of his wife by the transgressor. In aberration to this, Okojie writes that an onojie, who is an institution all by himself, could go beyond what among commoners is known as adultery: he could marry two sisters (Okojie, 1994: 97). He cites as an example king Eromosele of Irrua who married two sisters (Ebaide and Izinlen) and gave the third (Agbonrofo) to his heir apparent (Momodu) in marriage. This violates the sanctity of sex relations among in-laws. Adultery with one's own mother is seldom; if it happens, it is followed with a prescribed punishment; the man has to be born again as he has fouled his present life beyond atonement (Okojie, 1994: 97).

ANALYSES OF SOME CONVENTIONAL CONCEPTS OF JUSTICE

In order to further expatiate on and understand the Esan notion of justice, it is worthwhile to analyse some concepts dominant in the general discussion of justice. Although the concepts to be employed are not of Esan origin, and may not have (exact) equivalent in Esan diction, however, they supervene on the Esan conception and dispensation of justice. These concepts will be discussed only to the extent they have glaring character or resemblance with the Esan dispensation of justice.

COMMUTATIVE JUSTICE

This term derives from Aristotle via Aquinas. It is used for the restoration of justice by means of exchange or payment (Blackburn, 2005:195). This aspect of justice is glaring in the Esan dispensation of justice. It may also be referred to in Esan as restitutive justice. Theft, forceful seizure or appropriation of another person's property in Esan judicial system are always restored (by the demand of the council) either in its original form or with its equivalent (financial or otherwise) when it is no longer possible to return it in its original form due to consumption or depreciation. It is also applicable to humiliation and defamation of character, compensable in the form of fine or public pronouncement.

DISTRIBUTIVE JUSTICE

Distribution of burdens and benefits by some laid down principles at both socio-communal and interpersonal levels are constitutive part of justice in Esan tradition. In the distribution of burden, responsibilities are shared among groups in age range of the edion, igene, egbonughele and ikhuoebholo, each minding its own business. Each of these councils is responsible for different commitments to ensure societal harmony. The egbonughele council, for instance, is responsible for sanitation, digging of graves and dispensation of justice among its members in the discharge of its collective responsibilities. Any problematic issue outside the outlined functions, and other serious issues even in its discharge of responsibilities are referred to the council of edion which is analogous to contemporary supreme council. Part of the functions of the igene is to bury the

dead. They are also the warring members of Esan communities. They sometimes join the egbonughele in sanitation in some specific cases – when the work to be done outweigh the capability of the egbonughele. The edion prepare the dead for burial. Maximally, it is their function to maintain law and order. They adjudicate all cases except when they defy or supersede their capacity, human knowledge and understanding.

The women council (*ikhuebholo*) functions maximally in expiating the consequences of adultery by its members. Their functions remain as discussed earlier. However, for some issues, all these councils or some segments of it can converge to resolve them or take decision. These various functions of the different segments in the community reflect Plato's idea of justice - everyone or group minding their own business - doing what is assigned to them. But it is different from it in the sense that, whereas for Plato, there is near impossibility of an individual belonging to one class to transpose to another due to strict immobility resulting from the exclusiveness of a class, for the Esan male groups, one can easily but naturally graduate from lower grade to higher grade with time due to age.

In the course of these duties, charges are made for various offences. The proceeds are distributed not equally and not according to social status but equitably according to seniority. In the dispensation of justice, everybody receives his or her due (burden or benefit). In the distribution of burdens and benefits, the Esan has an established method analogous to Rawlsian perfect procedural justice (Rawls, 1971: 85). Christopher Okojie (1994: 167-168) reflects this Esan sharing formula this way: having known the custom over seniority, it is easy to talk of how things are shared between two people according to Esan laws. This actually depends upon what is there to be shared. In any case, it would be unjust for the person who does the sharing to choose first. In food sharing (benefit), it is the younger person who does the sharing; then the elder chooses first. But in labour (burden), the elder does the sharing while the younger one chooses first. But for the sake of affection and prudent consideration for the other, they can voluntarily concede their rights. Any can cede portion of his benefit to the other according to need, just as any can assist the other in sharing his burden.

Sharing in Esan is not only between two persons. Where the partakers are not too many, the youngest and the eldest do not share depending on what is to be shared. When the number is large and where the eldest or any other member, but certainly not the youngest, is to do the sharing, whether benefit or burden, he takes into consideration the principle of equitability. Sometimes, especially if it labour, he who does the sharing is outside the confine of participants in the labour. This is what obtains among the *egbonughele* and the *igene* groups. The sharer assumes the position of a supervisor.

RETRIBUTIVE JUSTICE

This is also known as rectificatory justice. It is “[t]he idea of seeking to balance an injustice by rectifying the situation, or by regaining an equality that the injustice overturned. It is most simply summed up by the principle of revenge ‘an eye for an eye, and a tooth for a tooth’” (Blackburn, 2005:195). Although the Esan may be involved in implementing rectificatory justice, her involvement does not embrace the vengeful kind except in instances of capital or near capital punishment. Its application is to right the wrong just like the commutative justice. Rectificatory justice applies to social life; it also applies ontologically to all issues involving divinities and taboos such as murder or attempted murder, adultery, incest, profanity, sacrilege, and so on. Even at these, the Esan treat the offender as an end and not as a mean to an end. Only the guilty

are “punished, and the injury done to the person punished must be comparable to the injury he has inflicted on others”. Kant would surmise that if the guilty are not punished, justice is not done; but in this, people should be treated as “ends in themselves” (Rachels, 1993: 135). The Esan fit into this properly. This is why people may empathize with the offender and sometimes help him to bear his or her burden where possible.

SOME OTHER SPHERES OF DISPENSATION OF JUSTICE:

The Esan notion of justice has some similarities and dissimilarities with the Marxist notion of justice. In Marxian conception of justice, the initiator of the problem is always at fault no matter the reaction of the defender since he provokes it. In Esan culture, the initiator is always blamed; but the defender is also blamed, should he overreact or fail to tolerate or make a report depending on the issue.

Dispensation of justice is neither pure nor perfect in Rawlsian sense among the elders in Esan tradition. But in other spheres of dispensation, there are, as some part of this study has already indicated. These variations are constitutive parts of justice in Esan tradition because, they satisfy their perceived needs and philosophies of justice. They are also parts of their cherished values in oiling social and ontological intercourses. What is glaring here is that age, position, status and so on, do some advantages.

Christopher Okojie is therefore correct when he argues that “Esan people are... wedded to kinship in all their activities, and... they are very constitutional and have a great respect for old age and traditions” (Okojie, 1994:186). This is partly why in her dispensation of justice in matters that are not too serious; the younger one is often asked: *otuenon?* This means “is he or she your mate?” The younger is often asked to apologize to the elder. The elder is hardly judged to be wrong in the presence of children. But the truth can be told him or be reprimanded in private (in the absence of children). The logic and morality behind this is that an edge is not given to younger ones to be rude or disrespectful to elders. In addition to great respect for authority and old age, there is also great respect for prudence and equity. The child can be pacified by telling him or her that the adult in question is his or her father or mother as the case may be. Esan is a patrilineal society and marriages are patrilocal. Pertaining to status in marriage, especially for the advanced, man is always right. In the same way, pertaining to position, kings and chiefs command more respect due to their statuses or privileged positions.

THE GOLDEN RULE:

The golden rule is pervasive, based on the people’s perceived need for justice. Among philosophers, the dictum of the golden rule: “do to other what you would expect them to do unto you” is credited to Aristotle. When stated negatively, it reads: “do not do to others what you would not expect them to do unto you”. This same dictum can be stated in diverse ways in Esan nomenclature as a reflection of social justice. When stated in the form of question: *akhaluele, oideiyee?* Translates into: if it is done to you would you like it? Stated in form of proposition, it would read: *e baidalumelemeidaluooribhebheele*. This translates into: what will not be done to me, I will not do to another person. Stated in the form of command, it becomes: *e baidelueleeiluooribhebheele*. This translates into: what would not be done to you, do not do to another person. These maximally serve as guide to human actions and as barometer for moral uprightness and dispensation of justice.

PUNITIVE MEASURES IN ESAN TRADITION

Crimes attract punishments, and punishments help to deter or control crimes. Therefore, punishment can be seen as a mean of ensuring implementation of justice. Punishments redress injustice, whether natural or ontological. Although in the strict sense of it there are no written typologies of punishment in Esan tradition, the language and reflective mood of the people indicate different kinds and functions of punishment. When an offender is punished, the Esan often says, either

Non lo oyabhor, that is, “let him suffer for it”, or

uko non le ebhiliuwedinlinobheeranlen, that is, “it is the calabash which contains oil that has its buttocks (bottom) placed on fire”, or

nokheigbochiedanmonlenedobhebhe, “so that he will not try it another day” or

nooriaobheebheigbududanmonlen, “so that another person will not try it”, and so on.

In the first and second instances we have retributive punishment, and in the third and fourth instances we have deterrent punishment.

Unlike the contemporary means, there are no prisons to remand offenders and suspects; but there are other kinds of penalty depending on the gravity or gradation of the offence, ranging from fine, seizure of fowls and goat, ostracism, banishment to capital punishment. After trial, there is acquittal for the innocent and punishment for the offender. Sometimes, some punitive measures are embarked upon before or without trial in such cases as the beating of one’s parents or the aged, or felling them among others.

COMPARING JUSTICE AND VIRTUE IN ESAN THOUGHT WITH SOME NON-AFRICAN THOUGHTS

As just acts can be virtuous, so virtuous acts can be just. But there are different understandings on what is virtuous and how virtues constitute justice from culture to culture because what is virtuous in one culture may be vicious in another. While some of the conceptions from other cultures are different from Esan conception, some others are similar to it. For instance, Will Durant writes that “Phidipides beats his father on the ground that his father used to beat him, and every debt should be repaid” (Durant, 1961: 11). For Aristophanes, such act results from specious replacement of old virtues with unsocial intelligence “where one learned the art of proving one’s self right, however wrong” (Durant, 1961: 11). There is no ground that can justify this or makes it virtuous in Esan - whether on the ground of moral or intellectual consistency. As we have seen already, age does some advantage in Esan. If a problem ensues between a father and a child, it would be out of place, in Esan tradition, to sit both of them down and inquire into the problem or its causes for possible settlement. Out rightly, the child is guilty. Where the father makes a report, the child is as guilty as charged. This can also play out in cases between people though, not parents and children, but of wide age range.

UdoEtuk quotes Bertrand Russell as presenting Chinese morality in a mini dialogue between the duke of *she* and Confucius. The duke of *She* addresses Confucius, saying: “We have an upright man in our country. His father stole a sheep, and the son bore witness against him. In our country, Confucius replied, uprightness is something different from this. A father hides the guilt of his son, and a son hides the guilt of his father. It is in such conduct that true uprightness is to be found” (Etuk, 2002: 98). In this case, justice, virtue or uprightness in Esan would consist

in bluntness, in telling the truth always. None would hide the guilt of the other. The guilt of a man is a source of shame to his children. So, children would want their father to be upright so that he would constitute a source of pride to them. They would help to make him a better person even if it involves assisting him bore his punishment *vice versa*. For some reasons, a man does not hide the sin of a son or brother or of any other person to evade justice. This would make him a collaborator in the crime; it would make him vicious, morally depraved and social scum. It would also make him suffer social stigma, moral probity and suffer or serve some punishments, including ontological redress. These are partly why people can bear true witness against a father, mother, brother, sister, friend, son or daughter. This reflects the Esan saying that *nare so oseriohogholi non omooria, akidebalezoko*. The translation of this is: instead of bearing false witness in favour of a friend, it is better to assist him or her in paying fine. False testimony amounts to subverting justice and it is a vicious act. Not only this, it can lead to irresolvable acrimony and consequent social disorder. The pervasive practice of golden rule consolidates this Esan attitude.

A claim similar to the prior rationalization was presented in a dialogue, called *Euthyphro*, between Socrates and Euthyphro (Plato, 1952: 191-199). In this dialogue, following Euthyphro, a pious act must conform to justice no matter who is involved. This is why Euthyphro sues his father for murder -forengaging in act that leads to the death of a helper who killed a domestic servant in a scuffle. Euthyphro explains it this way:

One day in a fit of drunken passion the helper got into a quarrel with one of our domestic servants and slew him. My father bound him hand and foot and threw him into a ditch, and then sent to Athens to ask of a diviner what he should do with him. Meanwhile he never attended to him and took no care about him, for he regarded him as a murderer; and thought that no great harm would be done even if he did die. Now this was just what happened. For such was the effect of cold and hunger and chains upon him, that before the messenger returned from the diviner, he was dead (Plato, 1952).

For Euthyphro, this careless and deliberate inattention was injustice melted on a helper by his father. He therefore considers it pious to prosecute him.

Relations considered Euthyphro's act of prosecuting his father impious. This for Euthyphro, shows how little they know about what the gods think about piety and impiety. In the understanding of Euthyphro, piety involves "the prosecution of anyone who is guilty of murder, sacrilege, or of any similar crime—whether he be your father or mother". Whoever he may be makes no difference. This means for Euthyphro that the impious, whoever he may be, ought not to go unpunished. Socrates was surprised at a son bringing such charge against his father on account of piety and wonder what piety could mean. He therefore considers himself a lucky disciple to learn from Euthyphro exactly what piety consists in especially for he could not have brought charges against his father on account of such virtue unless he knows exactly what piety is and also because, the person on whose account such charge was made was not a relation. But Euthyphro was appalled at the thought and wonder of Socrates and at his making a distinction between a relation and a stranger. In the opinion of Euthyphro, the real question is whether the helper was justly murdered. If "unjustly, then even if the murderer lives under the same roof with you and eats at the same table, proceed against him". Since no one can argue that the guilty are to be unpunished, Euthyphro agrees that it is an act of propriety to punish a murderer (Plato, 1952). If society must be sane, no evil-doer should be left unpunished; it would be unjust not to punish him.

From this dialogue, it is clear that Euthyphro would rather want justice to be considered on its own merit irrespective of who is involved. He would also think that an act is pious or impious independent of the actor. The position which Euthyphro stands for also depicts the Esan traditional understanding of justice and piety for reasons already enumerated.

COMPARISON WITH SOME WESTERN PERVERTED JUSTICE

Although there may be inequality in matter of justice in Esan tradition, but there is equity. This inequality is not the perverted type as can be found in Western philosophical thoughts. For example, Fredrich Nietzsche “claims that the essential element of human beings is ...*will to power*. When this will is not thwarted in people, they strive to enlarge their strength and power over themselves and others. They do not concern themselves with pity for the weak, but recognize obligations only to those of equal strength and power” (Olen, 1983: 64). Nietzsche extols pride, great passions, strength, instinct for war, desire for conquest, revenge and egoism as virtue. He holds that “the happiness of common people is no part of the good *per se*. All that is good or bad in itself exists in a superior few what happens to the rest is of no account” (Russell, 1961: 258). For Nietzsche, the noble man can help the unfortunate not out of pity, but out of the impulse generated by the super abundance of power.

Thomas Hobbes asserts a similar claim in justifying absolutism in *Leviathan*. For Hobbes, the sovereign owes no obligation to the subject but to God only. He substantiates this with the biblical episode that when King David killed Uriah, (2nd Samuel, chaps 11 and 12) he commits no evil against Uriah since Uriah was his subject but against God since David is God’s subject (Hobbes, Chapter xxi). David himself corroborated this in the book of Psalm when he was praying for God’s forgiveness, after Prophet Nathan relates to him in analogy his adultery with Uriah’s wife Bathsheba, his killing of Uriah and his consequently marrying Bathsheba. King David said: “For I acknowledge my transgressions: and my sin *is* ever before me. Against thee, thee only, have I sinned, and done *this* evil in thy sight: that thou mightiest be justified when thou speaks, *and* be clear when thou judgest” (Psalm 51: 3-4, KJV). What is evident here is that David claims to sin only against God. In Esan conception these are aberrations and perversions of justice. The Esan would condemn these as injustice. But they are not completely absent.

A CRITIQUE OF JUSTICE

This section is a critique of justice generally and in Esan in particular. Despite the high regard for justice in Esan tradition, there are some elements of perverted justice by some individuals. These aspects of injustices (and which seems irresolvable) are mostly those perpetrated by agents of divinities and those tied to the glaring monolithic and absolutism of monarchical echelons. Just as some contemporaries citizens anywhere could pervert justice and abuse power, so it was in Esan by some traditional leaders. They were severe in cruelty and insensitivity; they were war mongers, blood thirsty tyrants, allergic to morality, sanity, peace and order. Such kings who ought to be the custodians of Esan values were morally callous, administratively insensitive; bereft of culture serenity; and were brutish, tyrannical and exploitative, with no respect for human dignity, culture and tradition which their office not only make demand of but imposed on them as custodians.

Ironically, they could not be brought to justice. In the administration of their domain the Thrasymachus’ dictum: “might is right”, the Hobbes an “absolutism”, and the doctrine of the “divine right of the king” championed by Western monarchical ideologues were at play. Among such kings were Okojie (alias Ogbidi) of Uromi, Ogbeide the terrible and Eromosele the

cantankerous of Irrua, and Ehiemuan the tyrant of Ewu (Okojie, 1994: 127, 290-293, 317-325). For instance, after king Ogbeide the terrible inquired that Usugbenu was peaceful and quiet, he dispatched a few men to behead all the women and children in Okurele village in Usugbenu, an Irrua suburb, when the men there left for farm. The reason for this is that in the opinion of Ogbeide, the prevailing peace there would prevent them from acknowledging his presence as the king of Irrua. Okojie also argue pertaining to king Eromonsele that, in addition to heredity, it is youthful exuberance, coupled with his desire not to be taken for granted for his tender age, in addition to his natural impediment of speech that combined to form his cruel, ruthless and heartless personality.

As kings and as heir apparent, they thought that they were made of stuff different from those of their subjects, who, in their rationalizations, do not feel pains, have no emotions and passions and if they have, do not count. Since such kings or enigie and potential enigie were not morally trained to acquire goodness, they grow crooked and tyrannical. Since they do not have compassion and feeling of benevolence for their subjects, they do not have any ground of moral obligation to them. And since they did not take them as their moral patients, they do not constitute members of their moral domain (Sommers and Sommers, 2004: 152-155).

Most other Esanenijie with moral maturity (among which was Isidaehomen I of Irrua) were firmly rooted in humility, simplicity, benevolence and tolerance. These played out in peace and order in their time. The moral failure and its consequent vices which were glaring in the historic dicta of some enijie were, on a general note, due to poor parental upbringing, intense exposure to palace affluence, human nature, and the accepted notion of the divine right of the enijie.

The highhandedness of these enijie (kings) was clear depictions of monarchical omnipotence. The criticism which Bertrand Russell (1961: 540) levies against Hobbes' *Leviathan* can be useful here when adapted. According to Russell, the only way to restore order in a state of anarchy where the organs and various institutions of government are feeble is authoritarianism. But in ordinary parlance we cannot subscribe to the unchecked power of the sovereign because the tendency of every heartless king towards tyranny cannot be kept in check unless he has some fear of rebellion. He would be worse if submissive attitude is universally adopted by subjects. Traditionally, social arrangement makes him irremovable. Where possible, he would enrich himself at the expense of his subjects. In addition, he would without crush manacle any person and suppress any doctrine or idea that seems to menace his power; he would become recklessly monolithic and dictatorial. These are reasons of thinking not only of imbuing a sovereign *ab initio* with absolute power, but also of the danger of injustice and ossification that is bound up with omnipotence in a throne, should the sovereign gone corrupt (Russell, 1961: 540). Naturally, if anyone has the power to do whatever he elects to do without any fear or possibility of punishment and rebellion, even the best of humanity can go crooked. The fear of rebellion naturally prevents those with power from its abuse just as the fear of punishment prevents the subjects from rebellion and the society from anarchy.

The unjust practices which characterized the monarchical class were aberrations and were inimical to viable justice in Esan. These Machiavellian characteristics are not limited to Esanenijie. Investigation reveals that they could be anywhere. Robert Kaplan, for instance, extols such acts as virtue (Kaplan, 2002; Kaplan, 2005: 591-596). Like Machiavelli, Churchill, Sun-Tzu, Raymond Aron and Thucydides believe in and accede to a morality of results rather than of good intentions. (Kaplan, 2005: 591). Kaplan refers to Machiavelli as saying that “[v]

values- good or bad -, are useless without arms to back them up.... Therefore, for policymakers, projecting power comes first; value comes second”. Thomas Schelling corroborates this when he writes that “[t]he power to hurt is bargaining power. To exploit it is diplomacy” (Kaplan, 2005: 596). Kaplan explains that “[v]irtue is more complex than it seems. Because human rights are a self-evident good, we believe that by promoting them we are being virtuous. But that is not always the case” (Kaplan, 2005: 596). The position of Allan Kaplan, using Machiavelli as a wedge, explicitly justifies ruthlessness in power provided it succeeds and when it succeeds it becomes just and virtuous. Particularly, it justifies what we attempt to condemn in some Esan monarchs.

Michael Dorris makes a scathing criticism of justice in one of his published essays *The Myth of Justice* (2005: 292-297). The position of Dorris here is that there is no justice in the world. This implies that injustice is the order of things. According to him, the idea of justice is a myth. He asked: “[w]here did us ever get the idea that life is ultimately fair? Who promised that there was a balance to things, a *yin* and a *yang* that perfectly cancels each other out, a divine score sheet that makes sure that all the totals eventually ring even? Who exactly reaps what they sow?” (Dorris, 2005: 292). According to him, if people believe there is justice, they simply have not lived long enough to know better. He submits that justice is one of those palliative myths like afterlife and memory intact that makes existence bearable. Since people believe in justice or that justice is the order of things, when they experience what is contrary to what justice demands, they explain it as one of the experiences of being periodically screwed by fate as exception to the rule. Contrary to such belief, Dorris believes that we are in control of our destinies. According to Dorris, the conception of justice is the opiate of the people (and not religion as has popularly been acclaimed). It is the conception of justice that is “our last bastion of rationality, our logical lighthouse on a stormy sea, our anchor. We extend its parameter beyond death - if we have not found equity in this life, all the great belief system assures us, just wait until the next” (Dorris, 2005: 293).

Dorris introduces the distinctions made by some social scientists between contextual justice and blind justice to substantiate his position (Dorris, 2005: 293). Contextual justice is archetypal. This is the kind of justice operational in the world. By this Dorris may mean manipulatable justice; it is characterized with class distinction, inequality and discrimination. On the contrary, blind justice is theoretical. It purports not to admit any discrimination. The dictum is: all is equal before the law. It is a level field, a blank slate. “The verdict is impartial and therefore fair”. Dorris regards blind justice as utopian notion misconceived as “an Eden where expectations are perfectly in tune with possibility” (Dorris, 2005: 293). This conception of justice does not match with reality. Hence the notion of blind justice is nothing but a myth of justice.

Dorris (2005:294-295) paints a picture that would make people reject belief in the triumph of justice in human system of things and in divine order. In concrete reality, there is no assurance of retribution. Right does not prevail and good does not ultimately triumph over evil. While innocent people are convicted by law and order, offenders are set free. Even when injustices prevail by human arrangements, we believe there is divine justice - a future payday - where rewards and punishments are meted out in precisely the correct quotients. For Dorris, what we term justice is nothing more than occasional and statistical circumstance that we utilize bogusly to reinforce our hope for righteousness (Dorris, 2005: 296). Ultimately, justice does not prevail in the universe.

CONCLUDING REMARKS

We shall end this study by making a very brief critique of the critique of justice. Although Kaplan and Dorris make critique of justice, they would not want to suffer injustice just as kings Okojie, Ogbuide, Eromosele, Ehiemuan, among others, or any other atrocious person would not want to suffer atrocities which they subjected others to. Whether or not justice is upheld, violated or not, humans yearn for justice. The fact of the glaringness of injustice does not justify or legitimize it in the scheme of things. What it means is that it is perverted and therefore need to be addressed. Since we would not ordinarily want to accept injustice, but rather would prefer justice to injustice and a just world to an unjust one, and since we would not want to be denied justice even when we critique it or accept the prevalence of injustice, then we should strive to enthrone justice.

References

- Alli, Peter. (2011). *Esan Cosmology and its effects on the Social Behaviour of the People: Bringing all things under Christ*. Lagos: Deocraft Communications.
- Barker, Ernest. (1960). *Greek Political Theory*. 5Ed. London: Methuen and Co Ltd.
- Blackburn, Simon. (2005). *The Oxford Dictionary of Philosophy*. 2Ed. Oxford: Oxford University Press.
- Dorris, Michael. (2005). The Myth of Justice. Deborah H. Holdstein. Ed. *Challenging Perspectives: Reading Critically about Ethics and Values*. Boston: Houghton Mifflin Company. 292-297.
- Durant, Will. (1961). *The Story of Philosophy*. New York: Simon and Schuster.
- Ehianu, Wilson. (2005). The Resurgence of Aiyelala Deity in Benin: An Indictment on the Church and Judiciary. *EPHA: Ekpoma Journal of Religious Studies*. Vol. 6. No. 1 and 2.
- Etuk, Udo. (2002). The Possibility of African Logic. Olusegun. Oladipo Ed. *The Third Way in African Philosophy*. Ibadan: Hope Publications. 98–116.
- Hobbes, Thomas. (1946.). *Leviathan*. Oxford: Oxford University Press.
- Kaplan, Robert. (2002). *Warrior Politics: Why Leadership demands a Pagan Ethos*. Random house, Inc.
- Kaplan, Robert. (2005). *Machiavellian Virtue*. Deborah H. Holdstein. Ed. *Challenging Perspectives: Reading Critically about Ethics and Values*. Boston: Houghton Mifflin Company. 590-598.
- Nigerian Television Authority, *Network Documentary*, aired between 3:30pm - 4:00pm in NTA, Benin on the 19th of April, 2016.
- Nozick, Robert. (1974). *Anarchy, State and Utopia*. New York: Basic Books.
- Okojie, Christopher. (1994). *Esan Laws and Custom with Ethnographic Studies of the Esan People*. 2Ed. Benin City: Ilupeji Press Ltd.

- Olen, Jeffrey. (1983). *Persons and Their World: An Introduction to Philosophy*. New York: Random House.
- Omogbe, Joseph. (1991). *A Simplified History of Western Philosophy*. Vol. 1. Lagos: Joja Educational Research and Publishers Limited.
- Plato. (1952). Euthyphro. Reprinted in *The Dialogues of Plato*. Benjamin Jowett. Tran. In Great Books of the Western World. Robert Maynard Hutchins. Et. al. Eds. Chicago: Chicago University Press. 191-199.
- Rachels, James. (1993). *The Elements of Moral Philosophy*. 2Ed. New York: The McGraw-Hill Inc.
- Rawls, John. (1972). *A Theory of Justice*. Oxford: Oxford University Press.
- Russell, Bertrand. (1961). *History of Western Philosophy*. London: George Allen & Unwin.
- Sommers, Christiana and Sommers, Fred. Eds. (2004). *Vice and Virtue in everyday life: an introduction to readings in ethics*. 6th ed. Belmont: Wadsworth/Thomson Learning. 152-155.