TOKO ATOLIA: AN ANLO-EWE CULTURAL PERFORMANCE OF RETRIBUTIVE JUSTICE

A Thesis

by

EDUDZI DAVID SALLAH

Submitted to the Office of Graduate and Professional Studies of
Texas A&M University
in partial fulfillment of the requirements for the degree of

MASTER OF ARTS

Chair of Committee,	Donnalee Dox
Committee Members,	David A. Donkor
	Thomas Green
	Zachary Price
	James Ball III
Head of Department,	Steve Oberhelman

May 2020

Major Subject: Performance Studies

ABSTRACT

Most societies throughout history have instituted ways of dealing with criminals, including the penalty of death. How such a penalty is carried out or wherever it ought to be carried out at all is an ongoing discourse. My research provides an understanding of how cultural practices, such as capital punishments, emerge from a people's worldview by focusing on one particular indigenous African execution practice called *Toko Atolia*. *Toko atolia*, now defunct, was practiced by an ethnolinguistic community in pre-mid nineteenth century Ghana – West Africa – known as the Anlo-Ewes. *Toko atolia* took the form of burying recalcitrant miscreants alive in a ritualized manner. *Toko atolia* has been judged barbaric by modern externally imposed notions of justice and punishment. I offer an appreciation of the worldview that shaped *toko atolia*, and argue, contrarily, that this seemingly barbaric practice makes sense within the worldview of the pre-mid nineteenth century Anlo-Ewes. My ethnographic fieldwork and archival research provide a wealth of perspectives from which I have developed an analysis of the relationship people today have with *toko atolia*. My research seeks to advance intercultural understanding by showing how externally imposed judgments overlook deeper meanings in cultural practices. (For example, how does America deal with external perceptions of its justice system, especially with regard to the now practice of lethal injection behind closed doors?)

DEDICATION

I owe it all to God almighty who has purposed and predestined my life, fully satisfying all my needs according to the riches of His glory in Christ Jesus at every stage of my life. Great has been His faithfulness all these years, His mercy has been endless, His love has been steadfast, and His grace has been sufficient. Had it not been the Lord on my side, I would not have made it this far. Therefore, I will bless the Lord at all times; His praise shall continually be in my mouth. Ebenezer! Thus far the Lord has brought me. Thanks to my Lord Jesus!

I gratefully dedicate this thesis to my beloved mother, Peace Afitor Quarshie, who has always been on her knees in prayer that I may continue to stand tall to the glory of God.

I also dedicate this thesis to the memory of the late Rev. Dr. F. K. Fiawoo for his efforts in preserving and valorizing the rich cultural values and practices, especially the extinct practice of justice – *toko atolia,* of the Anlo-Ewes.

ACKNOWLEDGEMENTS

I would like to express my profound gratitude to my committee chair, Dr. Donnalee Dox, for her absolute commitment, support, mentorship and guidance throughout the course of this research. Equally, I would like to express my profound gratitude to my committee member, Dr. David A. Donkor, for his constant support and mentorship especially his guidance at the inception of this research. I would like to thank the other members of my committee, Dr. Thomas Green, Dr. Zachary Price, and Dr. James R. Ball III, for their guidance and support throughout the course of this research.

Additionally, I would like to sincerely thank the head of department, Dr. Steve Oberhelman, for his support especially making funds available for me to visit the Bremen City Archive in Germany to find information for this research. Thanks also to Dr. Leonardo Cardoso for his guidance and support throughout the course of this research.

Special thanks to Sarah Franke for her encouragement and support, and also to my colleagues, friends, and the department faculty and staff for making my time at Texas A&M University a great experience.

I would also like to express my deepest gratitude to all my interlocutors: Mr. E. S. K. Kwawu, Mr. David Mensah Kuwornu, Emeritus Prof. D. E. K. Amenumey, Agbotadua Kumassah, Mr. Edwin Korshie Amenuvor, Mr. W. C. Dzogbetah, Lawyer Sam Okudzetor, Mr. Erasmus Korbla Kalitsi, Agbotadua Bonnie, Ms. Ellen Ama Segbefia, Mr. Power Etse Abotsie, Dr. Victor Korbla Ametepe, Madam Catherine

Adzotor Banini (my beloved grandmother), Prof. Kofi Anyidoho (whom I interacted with at the GSA conference in Accra), Togbi Sylvanus Afetorgbor, and Mr. Cosmos Mawuko Manyo, for their time and selflessness in sharing with me their depth of knowledge about the defunct Anlo-Ewe practice of Justice – *toko atolia*. Thanks also to the daughter of the late Rev. Dr. F. K. Fiawoo, Mrs. Edinam Gblagodzi, and the entire Fiawoo family for their cooperation and support throughout this research. Same thanks go to the Presiding Bishop of the Western West Africa Episcopal District of the A.M.E. Zion Church, Rt. Rev. Dr. Hilliard Dela Dogbey, and the church at large.

A special thanks to my uncle, Patrick Nani Sallah and his wife, for their kind gestures and support throughout my education. Thanks also to my parents – Simon and Peace, and to my brothers – Elikem and Richard for their prayers and support over the years, and to my fiancé, Seraphine, for her patience and love. I am equally grateful to my families for their love and support in diverse ways.

I would like to also thank Dr. Ebenezer Henry Brew-Riverson Jr. and his wife for their continuous mentorship and prayers. Thanks also to my mentors Prof. Kolawole Raheem, Dr. Faustina Brew, and Ms. Patience Nukpezah, for their continuous mentorship and encouragement.

Finally, I would like to dearly thank Rev. David Fakor Dzikunu and his wife for their consistent and fervid prayers for me. Same thanks go to Rev. Dzidzor Etse Atsakpo and all who have kept me in prayers all these years.

CONTRIBUTORS AND FUNDING SOURCES

Contributors

This work was supervised by a thesis committee consisting of Dr. Donnalee Dox, as my advisor, Dr. David Donkor, Dr. Zachary Price and Dr. James Ball III of the Department of Performance Studies and Professor Dr. Thomas Green of the Department of Anthropology.

All work for the thesis was completed by the student, under the advisement of Dr. Donnalee Dox of the Department of Performance Studies.

Funding Sources

This work was also made possible in part by Department of Performance Studies Travel and Research Grant / Thesis Enhancement Grant, Glasscock Graduate Research Fellowship Grant, Graduate Student Research and Presentation Travel Grant, and Academic for the Visual and Performing Arts Travel Grant. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the above listed funding sources.

TABLE OF CONTENTS

Page

CHAPTER I

INTRODUCTION

Toko atolia as it is or was, it was an institution. Anyway, what I got into, you see, I want to tell you briefly my experience. There was a time in Ghana when in many areas we the Anlo-Ewes were regarded as barbaric. Even to the extent that in the university, when I was there, the history department, they were openly accusing us of being barbaric. And when I got into it, I wanted to know why it was so, I got to know that they got into contact with Rev. Fiawoo's work and some other works and so they concluded by that, that by our practice of justice, we were barbaric. So, I wanted to find out exactly how this toko atolia worked. I saw certain portions of Rev. Fiawoo's work-the play (The Fifth Landing Stage), and I read up to a certain level. And when you look at it critically, there were certain areas which gave that impression that we were really barbaric. And in actual fact I didn't read many books but I decided to go to see those people who were involved, so I went to see some elders of Anlo.

(David Mensah Kuwornu, 2019 - interviewee)[1]

[1]David Mensah Kuwornu is an Anlo-Ewe oral historian aged 95. I interviewed him on June 20th 2019 at his residence at Kedzi in the Volta Region of Ghana.

Overview

Most societies from time immemorial have instituted ways to deal with recalcitrant miscreants, including the penalty of death, especially when the crime is considered heinous. How such a penalty is carried out or whether it ought to be carried out at all is an ongoing discourse even in our postmodern era. The main purpose of this thesis is to offer an appreciation of ancient African worldviews that shaped certain indigenous execution practices considered barbaric by outsiders, and to liberate such practices from external misconceptions. I do this by focusing on one example of an indigenous African execution practice called *toko atolia,*[2] practiced by an ethnolinguistic community in Ghana known as the Anlo-Ewes. *Toko atolia* was originally known as the *"nyiko*[3] custom" when the practice was instituted in pre-eighteenth century.[4] However, in my thesis I refer to the practice by its 20th century invented term, '*toko atolia,'* in order for the subject of discussion to resonate more easily with the current generation of Anlo-Ewes and scholars across the globe. The term *toko atolia* was an invention that probably resulted from, but certainly gain popularity through, the landmark play on the practice by Rev. Dr. F. K. Fiawoo. Fiawoo wrote this play in 1932 titled *Toko Atolia*, which he later translated into English as *The Fifth Landing Stage* and published in 1943.

Toko atolia is a now defunct form of capital punishment. Criminals convicted of heinous crimes by a process of ordeal were condemned to be taken to a remote sacred

[2] *Toko Atolia* is spelt with a special character (Ɔ) in the ewe alphabets instead of the Os; TƆKƆ ATƆLIA.

[3] Also spelt as NYIKƆ

[4] Available data shows that *toko atolia* was practiced between 1700 and mid 1800. I offer details in subsequent chapters.

woodland grove in the dead of night and buried alive up to the neck, as a form of retributive justice. The execution followed a long process of maintaining social order and also constituted a phase of reformative justice. The social order was enforced through traditional modes of teaching and persuasion by the family of the culprit. The social order coexisted with a reformative process which allowed the culprit a series of chances to reform in accordance with principles of restorative justice.

Among a number of performative features of *toko atolia,* such as a ritual drum beating right after each execution, a condemned culprit underwent a processional ritual that defined *toko atolia* as a kind of performance. *Toko atolia* was a performance of the people, by the people and for the people. It was also a performance for ancestral spirits through which the community sustained a harmonious relationship with these supernatural forces who oversaw their wellbeing. Though abolished due to British colonial influence, with its attendant corruption of the African sacred in the late 19th century, and the destruction of the sacred woodland grove in the mid 20th century, the cultural memory of the practice lingers in oral narratives. *Toko atolia* has also been re-inscribed in artistic works, especially Rev. Dr. F. K. Fiawoo's play *The Fifth Landing Stage.*[5] These artistic works are an attempt to re-invent *toko atolia's* history and context.

In this thesis, I approach *toko atolia* as a kind of cultural performance in and of itself, i.e., as an expressive form of the Anlo-Ewe people's concept of justice that made sense to the people in the context of their cosmology, moral codes, and social

[5] *The Fifth Landing Stage* is the English version of the original play written in 1932 in Ewe language with the title *Toko Atolia*. The English version was first published in 1943, and was translated by the author himself.

organization by clan. I use F. K. Fiawoo's reinvention of the practice in *The Fifth Landing Stage* as a lens to examine *toko atolia*. I focus on this play and develop an analysis of the different aspects of the play with the wealth of knowledge provided by my ethnographic research and archival research about *toko atolia*. I use the play to give insight into *toko atolia* and at the same time analyze it as a reinvention of *toko atolia* that has shaped current perspectives in the practice among Anlo-Ewes. I employ the play to answer questions of meaning with regard to the religious-spiritual significance of *toko atolia* in the experience of the eighteenth/nineteenth-century Anlo-Ewe people. At the same time, I show how the play also represents colonial perspectives of *toko atolia* in service of modern/European/western judgement of the practice as barbaric, along with the outsiders' desacralization of *toko atolia*.

Scholars like Kofi Anyidoho and Anne Bailey, who have ventured into examining some indigenous Anlo-Ewe/African practices, both explicitly state that in order to truly understand and appreciate the nitty-gritty of certain African customs and traditions, it is all-important to consider thoroughly their cosmology and metaphysical beliefs.[6] Having confirmed this scholarly perspective in the course of my own research, I argue in this thesis – using Fiawoo's play *The Fifth Landing Stage* as a lens – that *toko atolia* was a cultural embodiment of the cosmology and metaphysical beliefs of the Ancestral Anlo-Ewes and that the practice therefore merits due appreciation within the worldview of the eighteenth/nineteenth-century Anlo-Ewe people. Fiawoo's play on one

[6] "Death and Burial of the Dead: A Study of Ewe Funeral Folklore (1983)" and "African Voices of the Atlantic Slave Trade: Beyond the Silence and the Shame (2005" respectively.

hand maintains the worldview of the eighteenth/nineteenth-century Anlo-Ewes, and on the other hand reveals the influence of external (modern-Christian/European/western) views on the writer. Through Fiawoo's play we understand the worldview within which *toko atolia* maintains plausibility and at the same time the misconception that *toko atolia* suffers. The worldview of Anlo-Ewes rests in their faith in the spiritual cosmos as well as their sense of unification as a group; they hold the belief that no individual is independent of the other or the group. In this cosmology, the Anlo-Ewes hold themselves answerable to spiritual entities, in instances of life and death, whose idols they worship as mediators between them and God. The misconception of this spiritual belief system, influenced by European encounter/Christianity, opens *toko atolia* up to judgements of barbarism. For example, as I explore in Chapter Five, a report by Bremen missionaries who were privy to *toko atolia* during their missionary work in the Anlo-Ewe land recorded that: "May the time soon come for the Anlos, where not only this barbaric custom is forgotten for fear of punishment, but also all others are replaced by Christian customs…."(Binetsch and Hartrter, 1906:51).

Likewise, following the doctrines of European missionaries, indigenous folks turned against their own traditions saying: "The traditions of the ancestors are all pagan and paganism is bad. If we held to the traditions of our ancestors, we should not have become civilised and barbarism would have prevailed forever" (Debrunner, 1965:297). This was an externally imposed judgment by the early European missionaries who had an agender to displace the religious/spiritual belief system of the Africans for Christianity, with no regard for the internal factors that impel the African traditional

religion or worldview/cosmology. This judgment on the Anlo-Ewe spiritual belief system feeds the judgement of *toko atolia,* which is grounded in this spiritual belief system, as barbaric.

Propositions

Two propositions form the basis for my exploration of *toko atolia*. First, as extreme as practices of old such as execution by burying a culprit alive may sound to our present-day sensibilities, the cultural-historical importance of such practices is best apprehended by examining the social and moral-ethical logic that compelled them. Secondly, people who are culturally and historically removed from African traditional practices, such as *toko atolia,* often interpret them simplistically, without attending to the worldviews in which such practices make sense. Misinterpretations and simplistic interpretations have led to a perennial denigration of Anlo-Ewe identity in the Ghanaian society and abroad. In this work, I attempt in no way to take a stance on whether or not *toko atolia* should be reinstated or encouraged in the present era. My goal is to explore the significance of *toko atolia* objectively in the context of the Anlo-Ewe worldview that informed it. I counter the reduction of *toko atolia* to barbarism, as was done by early European missionaries and colonialism and now by modern scholars (African and western) and natives of Ghana, even some Anlo-Ewe people, and reductionist judgements shaped by western notions and ideologies. Instead, I provide an explanation of *toko atolia* that takes full account of the cultural values, folklore and the religious/spiritual worldview of the Anlo-Ewe people in the eighteenth/nineteenth

centuries, which were informed by ancient attitudes toward justice. I then examine relationships among Anlo-Ewe folklore, cultural performance, capital punishment, justice and religion/spirituality by focusing on the performance of *toko atolia*. Next, I present changes in Anlo-Ewe's social values and belief in the supernatural cosmos due to external (colonial and European/western) influences and invented traditions during the nineteenth-twentieth centuries. I am interested in how these alterations have shaped the discourse on capital punishment (*toko atolia*) in Ghana today from both emic and etic perspectives, and in both oral tradition and current scholarship. I proceed to gesture at how the worldview of the eighteenth/nineteenth-century Anlo-Ewe people that shaped *toko atolia* as an expression of justice also extended to their involvement in the transatlantic slave trade – the 'Atorkor Slave Market'[7] as a reference point – and its aftermath as evident in similar worldviews apparent among some African American groups, e.g. the Gullah.[8]

Objectives

My thesis has four objectives, which I present in the form of questions that situate *toko atolia* in overlapping contexts: historical and anthropological, religious and spiritual, cultural and judicial, ecological and performative, and philosophical and

[7] Atorkor Slave Market was a slave market located in Atorkor, a town in the Anlo-Ewe land, during the trans-Atlantic slave trade. European slavers bought slaves from this market. There is a monument at the site not which tells the story of the historic market in a kind of sculptural performance exhibition.

[8]The Gullah are a distinctive group of Black Americans from South Carolina and Georgia in the southeastern United States. They live in small farming and fishing communities along the Atlantic coastal plain and on the chain of Sea Islands which runs parallel to the coast. (Opala, 1987)

psychological. One: what social and moral-ethical considerations of retributive justice compelled this form of punishment? What Anlo-Ewe ideas of divine judicial legitimacy shaped this practice? Two: what insight does *toko atolia* offer in the links or relationships among the areas of folklore, culture, performance, capital punishment, justice and religion/spirituality? Three: how has *toko atolia* evolved to become an invented tradition? What influenced this invention, and how has *toko atolia* as an invented tradition shaped the discourse on the practice (*toko atolia)* from emic and etic perspectives in Anlo-Ewe oral tradition and scholarship today? Four: in the eighteenth/nineteenth-century Anlo-Ewe worldview, what are the inherent commonalities between *toko atolia* as punishment by execution and the transatlantic slave trade and its aftermath as a form of punishment? What aspects of African American cultures such as the Gullah might shed light on these commonalities?

The Need/Gap

The need for this study arises from a gap in the existing literature on the performance and cultural meanings of public execution by a wide range of scholars, including Michel Foucault and Dwight Conquergood. The majority of these scholars, even those who look at capital punishment as an expressive form of within culture, focus primarily on execution practices in the western world. A few focus on Africa, but not on Ghana and the Anlo-Ewe community specifically. This thesis begins to address the absence of non-western cultures in this literature.

In the western world, with Michel Foucault's exploration of capital punishment in his 1975 book *Discipline and Punish* as a landmark, other scholars have examined the justice system in the United State and elsewhere in Europe. They all in one way or the other frame and explore narratives of capital punishment practice as a kind of spectacle or "theatrical" performance. Largely, they criticize the spectacle and the inhumaneness of the practice of capital punishment and its political structure, passively or actively advocating for the reformation of capital punishment rather than the extermination of people, which is largely capricious, racial bias, and cruel. Examples of these works include Austin Sarat and Christian Boulanger 2005 – *The Cultural Lives of Capital Punishment: Comparative Perspectives*, John Bessler 1997 – *Death in the Dark: Midnight Executions in America*, David Von Drehle 2006 – *Among the lowest of the dead, the culture of capital punishment*, Donald Cabana 1996 – *Death at Midnight: The Confession of an Executioner*, and Sister Helen Prejean 1994 – *Dead man walking* among others.

Likewise, a scholarly literature examines the justice system in indigenous African traditions, where capital punishment was practiced prior to colonization and institution of non- African laws. Most of these studies focus on Nigerian cultures, however, not Ghana. Further, they explore the subject of capital punishment as purely philosophical and in social contexts with little or no focus on the expressive/performative nature or the religious/spiritual dimensions of indigenous African modes of capital punishment. Important studies in this literature include Oladele Abiodun Balogun 2009 – *A Philosophical Defence of Punishment in Traditional African*

Legal Culture: The Yoruba Example, Solomon A. Laleye 2014 – *Punishment and Forgiveness in the Administration of Justice in Traditional African Thought: The Yoruba Example,* Andrew Novak 2018 – *Capital Punishment in Precolonial Africa: the Authenticity Challenge,* Thandabantu Nhlapo 2017 – *Homicide in Traditional African Societies: Customary Law and the Question of Accountability*, and Fainos Mangena and Jonathan Chimakonam 2018 – *The Death Penalty from an African Perspective: Views from Zimbabwean and Nigerian Philosophers*. In addition, reports by United Nations Human Rights Commission 2016 – *Human Rights and Traditional Justice System in Africa*, and African Commission on Human and Peoples' Rights 2011 – *Study on the Question of the Death Penalty in Africa* provide a statistical narrative account of these practices in some parts of Africa but none on Ghana. Amnesty International in 2017 launched a campaign against the death penalty sentence in Ghana's legal system, including a report on the inhumane state of Ghana's death penalty system (the judgement this thesis explores). Amnesty International campaign's focus was solely on the contemporary legal system of capital punishment in Ghana; it ignored any traditional contexts for this mode of capital punishment, and did not mention the now defunct practice of *toko atolia*.

Exceptions to the lacuna in reflection on *toko atolia* are the plays of Rev. Dr. F. K. Fiawoo and scholarly studies that mention but do not focus on *toko atolia*. Fiawoo, a native of Anlo-Ewe, wrote a trilogy of dramatic plays. *Toko Atolia* or the English version *The Fifth Landing Stage* (1943) and *Fia Yi Dziehe* also known as *Fia's Upland Journey* (1973) explore *toko atolia* with respect to a subject and a potentate respectively.

Tuinese (1973) explores the possibility of injustice in the judicial process of the Anlo-Ewes. In these three plays Fiawoo projects accurately the cultural expressions, values, beliefs and norms of the Anlo-Ewes. He focuses on crime, punishment and justice, and the cultural philosophy and worldviews of the Anlo-Ewe people, in the form of literary fiction. Some scholars have mentioned *toko atolia* in the context of other inquiries. Scholars have considered *toko atolia* for example, in studies of the religion, politics and history of the people of Anlo-Ewe (Greene 1981, 1997, 2002, 2011), the trans-Atlantic slave trade (Bailey 1998), cultural logic and symbolic life of Anlo-Ewes (Geurts 1998), the practitioner inhabitants of the Anlo-Ewe spirit world (Dietrich 2012), social control and crime prevention among the Anlo-Ewes (Abotchie 1997), and a critical analysis of Fiawoo's play, *The Fifth Landing Stage* (Gibbs 2009).

I have not come across any scholarly work in my thorough online database research and archival research, including the works listed in the above scholarship categories, that specifically explores *toko atolia* as its main object of study. Nor do any explore capital punishment in indigenous African cultures as a form of cultural performance. I note that most of the works listed above that make reference to *toko atolia* do so in retrospect and/or prejudiciously. They present the practice either implicitly or explicitly as strange or barbaric, which I hold to be an externally imposed judgment that overlooks deeper meanings in this cultural practice/performance of the Anlo-Ewes. My research addresses this prejudicial, externally imposed judgement as it fills a significant gap in existing research by interpreting capital punishment as a form of cultural performance in the culture, cosmology and practices of the Anlo-Ewes.

Significance

My research is significant in two ways. It contributes to the discourse on capital punishment by augmenting the sparse literature on African examples with the specific Anlo-Ewe *toko atolia*. It also contributes to the field of performance studies by examining a capital punishment practice, *toko atolia*, as a specific example of cultural performance and considering its efficacy in Anlo-Ewe cosmology (Schechner, 2013). I contend that current theoretical models/frameworks for discussing capital punishment as cultural performance do not allow for the complexity of an example like *toko atolia*. For example, my exploration of *toko atolia* as a cultural performance shows that in this practice the soul of the condemned person rather than his body was the target of penal repression, but not in the exact sense that Michel Foucault examines in his treatise "The body of the condemned" (*Discipline and Punish*, 1975). For Foucault, the shift of penal repression from the body to the soul is towards reform, to ensure a disciplinary society. Whereas, for Foucault the soul operates as the target, the central component, in *toko atolia* the soul and body are aligned in a very different way in Anlo-Ewe cosmology.

In other words, my thesis engages the discourse of capital punishment from a different perspective than is common in current scholarship: the religious/spiritual worldview and logic of the Anlo-Ewe people. My thesis thus provides new insights that affect existing notions in the discourse on capital punishment. Ultimately, aside from throwing off colonial, external, and modern perspectives on *toko atolia*, my thesis is also a model for scholars who would want to explore indigenous African and especially Ghanaian forms of expressive culture and practices. I present this thesis not as a single

case study but as a method for how scholars can look at indigenous practices and adapt existing theoretical frameworks to do the needed research that allows us to identify the worldviews that make sense of these practices. In doing so, scholars can liberate practices such as *toko atolia* from external perspectives and misconceptions. Above all, my research furthers intercultural understanding by showing how externally imposed judgements overlook deeper meanings in cultural practice. I contribute, by this exploration of *toko atolia,* an approach to the study of culture that avoids externally imposed inferences. Aside from dramatizations of *toko atolia* by the late Rev. Dr. F. K. Fiawoo, my thesis is the first scholarly or literary work to take *toko atolia* as its main object of study.

Methodology

In my exploration of *toko atolia* in this thesis, I employed two main research methods: ethnographic study and archival research. I spent the summer of 2019, from June 3rd to August 27 in Ghana, mostly in the Keta and Anloga towns of the Anlo-Ewe community. There I conducted an intensive ethnographic study. During this study, I interviewed a number of elders and oral historians in the community to gather the existing oral narratives on *toko atolia.* I was interested in how the Anlo-Ewes express today the metaphysical worldview within which *toko atolia* made sense as a form of capital punishment before it was banned in the 19th century. Anlo-Ewe interlocutors in this field study included courtiers, councilors and direct relatives of key witnesses to *toko atolia*. My ethnographic research period in Ghana coincided with a memorial

lecture series in commemoration of the 50th anniversary of the death of Rev. Dr. F. K. Fiawoo, an exponent of Anlo-Ewe culture and the first playwright to dramatize *toko atolia* in his play originally titled *Toko Atolia.* This lecture series took place at the British Council in Accra-Ghana on 23rd July, 2019. At this event I noticed some Anlo-Ewe elites who shared their repository of knowledge with me of the Anlo-Ewe culture and history. Among these elites were Samuel Okudzeto, a prominent Ghanaian Lawyer and Member of Council of State, Ghana, and D.E.K. Amenumey, a columnist emeritus professor of history who has written a number of books on the precolonial history of the Anlo-Ewes. These individuals, who reside outside the rural Anlo-Ewe community in the urban areas, remain natives with deep knowledge of the Anlo-Ewe culture from both oral and intellectual perspectives. They became interlocutors during my ethnographic field research in Ghana.

As part of my method of gathering information to ensure a larger number of respondents within the community, I also worked through an awards initiative by an NGO known as the C-Torch Foundation.[9] Through this initiative, I engaged students from ten schools in Keta, the municipal capital of the Anlo-Ewe land, in an assignment to write on *toko atolia,* with strict instructions to consult their parents on this assignment. My ethnographic research thus was done in Ghana, mainly in Keta and Anloga, the traditional capital of the Anlo-Ewe land, and drew extensively from the people's folklore (stories, proverbs, poems, songs etc.) expressed in oral narrative. I used oral textual

[9]C-Torch Foundation is an NGO founded by me (Edudzi David Sallah) in July 2018 with the aim of encouraging pupils to develop interest in exploring indigenous knowledge.)

analysis approach to analyze data from this ethnographic study by focusing on the texts of the narratives, folk songs, performance speeches and ritual utterances as well as how people embodied those narratives. I considered story-telling and memories of my interlocuters as performative. And, I analyzed some utterances as performative in J. L. Austin's sense of speech act theory.

Archival research in Ghana overlapped with my field research. I accessed artifacts as primary sources. These include the housings of two ancient drums that were beaten as part of the ritual performance of *toko atolia* in the eighteenth/nineteenth-century. I took pictures of these historic drums[10], which are the only available primary evidence of *toko atolia* as a ritualized form of capital punishment. One very important document that served as a primary archival source for this thesis and a reference source for majority of my interlocuters was the Rev. Dr. F. K. Fiawoo's play *The Fifth Landing Stage.*

My visits to the Regional Archive in Ho, the reginal capital of the Volta Region (region of the Ewes) of Ghana, and the National Archive of Ghana in Accra, the national capital, in search of primary native, colonial and governmental records on *toko atolia* yielded no relevant results for this thesis. However, a forward to C. M. K. Mamatta's book on the history of the Ewes by Prof. Francis Agbodeka, acknowledges the scantiness of the sources of the history of the Ewes. Agbodeka states that efforts are being made to acquire these historical accounts from German archives, where they are currently

[10] The reason for preserving the drums is uncertain but my interlocutors made references to their existence as a residue of *toko atolia* which authenticates their narrative of *toko atolia*. Meanwhile the state of the housing of these drums is more or less dilapidated.

housed. Available information on the history of the Ewes and works by German scholars such as Diedrich Westermann support the assertion in Prof. Francis Agbedeka's forward. These writings among others prompted my decision to start contacting archives in Germany until I eventually received confirmation from Bremen City Archive of the availability of archival materials on the history of the Anlo-Ewes and, more precisely, on *toko atolia*.

My subsequent visit to the Bremen City Archive in Germany yielded relevant information about external perspectives on the practice of *toko atolia,* which I had initially sought in Ghana. At the Bremen City Archive I found reports by early German missionaries, G. Binetsch and G. Hartrter on the Anlo-Ewes of Ghana – the then Gold Coast. In these reports they expressed their views about the Anlo-Ewe people and their cultural practices, including *toko atolia*. These reports are important examples of the external misconceptions my thesis addresses. They strengthen my claim throughout the thesis that there is a disconnect between the worldview that made *toko atolia* logical and gave it meaning in the context of the Anlo-Ewe worldview, and external perceptions of *toko atolia* as barbaric.

For secondary sources, I accessed published scholarly books and articles, as well as literary narratives expressed in poems, plays, novels etc. mostly from the Texas A&M Library system. I analyzed data from my archival research through textual and performance analysis. My textual analysis drew on what other scholars have written directly and indirectly about my object of study. My performance analysis focused

mainly on literary fictions like the plays, novels and poems, as well as objects such as the existing drums and the spaces in which *toko atolia* was practiced.

My personal lived experience and observations of everyday life as an Anlo-Ewe native who spent at least two and half decades of my life in the Anlo-Ewe community, where I was born and received my basic and secondary education, contributed greatly to this thesis. My personal background is crucial to my thesis for a number of reasons. Growing up in the Anlo-Ewe community, I remember *toko atolia* as a cliché parents and elders of the community employed to reprimand recalcitrant children and youths. Parents and elders would refer to the practice in passing, suggesting that were it the old days one would have been sent to *toko atolia* and buried alive with head exposed for crows to peck at the eyes. This was a common and only knowledge of the practice I grew up with, because it was mostly talked about in passing.

Deeper meanings in *toko atolia* are hardly ever talked about in Ghana by those who are informed about it. Most natives today are inclined to western and European notions of the practice because that is the information available apart from colloquial clichés. Details of *toko atolia* are generally avoided and unspoken. Until I came in contact with Rev. Dr. F.K. Fiawoo's plays, my presence in the Anlo-Ewe community offered me very little information about *toko atolia*. I found out during my undergraduate studies at the University of Education, Winneba in Ghana that the plays of Fiawoo were apparently unpopular among Ghanaian literary works. Paradoxically, the avoidance of Fiawoo's plays also subverted Fiawoo's effort to reinvent the practice for

modern sensibilities. I never came across Fiawoo's play among the list of required plays I read, studied, and those that were staged.

My recognition of the subversion of Fiawoo's effort led to my conclusion that *toko atolia*, had literally been buried in the consciousness of the Anlo-Ewe people after the incursion of European values and norms. This recognition sent me back to the Anlo-Ewe community to start asking the questions which eventually gave birth to this thesis. My connection with the community made it easier for me to access detailed information from the elders. I found out during my ethnographic study over the summer of 2019 that one of my interlocutors (Mr. Kuwornu, quoted in the opening epigraph) had also found the need to conduct an ethnographic investigation in *toko atolia.* His investigation was prompted by a judgement of *toko atolia* and, by extension, the Anlo-Ewes as barbaric by fellow students in the History Department at the University of Ghana where he was a student in the mid 20th century. The judgement, he said, had come about as a result of the students' encounter with Fiawoo's play *The Fifth Landing Stage.* This reaction to Fiawoo's depiction of *toko atolia* brings Fiawoo's play to light as key to how people today understand and judge the practice. That Fiawoo wrote the play in part as a rebuttal to both European and Anlo-Ewe views on *toko atolia* warrants examination. Hearing this account, I resolved that the externally influenced judgement of *toko atolia* as barbaric is a perennial problem and therefore requires the attention my thesis offers. Beyond the example of *toko atolia*, my thesis provides a strategy for analyzing judgement of African culture from outside and the devaluation through misconception of African social worlds, expressions, and worldviews.

Chapter Outline

This thesis is presented in six chapters. Chapter One introduces the thesis as presented in the preceding pages. Chapter Two provides a thick description of the performance of *toko atolia* and an overview of the principles that guided and defined the performance of *toko atolia.* I draw on aspects of Fiawoo's plays which retain the performance of *toko atolia* in corroboration with oral narratives (especially a thick oral narrative offered coherently by Mr. E. S. K. Kwawu). Along with presenting the performance of *toko atolia* in this chapter, I offer explanations and commentaries, drawing from scholarly observations, theoretical concepts (Victor Turner's Social Drama) and Fiawoo's artistic representations that gesture towards the worldview and organization of the Anlo-Ewe traditional judicial structure, in terms of family and clan systems, within which deeper meanings of *toko atolia* lie.

Chapter Three offers a brief history of the genealogy of the Anlo-Ewe people and ancestral events that influenced their spiritual worldview, which remained to shape their eighteenth/nineteenth century views and practices of justice and punishment. I further detail in this chapter the general Anlo-Ewe concept of crime. Central to this chapter is the clan and family structure of the Anlo-Ewe people and how the clan is pivotal to the practice of *toko atolia*. I present Fiawoo's approach to *toko atolia* as well as other scholarly discoveries about *toko atolia* in their historical contexts. This chapter draws largely from oral narratives and general knowledge of the Anlo-Ewe people.

Chapter Four focuses on the cosmology that shaped *toko atolia* and the presence of this cosmology in the trans-Atlantic slave trade. I offer a new insight into the impact

of the trans-Atlantic slave trade in relation to *toko atolia* that is often missing from accounts of the trade and the Middle Passage: the spiritual dimension. I establish this insight on scholarly observations, Fiawoo's insight, the folklore of the Anlo-Ewes and general knowledge of the worldview and history of the Anlo-Ewes. I engage in a theoretical analysis to show links among folklore, indigenous and exogenous culture, performance, capital punishment, justice and religion/spirituality that inform the practice of *toko atolia.* I gesture at the resurgence of this cosmology in the lives and culture of African Americans in America such as the Gullahs.

Chapter Five presents the etic perspectives and misconceptions of the Anlo-Ewe concept of justice. This chapter features exclusive new information from the Bremen City Archive on German missionaries' etic accounts of the practice of justice by the Anlo-Ewe people. I draw on assertions from earlier chapters to counter these external misconceptions. I also highlight western and European execution practices (both extinct and extant) to project western/European hypocrisy. Further, in this chapter, I present the dualism of Rev. Dr. F. K. Fiawoo as an indigenous comprador whose artistic representation of *toko atolia* partly gives the evidence of European/western influence and modern Christian values. Fiawoo in this way is aligned not with the indigenous worldview of the Anlo-Ewe but, like the missionaries, renders *toko atolia* as barbaric with no regard to the era and cosmology of the practice. I gesture at Fiawoo's attempt to reinvent the narrative and cultural consciousness of *toko atolia* among the Anlo-Ewes and to outsiders.

Chapter Six culminates this thesis with highlights and summaries of the objective, approach, and significance of this humanistic inquiry. I precisely present my findings from this research on this defunct practice of capital punishment by the Anlo-Ewe people in eighteenth/nineteenth-century. I gesture toward the global significance of this research as I ask the question of how America deals with external misconceptions of their practice of lethal injection behind closed doors. This chapter features the statement of my proposed further studies on translational cultures and literature with specific focus on how features of this current exploration of *toko atolia* resurface in American justice system against African American cultures and bodies. I end with observations and recommendations.

CHAPTER II

PERFORMANCE OF TOKO ATOLIA

Miede za, Miegbo za! Miede za, Miegbo za!

By night we went! By night we came!

A message of the drums,

The voice of the people:

Miede za, Miegbo za!

We buried a brother alive,

We buried him to the neck.

Miede za .... We went by night!

Miegbo za .... We came by night!

"Thou shall not bury thy Brother alive."

So the commandment says

But when this Brother was caught

Digging a grave into which

He would decoy his Grandfather

The Gods themselves should understand why

We went by Night

and

Came by Night

Norvi Agbebada!

Brother Badlife!

It is Bad Death,

It is *Ku Bada*

You must die! (Anyidoho, 1985: 60)

In the above poem from the anthology *Earthchild* by poet-scholar Kofi Anyidoho, the speakers (the "we") of the poem are executioners who have returned from the scene of a capital punishment they have carried out. The executed perpetrator, we learn, tried to dig "a grave into which he would decoy his grandfather." It is unclear if this description of his crime is literal—i.e., he tried to murder his grandfather by luring him into an open grave—or figurative, i.e. he was so egregiously deceptive that it troubled his grandfather to a near-death, or his recalcitrance was deemed as an inherent ruin of his family. Whatever the perpetrator's crime, we learn that in this community there is, on one hand, a "commandment" that bars burying people alive but on the other hand there is a principle of retributive justice that demands that certain serious crimes—ostensibly, including the perpetrator's—must be punished and that burying the criminal alive is one of the divinely sanctioned punishments ("the God's themselves should understand") for the most serious crimes. Therefore, the executioners have not contravened the commandments per se - they have actually enforced the community's idea of appropriate justice. Indeed, the type of execution and the principle of justice the poem describes are not just fictional but are actual elements of a cultural practice of capital punishment called *toko atolia*. Whereas the poem embodies vital aspects of this cultural practice, it is an abstract work based on Rev. Dr. F. K. Fiawoo's artistic and

vivid representation of the practice (*toko atolia)* in his 1943 published play *The Fifth Landing Stage* (originally written in Ewe, in 1932, titled *Toko Atolia*.) The play features a villain character called 'Agbebada' who falls victim to *toko atolia,* hence, the title of Anyidoho's poem: "Agbebada; For Rev. Dr. F. K. Fiawoo."

The Meaning of Toko Atolia

The term *toko atolia* has evolved as an invention from an original reference to a landing stage for criminals. The term is now predominantly known as the ancestral Anlo-Ewe practice of capital punishment that involved burying incorrigible culprits alive. *Toko,* as an Anlo-Ewe term, could literally mean 'lagoon shore' or 'landing stage'/'birthing place' of canoes that went fishing on the lagoon. *Atolia* means 'fifth', so suffice *toko atolia* to mean 'the fifth landing stage'. *Toko atolia* originally was a place. The name refers to the site in a sacred grove where the executioners carried out the practice of burying condemned culprits alive (*nyigblave*, meaning 'grove of nyigbla,' a god worshipped by the ancestral Anlo-Ewes). This site was called *gbakute,* which literally means 'if you refuse to comply with the laws of the land you will die.' If the executed person was a potentate, his execution was reported with the euphemism, "he has taken an upland journey" the destination being *toko atolia* (Fiawoo 1973, 193: 269). This phrase was similarly used when the potentates were sent into exile, an alternative punishment to *toko atolia* which may connote the literal meaning of the euphemism of a journey into the unknown. If the culprit was an ordinary subject the saying was simply, "he has gone to *toko atolia*" (Westermann 1930, 245). The first, second, third, and fourth

landing stages existed besides this prominent fifth landing stage. The first four landing stages had settlements and were named *tegli toko, nyime toko, nyaxoanu toko*, and *avornor toko*, in chronological order as they became settlements for families in the community. The fifth landing stage had no settlements but housed the sacred grove (*nyigblave*) and had no special name but *toko atolia*. Each of these landing stages served particular purposes but not related to the justice procedure of the Anlo-Ewes save *nyaxonu toko* which hosted the sacred supreme court of adjudication known as *Agor wo wornu* (court of Agor, a god worshipped by the Anlo-Ewes.) *Toko atolia* served the crucial purpose of hosting the site for execution of incorrigible criminals. While the others were landing stages for canoes, *toko atolia* was literally a landing stage for criminals.[11]

Toko atolia was situated as a judicial arm of traditional government to administer justice and enforce law, order and discipline in the Anlo-Ewe land. The practice, as I hinted in the introduction, was originally known as *nyiko* custom or *nyikorfofo* which literally means 'the application of sanctions for non-observance of the law.' The Anlo-Ewes also used the term *nyikorfofo* to refer to any adversity, such as charms, diseases, behaviors etc., that the community decreed banned. In this practice, designated courtiers and executioners would cunningly lure a person adjudged guilty of a heinous crime to the *nyigbla* grove in the dead of night and bury him alive at *gbakute*. The culprit would be buried in a standing posture up to the neck with his head jutting above the ground for

[11] A Police Station now rests at this site after the groove was destroyed in 1950s following a riot in Anloga in 1953.

crows to peck at his eyes till his death. Right after the execution a drum known as the *nyiko* drum was beaten to inform the community about the act and to signify the end of the performance of *toko atolia*.

The Function of Toko Atolia in Anlo-Ewe Culture

As the popular adage has it, no practice exists in isolation. In other words, *toko atolia* was part of an entire traditional legal system where it only served as the ultimate punishment for a crime after all other alternatives to reform the criminal had been exhausted but failed to reform the person. The Anlo-Ewe legal system was actually meant to reform criminals. In this system, *toko atolia* was the final stage of a long slow system of justice which draws on the idea of giving the liar a long rope to hang himself. The idea is embedded in the Anlo-Ewe proverb, "Don't burn the house of a liar, remove the roof." The long slow painful death that a culprit experiences in *toko atolia* is a sequel to the long slow justice reform process of the Anlo-Ewe justice system that the culprit failed to take advantage of. *Toko atolia* was instituted to ensure that all Anlo-Ewe citizens at the time of this system of justice lived moral and upright lives. It was an institution that was deeply rooted in morals and the ethical system that determined what was at stake if people broke the moral codes. It was a corporate, communal practice that involved everyone as part of the process.

Toko atolia reflected the fact that the forebears of present day Anlo-Ewes relentlessly abhorred and severely punished crime. The acts that were considered as heinous crimes and therefore forbidden in Anlo-Ewe land included practicing sorcery,

stealing, meddling with another's wife, incurring debts, disobeying one's parents, lying, and abusing one's office or power (this applied mostly to rulers). The Anlo-Ewes perceived these acts, which breached the moral principles of their customary laws, as "Bad-life" and a threat to the group's harmonious relationship with supernatural forces and ancestral spirits, as well as a people with a unified cultural belief and identity. According to Fiawoo (as captured in his play *The Fifth Landing Stage*), it is recalled in Anlo-Ewe oral history that Togbi Sri – the first king of the Anlo-Ewes in their present settlement – reaffirmed these moral principles in his valedictory speech on his death bed. These principles are extant in Anlo-Ewe expressive culture as a kind of oral poem, first accounted by Fiawoo in his play *Toko Atolia.* This bequeathal poem says among other things:

> Children forget not the saying;
>
> 'Evil doers are the ruin of nation'
>
> …
>
> Therefore, my children, let every crime be punished.
>
> And the wayward corrected.
>
> The liar must acknowledge the sovereignty of truth.
>
> Debt must be discouraged.
>
> Theft, adultery and the evil practices of sorcery
>
> Must never be tolerated in our land of Anlo. (Fiawoo, 1983: 22)

To date, Anlo-Ewes expect every worthy Anlo-Ewe citizen to know these principles. Some parents even reprimand their children by saying "were these the old

days, you would have been consigned to *toko atolia*" (from my personal experience). Therefore, although the practice of *toko atolia* exists no more, the Anlo-Ewe memory of it has remained from generation to generation in the poetic performance of 'Togbi Sri's valedictory speech' as a reaffirmation of Anlo-Ewe principles. Even though there is a lasting debate among elites/scholars about whether the words in the poem were really spoken by Togbi Sri, or they are Fiawoo's own expression of his artistic license as the first Anlo-Ewe indigenous playwright, this poem is utterly consistent with Anlo-Ewe beliefs, values, norms, etc.

A noteworthy aspect of *toko atolia* is that it was the immediate family that was responsible for bringing the notoriety or incorrigibility of their member to the higher authorities. An important and cardinal quality of the Anlo-Ewe traditional legal system is the concept of corporate culpability, which means that if one person does something wrong it effects the entire community. This makes it incumbent on the members of the family to make sure that whoever is misbehaving in the society is brought to book. It is very important to appreciate that the entire community must be protected from the possible consequences of one individual's misbehavior. That is why the family itself will surrender a person who misbehaves to the final authority of the state.

The Anlo-Ewe people hold their family names in very high esteem and do anything to maintain a good reputation for their family names. The high premium placed on their family names explains why they detest any act or person that would, or attempt to, soil their reputation. However, there is an admirable hierarchical structure that the Anlo-Ewes adhere to which functions quite well as a social control mechanism. From

the perspective of sociologists, social control[12] is the way that the norms, rules, laws, and the structures of society regulate human behavior. The social control that was practiced by the Anlo-Ewe could be classified as informal and formal social control. Informally, this implies conformity of members of the society to the norms and values of the society, and also shared belief in a cosmology. The family primarily had the task of enforcing these norms and values, as well as the cosmology. Formerly, there were traditional courts at various levels of the community's hierarchical structure, which were equally responsible for the establishment of governing codes for the community.

The Hierarchical Structure in the Social Order of Toko Atolia

The family is therefore responsible for the uprightness of its members. It is incumbent on the family to teach every child right from birth what is good and what is evil. It is the family's constant duty to persuade its members to conform to the moral codes of the community in order be in good standing with the gods. The father as the head in every nuclear family, is responsible for attempting to correct a child who is becoming obstinate. When all efforts fail, the father, refers the child to the head of the extended family. If the child does not change his bad ways, he continues to be referred through the hierarchical structure of the land until he gets to the court of the Awormefia, the paramount chief of the Anlo-Ewe land. The hierarchical structure of ascending order begins with the father in every home, as the head of that household. Above the father is the family head who is the head of the extended family. A number of extended families

[12] See Martin Innes' 2003 *Understanding social control*

make up a clan. The head of a clan is next in the hierarchical structure after the family head. A number of clans form sub communities with sub chiefs, referred to as Hanua and Tokome Mega, who together rule over these communities. Thirty-six towns or major communities make up the Anlo-Ewe community. They are each headed by chiefs who are superior to the sub chiefs. After these chiefs are three major chiefs, comprising of the left-wing chief, the right-wing chief, and the middle chief. They each preside over a number of towns within their wing or jurisdiction. The Awadada, the war marshal, is the penultimate ruler of the Anlo-Ewe community. And ultimately, the Awormefia, is the paramount chief of the Anlo-Ewe kingdom.

In all cases, exclusive power was vested in the king to sanction or reject the request of a family or the community to consign an individual, who was seen to be on the path of ruining his family or the entire community by his deeds, to *toko atolia.* This exclusive power was only exercised in alignment with the judicial structure of the community. In cases where, not by the family or community's request, the king's court made a judgement for an individual to be consigned to *toko atolia,* the action/practice was subjected to the compliance of the family and the community. *Toko atolia* was a communal practice which only thrived on the consent and approval of the community as a whole.

Generally, any deviant deed was considered as a breach of the customary laws of the land and subsequently subjected to a well-structured ruse, which was the tradition for this ritual practice—*toko atolia*. For a recalcitrant miscreant to be consigned to *toko atolia,* he would have gone through all the above hierarchies at different times and for

different reasons over a long period of time without reforming. He would have troubled his family and the community all along while enjoying the many chances of reform. The above structure outlines the major characters or roles played in the performance of *toko atolia.* Each role player has a designated responsibility that is subject to the moral, judicial codes of the land and an abuse of any of these roles also incurred appropriate sanction. In other words, it is the responsibility of every member of the community to abide by the rules of the land, from the ordinary member to the Awormefia.

The Ritual Principles of Toko Atolia

Toko atolia was a very ritualized cultural performance. Within its performative ritual principles, first of all, the culprit must be taken through due process of the social order, i.e., appeared before all the hierarchies, and finally found guilty in a fair trial at the Awormefia's court – the highest court of the land. Secondly, the execution was exclusively carried out in the sacred grove (*gbakute*) in the dead of night. Thirdly, there were specific role players such as executioners, two designated courtiers, and drummers. Fourthly, after the execution there was a spiritual cleansing; an act of hand washing performed by the executioners at a well, *felifo vudo* (which still exists), located in the sacred grove. Fifthly, an article of clothing by which the culprit could be easily identified was hoisted somewhere close to the grove for the community, by that, to know who the victim was. Finally, after all was done, the drummers where notified and they played the *nyiko* drums. These were ritual drums, a male and a female drum. When beaten, they knelled the message of the execution to the entire community. The message

of the drums was '*miede za, miegbo za! miede za, miegbo za!'* Meaning, We came by night!' (coming from the male drum). The female drum responded, *gbewe nye gbenye, gbewe nye gbenye* meaning 'your voice is my voice.' The message of the drums, and their role as male and female was a personification of father and mother and their respective customary role in Anlo-Ewe tradition. The male drum is housed in a sacred court and shrine known as Ago wo wornu in the traditional capital, Anloga. The female drum is housed in a sacred space at Nyime-Lashibi, an area in the now market/lorry square in Anloga.

Contrary to external judgments of *toko atolia* as barbaric, the practice was predicated on well-thought-out principles, which Fiawoo dramatized in his play, *The Fifth Landing Stage*. The opening scene features a conversation between two Anlo-Ewe men: Kpegla, a councilor in the King's court, and Gbadago, a courtier. Kpegla mentions a case under adjudication at the local tribunal between a young man and his father. In this case the young man has resorted to lies—a serious offense in their local custom. Gbadago is surprised that someone would dare lie to get off the hook in an Anlo-Ewe tribunal. He wonders aloud if the elders of Anlo-Ewe society have "become tolerant of lying" (Fiawoo 1983, 21). Kpegla insists that the elders remain fervently against lying and are merely giving the liar a long rope to hang himself. He makes this point with the Anlo-Ewe proverb, "*wometoa dzo alakpator fe xo o; de wokone"* meaning "don't burn the house of a liar, remove the roof" (Fiawoo 1983, 21).

As I noted earlier, this proverb gives a hint of one principle that the practice of *toko atolia* strictly adhered to. This was the principle, traditional among the Anlo-Ewes

of nineteenth/eighteenth century, that no matter the crime or who was involved, there was the need for a fair trial. This insistence on fair trial defines the Anlo-Ewe society as a well-balanced, democratic community where power was well defined. There was no absoluteness or unlimited power at the disposal of the traditional rulers to abuse, as alleged by Eurocentric and westernized misconceptions. The practice equally applied to all, the spectacle of this cultural performance might vary slightly in ritual sequence, but in the end burial alive was applied to subjects and potentates alike.

The Social Order Phase in the Process of Toko Atolia

A victim of *toko atolia* was generally a young man whose breach of the Anlo-Ewe customary laws reached critical gravity. Such a person would be sanctioned to be punished by the practice of *toko atolia*. Therefore, culprits were not usually consigned to *toko atolia* at the first offense unless the crime was deemed fit for such punishment and the community, especially the family of the culprit, was willing to comply with the sanction for its member. To be consigned to *toko atolia*, one would have committed one or more of the acts deemed criminal and abhorred by the community. These felonious acts are listed by Diedrich Westermann in order of gravity and the accorded sanction.[13] Taking away one's life through witchcraft or the practice of the native black-magic art incurred *toko atolia* at the first offense. Stealing, meddling with another's wife, incurring debts, disobedience to parents, and untruthfulness or lying incurred *toko atolia* at the

[13] See (Westermann 1930, 245) *A Study of the Ewe Language.* Westermann noted that the accounts of *toko atolia* was recounted to him by an Anlo-Ewe native and oral historian called Francis Potackey.

third offense. However, for each of the initial offences prior to the third offense there were appropriate sanctions as may equally be the case in retributive justice. It is important to note that execution was intended not for a specific crime, but for people who consistently failed to reform from patterns of transgressive behavior (many crimes – essentially a bad person). However, a crime such as murder could be noted as a specific crime that was incidentally punishable by *toko atolia.* Suffice it to say that a murderer would ostensibly have had a history of series of transgressive behavior.

Toko atolia being the ultimate punishment, there were other kinds of punishment to serve as appropriate sanctions for initial offences or crimes that did not merit *toko atolia*. There were payments of fines and rendering of unqualified apologies by culprits as modes of punishment which may fall under restorative justice, a phase in the social process of justice in the Anlo-Ewe community. A culprit could be reduced to serfdom, thus subjected to working on the farm of the society, or a culprit could be ostracized, thus be deprived of his or her rights to participating in the communal life of the society. This ostracization, referred to as *axatome nyiko,* is considered a semi-form of *toko atolia* as it subjects the victim to a liminal state of estrangement or alienation. In this state the victim is physically present in the society but socially and culturally absent or unrecognized, a 'persona non grata' sort of. The victim is neither here nor there as Victor Turner and Richard Schechner would phrase it.[14] So the fact about *toko atolia* is that it was the ultimate sanction and it was only for very serious, grievous and particularly

[14] See (Turner 1987, 115) *Betwixt and Between: The Liminal Period in Rites of Passage,* and (Schechner 2013, 66) *Performance Studies: An Introduction*

persistent crimes. Culprits were not sent to *toko atolia* on the first occurrence of a crime, but if the person persisted despite the advice of the family until all the alternatives to reform the individual were exhausted, then the highest form of punishment, the ultimate sanction was *toko atolia.*

In the eighteenth century, banishment by slavery was an alternative punishment to *toko atolia.* While some Anlo-Ewe folks believe today that banishment into slavery was a less severe form of punishment as compared to *toko atolia,* this alternative mostly applied as punishment for female culprits whose crimes warranted *toko atolia*. Whether banishment into slavery, as an alternative punishment to *toko atolia,* is equivalent or lesser severe is not the case here. What is important is that the implications of both punishments—*toko atolia,* and banishment into slavery through the Middle Passage – share the same concept of spiritual ritual significance (see Chapter Four).

The Trial Phase in the Process of Toko Atolia

The structure of the Anlo-Ewe justice system can be better appreciated when interpreted as a cultural performance through Victor Turner's concept of social drama which involves the stages of breach, crisis, redress, and reintegration or schism.[15] There is usually a 'crisis' once there is a 'breach' of the customary law and factions emerge due to the democratic principles of the community. Both the victim of the offense and the accused person together with their respective supporters begin to seek justice. The former seeks the restoration of whatever the offense cost him or her while the latter

[15] See (Turner 1988)

seeks the same for his supposed dented image. As Turner confirms, "crisis is contagious" (Turner, 1988 p. 34). In this liminal stage where none of the factions are either victors or losers until proven so, more supporters may join the factions, thereby escalating the crises. There may even be offers of spiritual fortification for either party to either ensure or endure fair trail, depending on where they stand in the dispute if things get to the stage of a trial. Fiawoo projects this crisis in his other play, ***Tuinese*** (1973,) in which he explores the subject of justice in the trial process that leads to execution by *toko atolia*. The antagonist in Fiawoo's *Tuinese* finds himself wanting as a trial in which he knows he is guilty approaches. He seeks spiritual fortification to stand trial even when the case is referred to the supernatural forces. His actions escalate the crisis as the innocent party is denied justice in the face of corruption of the sacred and the judicial system. However, justice finally arrives as the innocent victim, the protagonist, takes his own life as a symbol of appealing to the supernatural forces. All who played a part in the sacrilege are punished with instant death. This instant punishment imposed by the gods is one means through which the Anlo-Ewes are cognizant of the presence of the supernatural forces among them.

Usually, before things get to the stage of a trial, there may then emerge 'redressive' or remedial procedures that may come from some family members or some members of the community in the form of advice to get the factions to come to terms as an informal mediation. There may also be a settlement of the crises at the family level without having to go to the King's court for formal adjudication as the consequences thereof may be severe. The informal mediations are not in any way intended to offer

leniency to 'bad life' but rather they are redressive measures that are part of the judicial structure as social control measures. Chris Abotchie (1997) classified them under what he called "teaching" and "persuasion". When these informal mediations fail and the case gets to the king's court, there is a fair hearing.[16] At the king's court, there are counselors who use their god-guided wisdom to advise the king on the verdict for the case, taking into consideration testimonies from witnesses, arguments of either party and evidence presented to the court among others, what Apter (1963) refers to as "proverb law"[17]. This may to an extent be likened to what is seen in our modern judicial court proceedings. If any party is displeased with the verdict, there is the liberty to appeal for trial by ordeal where the case is referred to the supernatural forces to judge in a very dramatic fashion, and the culprit is instantly exposed in public shame. The trial by ordeal (magical performance) is led by the traditional priest.

For instance, as Fiawoo (1983) projects in a trial in his play, the priest after a private consultation with the gods, comes out to the public court and call on the individuals involved in the trial one after the other to wash their faces with ordinary water from his special sacred pot. To indicate that the water is harmless to the innocent, the priest demonstrates the action by washing his face with the water from his special sacred pot before asking the parties in the trial to follow suit. The innocent ones do so without any adverse effect. The guilty however does same and begins to groan with pain and instantly loses his sight. At this point the guilty is compelled to confess his crime

[16] Fair trial is one of the central themes in Fiawoo's *The Fifth Landing Stage*

[17] Abotchie, 1997:52

before all after which the priest provides a remedy to this adverse effect. This religious magical trial mechanism is known as *Akadodo* and still exists in the Anlo-Ewe community in divers spectacular forms, but not traditionally or state constitutionalized.[18] Once the culprit is determined through the magical performance of an ordeal, an appropriate restorative sanction is applied, which may range from offering an unqualified apology to appropriate restitution and on to payment of fines. All these are attempts to put things back in place and return the society to normalcy. At this stage there is 'reintegration' where the culprit is reunited with or reintegrated into the society as a result of a successful 'redress' in which all parties are satisfied, especially the offended party.

However, depending on the gravity of the offense, when for instance, such gravity reaches the point considered due for extermination or 'schism,' this restorative phase is duly observed but as a stratagem for *toko atolia* as a ritual sanction to be applied. (Because *toko atolia* was a ritual sanction that followed a specific procedure, this stratagem was important in ensuring that the community did not violet the process. The role of the family in the process could not be subverted.) What follows is a private deliberation among the courtiers and the king. A coded notice is served to the family of the culprit indicating the sanction. The process of the application of the sanction then begins, overseen by the Awadada. The family of the culprit, knowing the consequences of offering mitigation to the condemned, plays an expected and effective role in the

[18] This chapter, as I statement in my chapter outline, draws largely from oral narratives and general knowledge of the Anlo-Ewes – A corroboration between Fiawoo's play and oral narratives (Just a reminder)

entire process in order to avoid any inevitable supernatural consequences, as in the fictional case described above. This eventually leads to an irreparable schism between the culprit and the society. The schism is addressed through execution by *toko atolia*.

Ultimately, *toko atolia* ensures one thing as far as the Anlo-Ewe community is concerned: a 'bad death.' A 'bad death' means the person will not be given the proper communal attention at death in the form of ritual burial. A 'bad death' such as execution by *toko atolia* hinders reincarnation, condemning the person's soul to wander for eternity, never finding rest or embodiment. The endless wandering is considered by the Anlo-Ewe to be the ultimate punishment. The phase preceding the execution performs the entire justice system of the Anlo-Ewes as a long, slow-but-sure system of ensuring retributive justice after a period of failed reformation. This system was necessary for both sides, as *toko-atolia* was a form of justice that answered to supernatural authority, and mistakes in accusing a person could have consequences for the entire community.

There is a clear coherence between the Anlo-Ewe notion of crime and its consequence to the larger group, and their mode of dealing with crime through *toko atolia*. The Anlo-Ewes believe that the effect of a crime is never directed solely at the individual against whom it is committed but the entire community, because crime holds the potential of ruining the entire society. For example, the consequence of an individual's crime holds the potential to confiscate family wealth through impositions of fines as penalty for their member. The individual's crime also holds the potential to subject an innocent girl in the family as young as six years old to ritual servitude, a status referred to as *fiashidi*, to atone for the crime of a family member. In this practice,

known as *trokosi*, the innocent vulnerable virgin girl is forced to serve in the shrine for all her life and is converted as one of numerous wives of the priest; she may be sexually exploited and abused by the priest.[19] The family is compelled to obliged to *trokosi* when there is hexing following a crime by one of the members, and failure to comply with this practice exposes the entire family to the wrath of the gods behind the hexing. This is an instance where the family records a series of untimely deaths and ill fortunes as evidence of the hexing.[20] Chris Abotchie sums up the commitment of the family and the entire society to *toko atolia* in his statements that:

> The ambivalence that is apparent in the traditional reaction to crime should not, however, becloud the effective traditional notion of what is criminal. The effective notion is clear and unequivocal. For the southern Ewes that which is criminal is an act which is not only socially harmful and morally blameworthy but which at the same time constitutes an affront to the benevolent supernatural powers on which the wellbeing of the whole community depends, and unless these offenses are expiated by the punishment of the guilty persons, the whole tribe would suffer. In sum, the traditional concept of crime is based on a moral sense of injury to the individual, the group, the community and the gods. (Abotchie, 1997:15)

[19] There is a BBC documentary on *trokosi* available online.

[20] The idea of hexing is explored further in subsequent chapters

The Road to Execution in the Process of Toko Atolia

According to one of the early documentations of *toko atolia* by Westermann (1930) in corroboration with the accounts by the Anlo-Ewe oral historians and as vividly depicted in Fiawoo's representation, there is similarly a well-structured performance of the process that leads to execution by *toko atolia*. The family, at the point where a member is found guilty of a crime and is identified as an inherent ruin of the family, with due reverence for tradition and the worldview as held, would hold a secret meeting to decide on the fate of their wayward member. The conclusion from the family's meeting, for the wellbeing of the family, is a confirmative/performative utterance that *"Gbede, esia va glo, devi sia le efe gba ge; amesia togbe menoa afe me na ame o"* meaning "This is more than is bearable in Anlo land; this son of ours will be the ruin of the family".

According to Austin's speech art theory, certain utterances may actually be performing an action.[21] The utterance by the family performatively consigned the culprit to the *toko atolia*. There is a new being which is put into effect by this pronouncement: a change in status of belongingness – the individual becomes an outcast on a secret death roll – a repudiation or separation from the group/society. After this utterance, one of the elders who had sat in the council was then dispatched the next day with one of the favorite dresses/clothing of the culprit to Anloga – the traditional capital, to inform their kinsmen there that the culprit had been condemned to death by them via *toko atolia*. The kinsmen of the culprit in Anloga would inform the Awadada about the family's

[21] (Austin 1975) *How to do Things with words*

conclusive approval and commitment to the application of the sanction. The Awadada would then appoint a day for the execution. The elder sent to Anloga would then return to his people with a message of the appointed day. At the same time, all requirements for the execution to take place would have been made ready in Anloga. Customarily, designated couriers and the executioners were informed, preparation for the arrival, the last feast, and accommodation of the culprit were put in place, and the two *nyiko* drums were set to roll — these drums where beaten to announce in coded language that someone had been consigned to *toko atolia* and the execution had taken place. Now all these preceding events of consolation were so discreetly done that not the slightest intimation was given to the culprit in anyway prior to his execution.

In the early morning of the appointed day of the execution, one of the elders of the family, usually a maternal uncle of the culprit would send him on an errand of 'no return' to fetch some strange item (for example an empty shell of a hyena's egg) from a kinsman (one of the designated courtiers) at Anloga. The culprit, apparently a recalcitrant young man having just been 'reintegrated into the society' would oblige and set off, with a basket containing the specific items as codes to the kinsman. On his arrival, the kinsman would receive the basket and the items therein would confirm to him that the bearer of the items was the victim for execution. The culprit would then be given a great reception and eventually told that he would have to pass the night with them and set out back home the next day because the items for his errand would only be ready later that night or early the next morning. To return without the items for which he

came was impossible so he would stay. He would be given a treat of his life with great feasting amidst merrymaking so that he least would suspect his pending doom.

After the household retired for the night, the kinsman would wake the culprit from his sleep in the dead of night and request of him and the other designated courier (also in the house that night) to kindly escort him into the grove to either attend to nature's call (the latrines) or fetch herbs for medicine to save a life that night. The young man, would sleepily obey, and given a lantern to carry, he would join a procession led by the first courtier, followed by him, and at the rear would be the other courtier. This processional order was strictly adhered to in the practice because the person in the middle was, by plan, usually the target of the executioners that night. Apparently, the three persons directed their course through the lanes of the town and through the thick bush outside the town. Near the site of the burial, the leading courtier would break out of the procession to attend to his supposed needs in the bush, and the rear courtier would also fall out. The culprit left standing all by himself, would be ambushed by executioners who were strategically stationed in the bush. The executioners would seize and tie up the culprit and eventually bury him alive in a standing posture up to the neck, with his head jutting above the ground for crows to peck at till his death. The pit for the burial would have been dug well in advance. Or as other narratives have it, he would be clubbed to death and buried in a shallow grave for hyenas to easily dig out and devour.[22]

[22] (Westermann, 1930) (Greene, 2011 – see last paragraph in Chapter Three)

The version summarized above was by Westermann.[23] However, the Anlo-Ewe oral historians largely confirmed the version of burying the culprit alive. But in both cases, it is interesting to note that the body was always made available to the animals to devour. Those who strictly believe that the culprits where buried alive add that in any case of clubbing, the intention would be to temporarily incapacitate the culprit in order to easily subdue him for burial alive.[24] Uniquely, as *toko atolia* targets the soul of the condemned for penal repression, the point of burying the culprit alive is crucial to the process because it allows the culprit the chance to playback his life and possibly have an epiphany experience and repent in his soul. Contrary to the effort of some people, including Fiawoo, to tone down the severity of the practice by suggesting that the option of burial alive allowed the culprit room for escape as he could be rescued, I maintain that *toko atolia* was so sacred that no one would dare risk going to the sacred grove to rescue the condemned at the expense of the entire community's safety.[25] In any case, the people who are likely to go to the rescue of the victim would be members of the family; the same family that gave the individual out to be executed for the safety of the family, clan, and community – that would mean a contradiction and denial of their cosmology. Therefore, the invention of Fiawoo on this part contradicts the tradition of the *toko atolia*, in which the family played the central role of condemning their own member to be executed (see subsequent chapters). One crucial opportunity the mode of execution

[23] in his (Westermann, 1930) book the *Study of the Ewe Language*

[24] Similar to the use of taser by modern police personnel

[25] My interlocutors held the same position that it was unheard of that a victim was rescued from the sacred grove after burial.

(burial alive) offered the victim was a moment to playback one's life and truly repent within oneself while buried alive – an epiphany experience. Although the victim would still die, this moment of epiphany could save his soul from perpetual restlessness (see Chapter Four). The possible epiphany experience is overlooked in Fiawoo's invention. Instead of Fiawoo's invention which resorted to recreating the narrative of *toko atolia* to offset the perceived barbarity of the practice, it is more appropriate (as I do in this thesis) to take *toko atolia* on its own terms. Thus, presenting the slow-long process of justice that preceded execution, and the epiphany opportunity *toko atolia* offered the culprit, as mitigation of the perceived barbarity of *toko atolia*.

As I noted under the ritual principles of *toko atolia*, there was a ritual of purification after every execution in a form of spiritual cleansing, an act of hand washing, performed by the executioners at a well called *felifo vudo* located in the sacred grove of the execution. Immediately after, the victim's favorite dress - which would have been sent secretly to Anloga by his maternal uncle or any other responsible person who played that role – would be displayed at a vantage point, usually on shrubs or cactus plants located around an accessible lane close to the grove, to communicate the schism and to also reveal the identity of the victim to the community. To culminate the process, the drummers would be notified of the accomplished task and the *nyiko* drums would be played knelling the message: *Miede za, miegbo za; Miede za, miegbo za* (We went at night and came back at night) coming from the male drum, the female drum responded, *gbewe nye gbenye, gbewe nye gbenye* (your voice is my voice). Thus, was the end of the process of *toko atolia* as it involved an ordinary Anlo-Ewe citizen.

Toko Atolia for a Potentate

Whereas the knelling of the drums and the message thereof sounded a warning of caution to potential criminals against crime, it also echoed another principle that defined *toko atolia* as highly consensual and democratic. Every member of the community was in on this practice and so the sanction was by the community as a unified group and not by an absolute power-drunk potentate. The customary law equally applied to chiefs and they were sanctioned in case of any breach of the customary law. In a case of a condemned potentate, the process of *toko atolia* differed from that of the ordinary citizen. When *toko atolia* involved a potentate, every other phase of the process would be as in the case of an ordinary citizen except for the errand to receive strange items from a kinsman at Anloga. An ordinary subject was sent on a dramatic errand, but a potentate would be lured by his chief linguist or right-hand-man, as in the case of Julius Ceaser, to attend an emergency meeting reported to have been called by the Awadada at about midnight.[26] On their way to the supposed meeting he would be seized by executioners and his end would be just like that of an ordinary citizen. However, whereas the family was mainly responsible for consigning their own member to *toko atolia*, in the case of a potentate, where he was considered a community assert more than a family assert, it was the community that was responsible for consigning such public figure to *toko atolia.*

[26] See Shakespeare's *Julius Ceaser* in (Shakespeare, William, Stanley Wells, and Gary Taylor. *The Oxford Shakespeare: the complete works*. Oxford: Oxford University Press, 2005.) for reference.

Fiawoo dramatized an example of a potentate in another play, *Fia Yi Dzehe* (1973). The villain character in his play, a chief of one of the thirty-six, abuses the customary power entrusted to him by the community by flirting with another's wife among other abhorred behaviors. He receives several warnings from the council of chiefs presided over by the Awormefia, subsequent to a series of complaints from his subjects. He refuses to pay heed and eventually the sanctions catch up with him as the community cannot contain him anymore. After failing to reform following an initial sanction in the form of ostracization, the community resolves to exterminate him before he causes more mayhem and brings shame to the community. He is lured by his linguist to attend a meeting purported to be called by the Awadada and on their way to the meeting the potentate is seized by executioners and he is reported executed, by burial alive, with the euphemism "he has taken an upland journey" (Fiawoo 1973:239).

The active connivance of kinsmen and the community at large in the execution of their own folk shows the gravity of the obligations felt by the lineage and the community to apply the sanction as instituted by the ancestors. After the practice of *toko atolia*, the victims were never remarked on. As I highlighted the earlier, if anyone who didn't know about their fate inquired about them, for a potentate, the euphemism was "he has taken an upland journey" and for an ordinary citizen the euphemism was "he has gone to *toko atolia.*"

Toko Atolia as a System of Justice

Toko atolia is an entire traditional legal system of justice other than just a practice of burying hardened criminals alive. However, as complicated as it may seem, *toko atolia* is only considered to have taken place when the process culminates in the ritual execution by burial alive. It is only after the execution that the whole process of the Anlo-Ewe structure of justice come together to reflect *toko atolia*. In other words, if the process of justice does not get to schism, as per Turner's social drama, the process remains within the social order phase, including trials as redressive actions, of the Anlo-Ewe structure of justice. This social order phase ends at reintegration where the individual is corrected and reunited with the society. When the process ends at reintegration, *toko atolia* is not remarked upon, or forthrightly put, it is not *toko atolia*.

My concluding analysis of this descriptive chapter is that *toko atolia* was an embodiment of the Ano-Ewe idea of justice, shaped by their worldview, and was consistent with their beliefs, values, and norms. Although the practice may appear secular or what Von Hentig called "artificial sanction,"[27] there was a serious spiritual and traditional religious dimension to *toko atolia*. Abotchie, postulates that:

> The death penalty through *nyiko* custom although apparently a secular sanction, expressly gives further testimony of the predominant influence of the supernatural in the traditional society. The active connivance of kinsmen in the execution of their own kin shows the gravity of the obligations felt by the lineage

[27] Abotsie, 1997:56

to observe the commands of the moral codes instituted by the ancestors.

(Abotchie, 1997:58)

It was therefore imperative for the Anlo-Ewe to adopt this sophisticated, well-thought-out systematic judicial process, and in form, a structured cultural performance of retributive justice. Scholars Landis and Kelvin 2017 define culture as "an amalgam of the beliefs, practices, arts and more, of a certain group of people" (p. 9.) *Toko atolia* was a cultural performance through which the Anlo-Ewes displayed their idea of justice and shaped by their worldview, which was a concrete and integral component of their identity, including their beliefs, values and social norms. Aligning with Victor Turner's social drama as I have illustrated, and supported with scholarly observations and oral history/narrative, it is apparent that the Anlo-Ewes' consciousness of the supernatural manifests in what Erving Goffman calls the 'presentation of self'[28] in their everyday lives, centered around a set of cosmos beliefs. *Toko atolia* was a very ritualized practice in which the supernatural infects the very cosmos and daily lives of the Anlo-Ewes. It was performed by the community and for the community, and also for ancestral spirits and supernatural forces (a point missed by outsiders). As a communal ritual, *toko atolia* served three distinct social functions: it registered the community's hate for crime, served as a deterrent to crime within the community and sustained the community's harmonious relationship with the supernatural forces and ancestral spirits.

In Michel Foucault treatise "The body of the condemned" (1975), he aligns the reduction in penal severity over the ages to mean a change of objective as to the target of

[28] Goffman, 1978

penal repression. He poses the question "If the penalty in its most severe form no longer addresses itself to the body, on what does it lay hold?" (p. 16). To an extent, Foucault is pointing to the fact that if death, which is the ultimate penalty for a crime, can be applied without 'inhumanely' torturing the body, then the object for penal repression has moved from the body to the soul. But Foucault's point here is mainly that punishment, if shifted to the soul must act on the inner-man, "in depth on the heart, the thoughts, the will, the inclinations"[29] of the culprit towards reformation as against extermination. Likewise, *Toko atolia* ultimately targeted the soul rather than the body of the culprit but for the reverse of Foucault's notion, towards extermination rather than reformation, when crime exceeded the limit considered malignant to the wellbeing of the society as a whole. In *toko atolia*, at the point of execution, torture was apparently present but the soul of the condemned was the object for penal repression, both pre and post the malignant margins. Before the malignant margin, it aligns with Foucault's notion, and after the malignant margin, it inverts Foucault's notion. For an Anlo-Ewe person, the implication of not being buried in the right place and with the appropriate rites is more torturing and extreme than death itself. To the Anlo-Ewe, though death is merely a point of transition it could be unbearable if a person is denied proper burial rites. And so, the cognizance of this fact alone was deterrent enough to Anlo-Ewe folks.

In the next chapter I examine the history of the Anlo-Ewe people. This history reveals Anlo-Ewe concepts of crime and justice, and *toko atolia* to have an internal logic within a spiritual worldview grounded in a specific moral system. I draw on Anlo-Ewe

[29] Foucault, 1975:16

common knowledge and oral tradition, as well as scholarly accounts of the history of the Anlo-Ewes.

CHAPTER III

TOKO ATOLIA IN THE CONTEXT OF THE ANLO-EWE PEOPLE AND THEIR GENERAL CONCEPT OF CRIME AND JUSTICE

The Anlo-Ewe cosmology, which shapes the concepts of crime and justice that gives *toko atolia* its meaning derives from the group's ancestral history. The Anlo-Ewe history of migration and settlement yielded an intensely strong sense of clan membership, which grounds the practice of expelling miscreants, and in egregious cases condemning a person's spirit to eternal wandering. In historical context, the ancestral Anlo-Ewes' worldview shows similarities to Judeo-Christian biblical morality, and with Greco-Roman culture, the ancestral roots of the Europeans who judged *toko atolia* as barbaric centuries later.

The Anlo-Ewe People

The Anlo-Ewes are an ethnolinguistic group of ingenious Africans located in the southeastern part of Ghana in west Africa. Located between the Volta River and the Atlantic Ocean, the Anlo-Ewes are a sub-group of a bigger group known as the Ewes. The Anlo-Ewes claim that when the Europeans arrived in the Gold Coast, the Anlo-Ewe state was the first they recognized as a kingdom. This recognition is attributed to the Anlo-Ewe's unique and set hierarchical structure of authority, from the father in every home through recognized ranks in the community to the paramount chief of the land,

known as the Awormefia.[30] A native oral historian and history scholar Charles Mamattah has traced the genealogy of the Ewes to Ham, the eldest son of the biblical Noah, as the progenitor of the black race and for that matter the Ewes.[31] According to their own migration saga, the Ewes are recalled to have migrated as part of a larger group of black folks through Egypt, crossed the Sahara, and settled in west Africa as various kingdoms.[32] From oral accounts as I gathered during my research, the Ewes settled with the Yorubas of Nigeria and were greatly influenced by the Yoruba culture. At Nortsie, a kingdom located in present-day republic of Togo, the Ewes are famously recalled to have lived under one 'cruel' king called Agogoli who maltreated the Ewes until they escaped from his territory and rulership in a dramatic and spiritual fashion. Their escape mechanism was one which was woven into their cultural lives in conjunction with their belief in supernatural forces. When they conceived the plan to escape from Nortsie they initiated drumming and dancing rituals which they performed on designated nights. The Nortsie community came to terms with this practice as a norm of the Ewe group. When the time came for their escape they used the drumming and dancing ritual as a ruse to break through the walls of Nortsie and escape. While they escaped walking backwards to confuse their oppressors as to the direction of their footsteps, magical performances were done to cover up any trace of their whereabouts. A legend called *Togbi Tsali* is

[30] The name Awormefia means 'King in seclusion'. This name is purported to have been inspired by the events that led to the migration of the Ewes from Nortsie (coming in this chapter)

[31] This aligns with Anlo-Ewe oral narratives from which he gathered his information. See Mamattah, 1978. Noah/Ham era was about 500 BCE.

[32] . See Mamattah, 1978 and Kumassah, 2016. Exodus from Egypt was about 1,500 BCE.

recognized in Anlo-Ewe popular oral history to be the one behind the magical performance that aided their escape. Among other acts, *Togbi Tsali* was believed to have turned into mice and made the footprints of the migrants appear old and distorted. This spiritual event is central to the spiritual worldview of the Anlo-Ewe people and is an important factor of their cosmos belief in the supernatural.[33]

The migration of the Ewes from Nortsie was their last migration journey. It is a popular oral narrative among the Anlo-Ewes that as they journeyed away from Nortsie various families and groups settled at convenient places and became settlements till date while others continued on the journey to find suitable settlements. The group that travelled farthest west and ended up in the southeastern part of the Gold Coast, now Ghana, are the Anlo-Ewes. The Anlo-Ewes arrived at this settlement in 14th century.[34] Today the Anlo-Ewes celebrate a major traditional annual festival called "Hogbetsotso" which may freely translate as 'the migration of a people from an ancestral home to a present habitation' and apparently relives the event of how the Ewes rose up and moved out of Nortsie. The migration story, especially the escape-mechanism they employed to escape from Nortsie, is reenacted to date as a ritual component of the Hogbetsotso festival, which also preserves memory of their identity as a group.

The name Anlo came from the event of the arrival of this group. As oral narratives have it, when the group finally got to their present settlement, the capital of which is Anloga, their leader Togbi Wenya was weary and could not journey any

[33] For detailed account of the migration saga of the Anlo-Ewes, see Mamattah, 1978 and Kumassah, 2016.

[34] According to Charles Mamattah (1978) and Agbotadua Kumassah (2016)

further. He exclaimed "Menlo de afisia," which literally means "I have coiled here." The name of the final settlement or abode of this group of Ewes became "Anlo," derived from menlo, hence the people were known as Anlo-Ewes. Agbotadua Kumassah, in his historic account on the migration saga of the Anlo-Ewes, whose historical account corroborates that of Charles Mamattah, a native history scholar, records that:

> On reaching Anloga, Amega Wenya made the famous proclamation "Menlo" which literally means I have coiled with reference to his advanced age. This was because he became very old and could not go on further. This proclamation became the name of the state he founded, Anlo. (Kumassah, 2016:21)

By 1790 the Anlo-Ewes grew in numbers and expanded their territory to a total of thirty-six major towns or villages.[35] After their settlement in southeastern Ghana, the Anlo-Ewes continued to adhere to traditional practices that they experienced and picked up throughout their migration journeys. The Anlo-Ewes, especially those of old, were very committed to their cosmological beliefs for harmonious living, and this played out clearly in their concept of justice. The people acknowledged each set of individuals' beliefs and identified themselves under the classification of clans. Each clan was uniquely identified with particular beliefs and practices but in all adhered strictly to the general norms, beliefs and values of the Anlo-Ewes as a unified group. As I noted in Chapter Two, the organization of Anlo-Ewe society is hierarchical. The clan structure is the foundation for the Anlo-Ewe concepts of justice which provide a context for *toko atolia*.

[35] See Kumassah, 2016:23

The Operation of Anlo-Ewe Clan System to Crime

To date there are fifteen clans[36] in Anlo-Ewe community and they are composed of a number of families who together identify uniquely with specific beliefs and practices of their clans. The clans are namely: Lafe, Bate, Adzovia, Amlade, Bamee, Amee, Like, Tovie, Klevi, Xetsofi, Agave, Tsiame, Dzevi, Vifeme, and Blu. About 95 percent of the clans have their ancestral homes located in Anloga, the traditional capital.

Each clan has a specific traditional role in the Anlo-Ewe community, which allows for equity and justice in their traditional structure and checks the abuse of power. For example, the Lafe clan is a priestly clan. The priestly clan is exclusively responsible for installing chiefs in the Anlo-Ewe land and is responsible for offering a member to serve as priest of the Anlo-Ewe community at every given time. Every priest of the land from generation to generation must be a member of the Lafe clan. The Adzovia and Bate clans are royal clans and are responsible for offering a member to serve as the Awoamefia, or paramount, chief of the land at any given time. The role of chief, described above in the hierarchy of justice, alternates between the two clans. Every paramount chief of the land from generation to generation must be a member of one of the royal clans, when it is the clan's rightful turn to be king. The Agave clan is also responsible for offering a member to serve as the Awadada. The Awadada, as noted above, is the war marshal of the Anlo-Ewe land and second in the hierarchical structure after the Awoamefia. Every Awadada from generation to generation must be a member of the Agave clan. Finally, the Tovie clan is responsible for the drumming ritual

[36] Clan means HLƆ in Ewe language and spelt with Ɔ. However, I spelt it with O as in HLO in this work.

associated with *toko atolia.* They exclusively performed this percussive role immediately after every execution of an incorrigible culprit by *toko atolia*. The Tovie clan is also exclusively responsible for firing the first gunshot during wars.[37]

The Anlo-Ewe clans are popularly identified with their totems and the taboos they observe for their totems. For example, the totem of the Bate clan is 'hippopotamus' and the taboo they observe for it is 'not to kill or eat its flesh'. The totem for Klevi clan is 'antelope' and the taboo they observe for it is 'not to kill or eat it. The totem for Tsiame clan is 'cashew tree and land crab' and the taboo they observe for it is 'not to use cashew tree for firewood nor eat its nuts, and not to eat land crab'. The totem for Amee clan is 'crocodile and dog' and the taboo they observe for it is 'not to breed, handle or destroy a dog.' The totem for Yetsofe clan is 'brass pan' and the taboo they observe for it is 'not to kill or eat it.' In all these the Anlo-Ewes can be seen as a very ritualized group that thrived and still strives on a set of beliefs and a deeply entrenched shared worldview.

The clan system is the fundamental element in the traditional structure of the Anlo-Ewes, especially in their traditional legal system. The important element of the clans and their taboos, for example, is that each time there is a severe and consistent breach of these taboos the consequences are unbearable for the entire clan. Death is a consequence in those situations. The clan system overarchingly defines the parameters for socio-cultural interrelationships among individuals and within individual clans. For

[37] See Kumassah, 2016 for more details on the clans and functions.

instance, one very important and cardinal point about the traditional legal system is the concept of corporate responsibility or corporate culpability, as I noted in Chapter Two.

Among the Anlo-Ewes, responsibility depends on two major clan principles: *hlododo,* meaning 'to commit a very serious crime' and *hlobiabia,* which means 'to seek vengeance'. Firstly, it is important to note that '*hlo*' means 'clan' and there is a concept among the Anlo-Ewes called *dzidehlomi* which literally means 'a person born of false blood/clan.' For instance, when a woman becomes pregnant the child automatically becomes a member of the father's clan. This is because the Anlo-Ewes practice the patriarchy system of inheritance. However, if the woman out of infidelity or falsehood decides to assign the pregnancy to another man, not the child's father, be it of the same clan as the rightful man responsible for the pregnancy or not, the child is referred to as *dzidehlomi,* which means bastard. This lie by the woman is by itself a very grievous crime and it is believed that the clan is the ultimate group that would be affected by the consequences of the woman's individual action. So *dzidehlomi,* which is popularly known as a bastard, does not just mean that a child has been smuggled into a family, but into an entire clan.

Crime is obviously committed by one person against another, but every Anlo-Ewe individual belongs to a clan, and clans are predominantly blood related. Therefore, if a person commits a crime against another individual an entire clan is offended and subsequently an entire clan is held culpable. Thus, if a member of a clan does something very serious or commits a grievous crime, the breach is referred to as *hlododo,* which is to say 'an individual has done something very grievous that puts his or her entire clan at

risk.' The inverse of *hlododo* which is *hlobiabia*-vengeance is to say that 'a culprit's entire clan is answerable to their kin's crime' or 'the clan of a victim of a crime is calling for vengeance or justice for their member and the clan at large.' In more practical cases, *hlobiabia* operates in such a way that if a member of a clan has committed a crime and that individual could not be found, the victim of the offence could resort to hexing which exposes the enter membership of the clan (of the culprit) to random punishments which may come at any member of the clan and at any time in various forms of misfortunes. For instance, untimely death could suddenly become a regular occurrence in the clan. Usually, the closest relations of the culprit are the most affected members in this instance.

These are all instances of corporate culpability or corporate responsibility. If somebody commits a crime why should an innocent member of his or her family suffer the penalty? Obviously within this clan-based society, because everybody else within the family and ultimately within the clan of the culprit is culpable and responsible under Anlo-Ewe laws. In *hlobiabia*, the victim first demands to know the identity of the culprit's clan and then whatever is done to anyone who belong to the culprit's clan is legitimate under the law. It is important also to note that if there are fifteen clans in the thirty-six traditional towns of the Anlo-Ewes it means that the clans have more people than the individual towns. The population of clans relative to towns indicates how significantly the ill actions of an individual could affect the larger social structure if an entire clan is subjected to the consequences of one person's action.

The Anlo-Ewe Concept of Crime and Justice in Toko Atolia

An Anlo-Ewe proverb says, 'one bad palm nut spoils the entire stock.' The idea that a farmer would remove the malignant bad palm nut from among the stock of palm nuts encapsulates the Anlo-Ewe concept of crime and its collective consequence. Evil, sin or crime in Anlo-Ewe is *nuvor* which means a rotten thing; when one thing rots it affects those around it. Because in this social and religious structure one deviant citizen's behavior could easily affect so many others. The Anlo-Ewes by nature hate crime.

Beyond crime's potential to plunge the entire community into war and chaos, *nuvor* also has potential to invoke the wrath of supernatural forces on the community. This aspect of Anlo-Ewe justice has been widely overlooked, as noted above, yet is critical to how an execution practice like *toko atolia* might make sense apart from the judgements of outsiders. The clan/family's swift and appropriate action of eliminating or ridding the clan of their deviant member by execution relieves the entire community of the burden of corporate culpability for the individual's crime, as the crime would have been fully atoned for through retribution in the form of execution.

Another factor that attempts to explain the concept and mode of *toko atolia* emanates from the ancient Ewe group's association with the Israelites in Egypt and their genealogical trace to the biblical figure of Ham. From my interaction with Agbotadua Kumassah, an author of a book on the history of the Anlo-Ewes who doubles as a traditional council member of the current Anlo-Ewes state, the justice system of the Anlo-Ewes as a people arguably has a lot in common with biblical injunctions. One

example he offered is 'thou shall not kill your neighbor; you own relative or you should not spill his blood.' This injunction is linked to the story of Cain and Abel in the Hebrew Bible. In the narrative, after Cain killed his brother Abel, God asked Cain of the whereabouts of his brother because Abel's blood cried from the ground for vengeance. So, according to oral narratives, the ancestral Anlo-Ewes as a people adhered to this biblical injunction and would not kill their own kindred. This means the Anlo-Ewes had close ties to the moral codes and beliefs of the ancient Hebrews and later Christians. Like the ancient Hebrews, the Anlo-Ewes could exterminate anyone who posed as an inherent threat to the entire society (as was the norm in the Old Testament). Such people were put to death through *toko atolia*. By burying a culprit alive, *toko atolia* took a form (burial alive) that apparently killed the culprit without spilling his blood through human effort. The Anlo-Ewes opted for this method of execution in order not to offend the biblical injunction of not killing their own kindred, some oral historians, including the current chief of staff of the Awormefia assert.

Though there is reason to be skeptical about how Judeo-Christian biblical injunctions informed the ancestral Anlo-Ewes' worldview at the time of the institution of *toko atolia* because the Anlo-Ewe were not a literate people. However, my interaction with some Anlo-Ewe oral historians suggests that the Bible as a text is not the only source of God's word. Traditionally, among the Anlo-Ewes, the Bible is considered just as a record. In an unlettered community like the ancestral Anlo-Ewe, the sanctions of the people are enshrined in their words – the spoken, performed language. Thus, in a society where people do not write, their practices, values and beliefs are found in the very

language they speak. In an interview with Agbotadua Kumassah on the theme of language, my interlocutor said:

> The language is the blood of the state. Because in Ewe, if you say clan, it means blood so clansmen are blood related. But if you don't understand that clan means blood you will not understand the reason why you are not allowed to kill your clansman. Because you are descendants from the same ancestor. So, it is not the written bible that brought the word to the people. The bible rather recorded the words that are with the people in a written form… The bible was written later when writing was developed, and writing is not the only form of keeping records. Records can also be kept in other forms, like objects, artifacts, they all carry the records, so, they (the people) were also aware that they should not kill their brothers. (Agbotadua Kumassah, 2019 - interviewee)[38]

The Anlo-Ewe's awareness of moral injunctions is partly evident in the migration account of the Ewes, as they were likely at some point in time with the Jews and the Israelites in Egypt (the Egyptian New Kingdom). Most of the Anlo-Ewe injunctions are consistent with those of the Hebrew bible—such as the circumcision of their people, widowhood rites, and installation of chiefs. These are practices they likely absorbed from their experiences of once living together with the Jews and the Egyptians and passed down over centuries, rather than from a direct biblical written injunction or

[38] Agbotadua Kumassah is an Anlo-Ewe oral historian aged 79. Interview August 20th 2019 at his residence at Vui-Keta in the Volta Region of Ghana.

behavioral codes imported by Christian missionaries. Thus, these are indigenous rather than exogenous values derived from the same source as the Europeans. There are other links with European culture in Anlo-Ewe culture. Just as they trace their lineage to the biblical figure of Ham, the Anlo-Ewes trace their traditional way of wearing cloth to the Toga dressing of the Ancient Romans and Greeks. So, from accounts of their migration sojourns we can infer that they gained knowledge of the injunctions but not necessarily by reading them because the bible was not written down when the people for whom it was written (the Israelites) received injunctions against killing, adultery, etc.

The strict adherence of the migratory forebears of present-day Anlo-Ewes to biblical injunctions, specifically the injunction not to kill brethren/clansmen, and the derived approach to punishing crime by execution through the method of *toko atolia* is predominantly preserved in oral narratives among the Anlo-Ewe groups from generation to generation. Unlike written references outsiders can read to understand a culture, an oral tradition such as that of the Anlo-Ewe is open to varying outsider perceptions. On one hand the Anlo-Ewes are perceived, by outsiders who encounter them (Europeans/Westerners and other African tribes especially other tribes in Ghana) as a morally upright people mostly in allusion to their strict adherence to biblical injunctions, and on the other hand they are perceived as barbaric people, especially with reference to their concept of justice, grounded in ancient worldviews and spirituality.

Sources of Information on Toko Atolia

As a forerunner in responding to perceptions of the Anlo-Ewes as a people, the late Rev. Dr. F. K. Fiawoo dramatically encapsulated the Anlo-Ewe practice of burying criminals alive in the preface of his landmark play "*The Fifth Landing Stage*." Fiawoo posited the following connection between Anlo-Ewe history and the practice of *toko atolia:*

> Our forefathers detested crime and showed relentless severity in exacting the penalty from the guilty. In those days there were no police in our land nor public prisons. Each member of the community was concerned to guard against social disorder, aiding the unwritten laws of the country to operate severely on those who habitually infringed them. Some of these offenders were made by the State to pay fines, others were banished, some were reduced to serfdom, while others were buried alive according to the gravity of the offence.
>
> If one of our forefathers could arise from his grave today and spend but a week among us, he would be sadly disappointed. On the other hand, we of today are prone to accuse them of cruelty in the exercise of their judicial right. The case is analogous to the conceptions of the Ancient Jews and of the Christians. The one condemns leniency as a predeliction for the offender while the other maintains that the merciful shall obtain mercy, and that there is none righteous.
>
> Severe punishments were necessary among our forefathers owing to the state of hostility which existed. Tribal and inter-state strife and pillage were rife, and the cause they traced to the felonious acts of the country's scoundrels. It was

> commonly expressed among them that "The habitual liar brings disagreement between brothers". "Debt leads to either brigandage or war". Concerning stealing, adultery, and the evil practices of sorcery, they said that these acts were responsible for the destruction of nations. They based their views upon their experiences from the days of their migration from Hogbe to Anlo land." (Fiawoo, 1983:7)

Fiawoo's play exists today as an invented tradition which bequeaths to the present generation of the Anlo-Ewes moral principles and values upon which the Anlo-Ewe land was founded, and grounds them in the distant past. This play has shaped the narrative of the ancestral Anlo-Ewes to date and has influenced the current crop of Anlo-Ewe oral historians.

For example, Mr. David Kuwornu (quoted in the epigraph) corroborating with Fiawoo's assertion shared with me the common understanding that the forefathers of the Anlo-Ewes were "purist," which he explained to mean that they had good morals, and in particular they were very truthful. Many accounts, both oral and written, suggest that the forebears of the Anlo-Ewes arrived at their present location with little in the way of criminal behaviors.[39] However, though they came to the Anlo-Ewe land with an intact set of morals, as centuries went by the Anlo-Ewe's morals started to decay. According to the records of historians like Sandra Greene, Charles Mamattah, and Agbotadua

[39] Oral accounts/testimonies by my interlocutors and written history accounts by native historians like Charles Mamattah (1978) and Agbotadua Kumassah (2005)

Kumasah among others, *toko atolia* was instituted under the reign of Togbi Nditsi somewhere in the 1700s, accounting for the uncertainty in dating the reign from oral narratives. *Toko atolia* was instituted by the traditional council (which included the heads of the fifteen clans) as the judicial arm of the government to curb moral decadence at that time.

Oral tradition has been the main source of information on *toko atolia*, including for this thesis. All available secondary archival document on *toko atolia* drew from oral tradition. Even the etic archival documents by early German missionaries drew from oral tradition of the Anlo-Ewes. To many outsiders and even some insiders of the present generation, the transmission of knowledge about *toko atolia* from oral tradition, dramatizations, and poetry may thus appear more fictional and mythical than factual or real. However, the existence of the *nyiko* drums and historic accounts (written and in oral forms by historians cited in this work) have proven sufficiently that the practice really existed and closely resembled the form dramatized by Fiawoo. For example, In Sandra Greene's 2011 exposition of West African Narratives of Slavery, she provides a critical analysis of the diary of an Anlo-Ewe native by name Paul Sands.[40] The diary records provide evidence of some victims and dates of *toko atolia*. According to this diary record from 1856: "29 [no month given]: Monday, Charles August was born.; Feb.

[40] Born in the coastal town of Keta in 1849 to a Euro-African father (Elijah Sands of Danish Accra) and a local Keta woman (Ama) of Danish-African descent, Paul Sands—unlike Obisesan— spent little or no time fretting about his status as "a modern man."9 By descent, he understood himself to be a "mulatto,"10 an identity based on his family's historic connections to Europeans. But he was also of slave descent. His maternal grandfather—pawned to a Danish officer based in Accra in exchange for a loan—became a slave to his European master after his family failed to repay the loan. His great-grandmother came to Anlo as an enslaved war captive. (Greene, 2011:141)

20: Aye was murdered by Asamyamer, a domestic of Abr. August by a stroke on the head; he was delivered up to be killed" (Greene, 2011:165.) Green later detailed in her editor's note (No. 5) that the clause "he was delivered to be killed" was in reference to the *nyiko* custom/*toko atolia*, which involved the family's handing over their convicted relative to be executed at Anloga, the traditional capital of the Anlo-Ewe land. In 1874: "Jan. 3. Friday. Akolatse's wife was killed by *nyiko*. ... Feb. 3. Gadese, the brother of Datsugbui, Chief Akolatse's wife was killed at Anloga by *nyiko*" (Greene, 2011:169.) Paul Sands' diary record further has it that in 1884, "Feb. 28. Monday: A special meeting was held to abolish the *nyiko* custom" (Greene, 2011:172.) The dairy record of Paul Sands as analyzed and published by Sandra Greene suggests that *toko atolia* probably took place between the 1700s and the 1800s.

The diary records of Paul Sands from the 1800s, as published by Sandra Green, are so far the earliest records on *toko atolia.* Although it gives not much detail beyond what I have cited above, the diary gives very important phrases that are crucial in this exploration of *toko atolia.* Whereas this dairy record states that the wife of Chief Akolatse, obviously a woman, was killed by *toko atolia,* other available later records posit that women were never consigned to *toko atolia.* Accounts by Westermann (1930) and historians like D. E. K Amenumey (in an interview, on August 21, 2019) among others suggest that women were rather sold into slavery as alternate punishment for serious crimes that merited *toko atolia.*[41] This contradiction is just one of many as far as the narrative and facts about *toko atolia* are concerned. For example, the dairy record

[41] Fiawoo gestured at similar notion in his play *The Fifth Landing stage.*

also states “Aye was murdered by Asamyamer, a domestic of Abr. August by a stroke on the head; he was delivered up to be killed.” The clause ‘he was delivered to be killed,’ which Sandra Greene clarified, was actually an integral practical element in *toko atolia.* However, the phrase ‘Aye was murdered by Asamyamer, a domestic of Abr. August by a stroke on the head’ is unclear. “By a stroke in the head” is one aspect of the contradictory narratives of *toko atolia*, as it leaves open whether or not culprits were stroked on the head before burial. The stroking or clubbing that happened in the course of seizing the culprit may pass for the function of the ‘taser’ in modern security services, as noted in the previous chapter.

CHAPTER IV

THE COSMOLOGY THAT SHAPED TOKO ATOLIA AND RESURGENCE OF THE COSMOLOGY IN THE TRANS-ATLANTIC SLAVE TRADE

The Cosmology

The Anlo-Ewes established their judicial structure on their conception of the supernatural as absolute and flawless. This conception and its proof as evident in the folklore of the Anlo-Ewes liberate *toko atolia* from the judgment of barbarism and primitiveness. This cosmology reinforces the relationship between folklore and the supernatural in relation to the Anlo-Ewe concept of justice. As Barbara Walker stipulates in her 1995 book titled *Out of the Ordinary*, "aspects of the supernatural are comfortably incorporated into everyday life in a variety of cultures," (Walker 1995:1) even in sophisticated communities. These assimilated aspects of the supernatural, she says, "act as an integral part of belief constructions and behavior patterns, and, in many instances, have significant cultural function and effect" (Walker 1995:1.) This points to the apparent intersection of their folk-belief and a supernatural influence with regards the cosmology of the Anlo-Ewes. The spiritual influence is manifested in the ritual embodiment and folklore of the Anlo-Ewes. This is on the same theme Gavin Flood observes *The Importance of Religion: Meaning and Action in Our Strange World*, in which he draws connections between embodied action, which characterizes performance, and the supernatural. Likewise, on the same theme, Barbara Walker also suggests that the existence of the term 'supernatural' in itself is a "linguistic and cultural

acknowledgment that inexplicable things happen which we identify as being somehow beyond the natural or the ordinary, and that many of us hold beliefs which connect us to spheres that exist beyond what we might typically see, hear, taste, touch, or smell." (Walker 1995:3). The conception of the supernatural as an integral part of the Anlo-Ewe folklore and thus a foundation for their judicial structure may represent Walker's emphasis on the inexplicable – the unseen, invisible, unknown, strangeness, and the non-material aspects of our everyday life or human existence.

Abotchie (1997) also observes that in the search for security in the midst of the infinite and inexplicable phenomena of nature—the mysteries of dreaming, the order of day and night, rainfall, etc. (explained by science today)—the Anlo-Ewes conceived of the supernatural. They believe that there are supernatural entities who possess the power of life and death over man, punish evil and reward good. Therefore, if the community did not severely punish a crime, the spirits or ancestors would be displeased and their displeasure spelt doom for the entire community. Abotchie postulates that "Traditional southern Ewes consider criminal conduct socially harmful and morally blameworthy. That which is morally anathema is hateful to the gods" (1997:10). The worldview of the Anlo-Ewe people therefore saw supernatural forces and ancestral spirits who hated crime at work in their community. As mythical as the worldviews may appear, it is important to note that myths and rituals are core components of that the Anlo-Ewe cosmology. Drawing from Jeffrey Kripal's 2014 essay "The Creative Functions of Myth and Ritual," it is true that the myths and embodied rituals of the Anlo-Ewes are sources of understanding and meaning of their belief system or worldview. As Jeffrey Kripal

observes, myth and ritual are essential components worth considering in order to understand how people create order and meaning out of existence in the cosmos. He posits that "From the inside, a major myth expresses how the world works and what a people's place in the world should be" (Kripal 2014:114.)

Within the Anlo-Ewe mythology and in their embodied rituals such as funeral and burial rites, they hold and display a specific conception of death and the afterworld. The Anlo-Ewes in expression, even at present, allude to this metaphysical worldview in which *toko atolia* assumed plausibility as an extreme form of punishment. The Anlo-Ewes still maintain that death is a point of transition from the world of the living to the spirit world and that there is a river that one has to cross from one world to the other. So, Anlo-Ewes bury their dead with money or cowries to pay the ferryman at that riverside for their passage across the river. They hold a strong belief that the dead can only reincarnate from the other side of the river, where they may find favor in the sight of a woman to conceive them and return them to the physical world to finish whatever unfinished business there may be. *Toko atolia* deprived criminals of this burial rite which would enable them to cross over to the other world. The Anlo-Ewes believe that spirits of those so deprived, unable to cross over to the spirit world, wander restlessly in the threshold between the two worlds—a perpetual 'liminal' state distinct from Victor Turner's concept of ritual liminality, where the liminal state is usually temporal. He explains this as:

> … liminality, a betwixt-and-between condition often involving seclusion from the everyday scene; and re-aggregation to the quotidian world. Such passage rites

> were of two broad types: (1) those performed to mark and, in the view of performers, to effect transitions from social invisibility to social visibility, as in birth rites; from juniority to seniority, as in circumcision and puberty rites; of sociosexual conjunction, as in nuptial rites; and of the passage from visible to invisible social existence, as in funerary rites converting a corpse or ghost into an ancestor; … (Turner, 1987: 101).

As this may apply to the Anlo-Ewes, the mere fact of the execution disqualifies one from becoming an ancestor. The possibility of attaining the status of an ancestor after death is determined by one's moral and uprightness while in the social world. And also, one may have to cross the river to the other world in order to stand a chance of serving as an ancestor. Therefore, in this case the corpse/spirit never gets to transition from a ghost to an ancestor but remains perpetually as a ghost, what the Anlo-Ewes refer to as '*dufie'* or *'nloli'* meaning 'restless ghost/spirit.' This is the point where the deprived spirits, having lost their former status, are neither able to reintegrate into the physical society nor cross over to the spirit world beyond the river so they wander aimlessly in that perpetual liminal state. My investigation into *toko atolia* reveals that within their moral-judicial code, Anlo-Ewes considered this permanent liminal state of restless wandering—not merely a criminal's death—but as a proportionate and appropriate penalty for recalcitrant miscreants. On the same theme, Sandra Greene noted that the Anlo-Ewes believed that the soul of a person consigned to death by *toko atolia* wandered about aimlessly as a ghost. In her 1997 article "Sacred Terrain:

Religion, Politics and Place in the History of Anloga (Ghana)," Sandra Greene observes the following among the Anlo-Ewes:

> normally when a person died, the family performed a set of rituals specifically designed to facilitate the deceased's transition into *Tsiefe*, the land of the dead. … It was believed that failure to perform these rituals could leave the deceased person's soul to wonder about aimlessly as a ghost, *noali*. It could also bring disaster to the family since the Anlo believed that the spirit of the deceased person could harm the living … None of these rituals, however, were performed for an individual consigned by his family to death by *Nyiko*. Instead, the person's body was left to be unearthed by wild animals. (Greene, 1997: 8-9)

In the cosmology of the Anlo-Ewes the severity of the practice of *toko atolia* is not the physical torture that results from being buried alive. The severity of the practice of *toko atolia* is the spiritual implication – their concept of 'bad death' which resigns the soul of the condemned to the perpetual state of liminality. This also confirms my departure from Foucault's notion of the soul becoming the target of penal repression. The Anlo-Ewe idea of the soul being a target of penal repression in relation to *toko atolia* has grounds in their belief in one, reincarnation and two, propitiation. The concept of reincarnation was foundational to the way in which the Anlo-Ewes approach death, and dealt with the supernatural. The Anlo-Ewe's belief in reincarnation further confirms their ontological conception of death to be a stage in the circle of existence, thus, one's existence does not end with death. In the Anlo-Ewe culture, as represented in their language, death's etymology and semantic meaning is the same as 'seed.' And so, their

concept of putting the body in the soil to mark burial is not a mere ritual of disposing of the body or to mark the end of one's existence. Rather, it is a transitional threshold or liminal period, where the body, once dead becomes a seed, and is transformed. Thus, it is a ritual of planting the body—seed in order for it to geminate, or in the case of humans, reincarnate. Just as a seed requires certain cultivation practices to germinate, the body—seed—also requires specific rituals to reincarnate. Justice Gbolonyo, a Ghanaian ethnomusicologist, in his dissertation on the same theme explains it very well:

> However, in Ewe ontology, *ku*, either as seed or death, conceptualizes both phenomena, the temporal transformation of existence or being. *Ku* is packed with deeper meaning that may facilitate understanding about the Ewe indigenous approaches to life and death. In Ewe philosophical thought, *ku*, whether as the terminal point of life on earth, as a propagative part of a plant, is conceptualized as the temporary stopping of the dynamic flow of life's energy. *Ku* (death) is a process of temporarily returning living things including the human personality-soul to the *ku* (seed) stage of existence where it is planted or buried (*fae/di*), and later germinates into the soul (by reincarnation or rebirth) or is accepted into the supernatural world as a spirit. (Gbolonyo, 2009: 248)

The goal of *toko atolia* in this context is to ensure that the souls of the executed culprits do not return to the physical world. It is believed that if condemned individuals reincarnate, they come back with the same lifestyle for which they were executed and therefore remain a permanent threat to the community. Once the victim is allowed a chance to reincarnate, possibly exposing the community to his deviant lifestyle in his

return, then the punishment becomes less befitting of the crime. So, for the punishment to fit the crime, this mode of extermination was fairly retributive. Similar to the Greek culture as captured in Oedipus Rex, Anyidoho 1983, confirms that among the Anlo-Ewe people the birth of a child is followed by divination to determine the identity of the ancestral soul that may have reincarnated. After that, "there follows a brief ceremony in which the reincarnated ancestor is invoked in libation to bless the newcomer" (Anyidoho, 1983:35). This means that the role of the ancestors is very crucial and that explains why the Anlo-Ewes revere and hold them in such high esteem. It makes sense that they would go every length to ensure that criminals do not become ancestors.

For propitiation, the notion of crime among the Anlo-Ewes is that a criminal is a stain on his family and the society at large. *Toko atolia* as an extreme form of punishment was to ensure that a culprit goes through an ordeal that fully atones for his crime and in the end purge the society of the stain of impurity. This saves the community from the wrath of the supernatural forces and ancestral spirits, similar to the narrative in Oedipus Rex where King Oedipus of Thebes had to gouge out his eyes in atonement for the misery he brought upon Thebes. Abotchie observes that per the notion of crime among the Anlo-Ewes "punishment is inflicted either to remove the stain of impurity from the society or to prevent a supernatural being from wreaking vengeance on the group." (1997:11). Therefore, *toko atolia* was purely rooted in the cosmology of the Anlo-Ewe people.

However, while a culprit is buried alive – in that liminal state between life and death – it might be the chance to play back his life and repent in his heart. Even on the

cross in the Christian tradition somebody was saved according to biblical accounts. So *toko atolia* could function as a perfect moment for the culprit's soul to be saved, in an epiphany experience as I noted in Chapter Two, even if the body dies. In this view, if the punishment is instant death, the culprit may have no time to review his life and repent. So, in a sense, taking into consideration the religiousness of the Anlo-Ewe people, I may be right to suggest that *toko atolia* gave culprits the chance to repent in their hearts because they had an opportunity to replay their lives, the activities that brought them there and to feel sorry for having committed those acts. As to whether or not this repentance, which holds the potential to release a person's soul from restless wandering, could make reincarnation possible, is a question I will answer yes to. This is because once the soul is saved it becomes eligible to find favor in the afterworld and be brought back, as I noted earlier in this chapter. And if feeling sorry for an offence can lead to remission of sin, hence reincarnation, then here is another justification which liberates *toko atolia* from the judgement of barbarism. Likewise, on another hand, I draw my own inference here to establish that the scarification caused by the birds and other wild animals during the ordeal of *toko atolia* had spiritual significance. The spiritual implication of being killed by animals could be that it makes the wandering spirits of executed criminals unable to torment their family and the community. This would be the case of a victim of *toko atolia* who failed to take advantage of the epiphany opportunity, if so be. However, the rituals of *toko atolia* ensured that the said spirits of executed culprits were powerless against the community. It also blocked any possibility of reincarnation for those spirits, perhaps except that there was a remission of sin through

an epiphany. Suffice it to say that epiphany in *toko atolia* is a liminal zone where transformation or reformation could take place.

This whole idea of death and the supernatural as associated with the practice of *toko atolia* has to do with the Anlo-Ewes' belief in reincarnation, which is the foundation for their structure of justice. As I noted earlier, the concept of reincarnation was foundational to the way in which the Anlo-Ewes dealt with death, the supernatural, and the notion of justice. The transition between one state of being to another as it pertains to justice is well captured in Fiawoo's dramatization of the practice of *toko atolia*. Fiawoo's deep insight into the culture of the Anlo-Ewes as a native whose work and personality have both influenced the Anlo-Ewe tradition greatly makes his representation worth considering, though presented in a fiction.

In his play, *The Fifth Landing Stage*, a recalcitrant young man, Agbebada, has been found guilty of numerous crimes among which meddling with another's wife was the most serious. He appears to have exhausted all rights to restorative justice which normally preceded the retributive justices of the Anlo Ewes. Condemned to death by the practice of *toko atolia*, he was cunningly lured to the grove at the dead of night to be buried alive. Upon realizing his fate but in a moment, he began to plead for mercy but the executioners would have none of his pleas but rather they reminded him of how he abused all his chances at reformation. With a sense of self-pity and regret he lamented "but what an end! The Fifth Landing Stage for me!" (Fiawoo, 1983: 67). The executioners ignored his lamentation and eventually buried him alive in a standing

posture with only his head jutting above the ground and left to his fate. He further lamented reflectively in these words:

> But what an end! The Fifth Landing Stage for me!
>
> They have left me and the great drum sounds for me. Buried alive and only my head left free! Already thirst begins. Alas that I gave no heed to my father and my mother! I knew not that the defenders of justice were watching my every step, and how faithfully they reported all my doings. Oh my father, why did you not slay me for my disobedience? It wound have been better than what I now suffer.
>
> Away, you brutes! The crows are come again to pick my eyes. Oh, you hard-hearted men of Anlo, come to my help. But who dares come here? I have not a cowrie to give the ferryman, and that is worse than death itself. Oh, *Kutsiami*, how all-powerful are you, ferryman of all spirits. Rich and poor, kings and subjects of every rank—all have to come to you at last—Away, foul crows!—Oh, ferryman, when I come to the water, ferry me across asking no payment. There is no single soul in Anlo who would give me even a few cowries to pay your toll.
>
> Oh death, are you come to lay hands upon your prey. The end is come and I must go. (Fiawoo, 1983: 67-68)

From Agbebada's lament in the words "I have not a cowrie to give the ferryman, and that is worse than death itself" I infer that what he laments over is not just the physical pain but also the spiritual journey ahead. This Anlo-Ewe individual

acknowledges the spiritual worldview that guides the judgment and punishment he now endures. These words also establish the intersection of spirituality and the cultural performance of the Anlo-Ewes. *Toko atolia* was a performance that showcased the Anlo-Ewe's view of death and the afterlife. Again, Fiawoo's native insight accurately projects a true reflection and deeper meanings of the worldview behind retribution in the Anlo-Ewe concept of justice.

Resurgence of the Cosmology in the Trans-Atlantic Slave Trade

The deeper meanings in the practice of *toko atolia* are often overlooked in external judgements. These judgments echo in the trans-Atlantic slave trade which coexisted with *toko atolia* and shared in the cosmology of *toko atolia* between 1700 and 1800.[42] In Dereck Waltcott's words in his *Omeros,* there is actually more to what we think and assume from the outside, about the narratives and practices of people of a particular culture. He pens in his 1990 epic poem the following creative observations regarding the true loss for the Africans who were enslaved during the trans-Atlantic slave trade:

> They felt the sea-wind tying them into one nation of eyes and shadows and groans, in the one pain that is inconsolable, the loss of one's shore. They had wept, not for their wives only, their fading children, but for strange, ordinary things. This one, who was a hunter wept, for sapling lance whose absent heft

[42] This period reflects when the slave trade actively coexisted with *toko atolia*. The trans-Atlantic slave trade started in 1619 and ended mid 1800.

> sang in his palm's hollow. One, a fisherman, for an ocher river encircling his calves; one a weaver, for the straw fisher pot he had meant to repair, wilting in water. They cried for the little thing after the big thing. They cried for a broken gourd. (Dereck Waltcott, 1990:151)

The evocative words of a poet and playwright, Dereck Walcott summarizes the often-neglected negative impact of the Atlantic slave trade on the enslaved African who were taken from their homeland to the Americas during the Middle Passage. Ostensibly, the writer recounts that the enslaved Africans in question did not only lament over what one would have expected of them – obviously, their family, loved ones, and the physical torture. But beyond that, they cried over things that, to the writer, were 'strange' and 'ordinary.' Many African writers have represented these 'strange' and 'ordinary' things to the contrary as neither strange nor ordinary but things that implicitly suggest their African worldviews – the very reason for their existence. This external commentary by Walcott is what Stephanie E. Smallwood refers to in her book *Saltwater Slavery: A Middle Passage from Africa to American Diaspora* that:

> In documenting their roles as buyers and sellers of humans, the slave traders in their records also unwittingly reveal part of the slaves' own stories. From the interplay of these stories, we can excavate something of the slaves' own experience of the traffic in human beings and of life abroad the ship. (Smallwood, 2007:5)

The transatlantic slave trade is largely reckoned with the physical cruelty that marked the Middle Passage, however, that is a single narrative that tells the story from

just one realm perspective – the physical perspective. The single story here is not about who the slave trade narrative favors but the absence of the spiritual impact of the slave trade in the narrative. The intangible aspect of this narrative is hardly ever included in the discourses on the trans-Atlantic slave trade. The impact of the transatlantic slave trade beyond the physical body of the African slaves is a resurgent of the worldview of the Anlo-Ewes that shaped *toko atolia*. The subjection of the African slaves' experience of the middle passage to solely the physical and the external misconception of their intangible things as 'strange' and 'ordinary' are misplaced. Through the lens of the cosmology of the Anlo-Ewes, the full impact of the trans-Atlantic slave trade on Africans includes the spiritual and this is not included in the single narrative.

In a 1994 interview in The Paris Review, Chinua Achebe, talking about the danger of Africans not having their own stories, said, "there is that great proverb – that until the lions have their own historians, the history of the hunt will always glorify the hunter." This, he said did not occur to him until much later, and after he realized that, he became a writer in order to be one of such historians that the lions (Africans) need. The benefit of Africans having their own story is to allow their stories to reflect the true agony, the travail, the bravery, even from their own perspectives – from the perspective of those who had the experience. This proverb – until the lions have their own historians, the history of the hunt will always glorify the hunter – which has featured in many African literature points to the fact that because the narrative of the Middle Passage was written and documented first by Europeans, the account mitigates the full impact of the trans-Atlantic slave trade. The full impact of the transatlantic slave trade can only be

realized when both the physical and the spiritual impacts are considered to tell the whole story. The European and American representations and accounts, even though important and critical to the study of the slave trade, do not illuminate the African worldview as far as the Middle Passage was concerned, as found in African oral traditions, and recounted by oral historians and families of victims of the slave trade, who bore the full impact of the implications (both physical and spiritual) of the trans-Atlantic slave trade.

Anne Bailey, in her 2005 book *African Voices of the Atlantic Slave Trade: Beyond the Silence and the Shame,* examines the silence, memory and fragments of the history of the slave trade and its impact on the Anlo-Ewe community. According to her, the impact of the slave trade on the Anlo-Ewe community was a subversion of the sacred and therefore a sacrilege and an unbearable grief that defies description. The shackles, whips, the cramming of large number of African slaves in a relatively smaller space, the smell of urine, blood, feces and tears that contaminated the air the slaves breathed, and the remains of dead slaves lying 'helplessly' among the living slaves in their confined space, are images that should be perceived in spiritual terms rather than just the physical as far as the impact of the slave trade involved the Anlo-Ewes and by extension, Africans at large.

The spiritual dimension of the impact of the slave trade as involved the Anlo-Ewes aligns with their worldview with regard to their conception of crime and their approach to punishing crime. This worldview of the Anlo-Ewes which saw supernatural forces who hated crime, active in their community, as the entire community was punished by the supernatural forces each time they failed to punish a crime severely,

caused the Anlo-Ewes to instituted two extreme modes of punishment which targeted the soul of the culprit other than the body. These extreme forms of punishment were '*toko atolia'* and 'banishment by slavery.' Whereas *toko atolia* was a capital punishment practice of burying hardened criminals alive with his head above the ground for birds to peck at till his death, banishment by slavery obviously was a practice of selling such criminals into slavery as a form of punishment that sentenced their souls to perpetual restlessness. Whiles Westermann (1930) mentions banishment by slavery as an alternative form of punishment to *toko atolia* among the Anlo-Ewes, which corroborates with accounts from the Atorkor Slave Market, native historians seem to be suggesting now that it was only war captives who were sold into slavery and not their own kindred. This is perhaps an attempt by the natives to refine (tone down) and control the perceived cruelty of the Anlo-Ewes with respect to their concept of justice. However, the Anlo-Ewe concept of crime and their approach to punishing crime makes it plausible for banishment into slavery as an alternative mode of punishment considering its shared spiritual implications with *toko atolia*.

The acknowledgement of the presence of the supernatural worldviews in these practices and experiences of the Anlo-Ewes testifies to Anne Bailey's assertion of the trans-Atlantic slave trade experience of the Anlo-Ewes as sacrilegious. Meanwhile, it is only sacrilegious depending on the motive behind it. For instance, with regard to the popular narrative of enslaved Africans, yes, that was sacrilegious. But on the other hand, with regard recalcitrant miscreants who were punished by banishment by slavery to rid the community of their kinds, that was appropriate punishment and it rather upheld the

sacred. So, like in *toko atolia*, the concept of reincarnation was foundational to the way Anlo-Ewes dealt with death, burial, the supernatural, and their notion of justice. On this theme, Anne Bailey imagines what it would mean for African slaves who acknowledged the sacred and the supernatural in every aspect of their lives, especially in the face of death, to experience the sacrilege of the slave trade. She posits that:

> For people who upheld such strong and abiding beliefs in the power of the ancestors and in the reincarnation of ancestral spirits, *not* to able to bury their dead according to the proper rites and most importantly in the proper place must have been as devastating as the loss of their freedom. (Bailey, 2005:187).

Bailey's observation here was the very implication intended for the Anlo-Ewe condemned hardened criminals punished by banishment by slavery. By either *toko atolia* or banishment by slavery, the goal was to ensure 'bad death' which deprived criminals from reincarnating and subsequently, lost of their freedom. In both cases there was no proper burial rites neither was burial, if at all, done in the proper place. Whatever the case there was demeaning burial. For instance, to witness the sick dying in the night below deck of a slave ship only to be thrown overboard by slave traders in the next morning, as was routinely done, must have engendered an unbearable grief that defies description, as Bailey imagines.

Examining the practice of *toko atolia* and the practice of banishment by slavery in relation to the Anlo-Ewe concept of death that informed these practices as punishments, it is clear that there was a spiritual dimension to the trans-Atlantic slave trade (for example, from the Anlo-Ewes perspective) which has been missing from the

narrative or accounts of the Middle Passage. In short, the proper burial rites which were denied the culprit in the practice of *toko atolia*, were equally denied the Anlo-Ewe victims of the Middle Passage, who were taken to unknown lands, denied freedom and exploited in various inhumane forms and died among people who had no appreciation for these cultural values, such as proper burial rites. The slaves sometimes died in the gallows in strange lands and others died from the inhumane conditions that characterized the Middle Passage. However, on one hand, to some victims it was a sacrilege, but on the other hand, to some victims it was appropriate punishment.

For victims who went on this journey as a punishment according to the Anlo-Ewe custom and tradition, there was no cause for alarm when they died abroad and did not get proper burial, subjecting their souls to permanent restlessness between the world of the living and the spirit world. This was because, as I noted earlier, within their moral-judicial code, Anlo-Ewes considered this liminal state of restless wander—not merely a criminal's death but as proportionate punishment for certain criminal behaviors. In fact, this promoted propitiation and served the sacred rather than destroyed the sacred. This confirms the idea of justice as retributive, because, as I noted earlier, once the victim was allowed a chance to reincarnate, thereby exposing the community to his deviant lifestyle in his possible return (through reincarnation), then the punishment becomes less befitting of the crime. So, for the punishment to fit the crime, and for propitiation to take place, banishment by slavery as a mode of punishment was fairly retributive just as *toko atolia*. Thus, in this well thought out cultural performance of retributive justice, the appropriateness of the sanction was at the core of the Anlo-Ewe principles that guided

the practices. So apparently to some extent the Europeans in all their supremacy and opposition to *toko atolia*, facilitated an alternative mode of punishment that ensured the same impact of *toko atolia* on the victims. The gesture toward the trans-Atlantic slave trade in this chapter reemphasis the worldview that shaped the Anlo-Ewe concept of justice, thus *toko atolia*.

On the contrary, those slaves who went on this journey unfairly due to the subversion of the traditions and values of the Anlo-Ewes, there was more harm done here than largely thought because every worthy Anlo-Ewe person who believed in their tradition had the right to proper burial and that could not be guaranteed in their new world where their cultural values were subverted. The subversion is largely attributed to the selfish economic supremacy of both the foreign and local slave raiders, whose sacrilegious acts caused many Anlo-Ewe slaves unbearable pain (to their souls) beyond description. The subversion of the cultural values can also be linked to Ngugi wa Thiong'o's argument about the power politics that was played by the oppressors during the Atlantic slave trade. Ngugi said, in an interview at the Louisiana Museum of Modern Art, Denmark in August 2015, that the first thing that happened to the Africans who were enslaved in the American and Caribbean plantations was cutting off the slaves' linguistic connection to Africa. He argues that language is the most important thing about memory, thus "everybody's language is the keeper of their memory" he said in the interview. This, he said was what happened to the African slaves in their new world where the memory of their being as a people was erased and the memory of the dominator was planted to replace theirs. This is important to my assertions on the Anlo-

Ewe's experience in instances of sacrilege or punishment because language is a core element of their cultural values and their burial rites are mostly imbedded in words that are spoken – language. The unbearable pain and grief of Africans from the subversion of their being and worldview is made legible by playwright Mohamed ben-Abdallah in his 1989 play, *The Slaves*:

> We are a very ancient people.
>
> We are the oldest humans on this planet.
>
> You sprang out of the loins of our ancestors.
>
> When you came back to us we did not turn our backs on you.
>
> Did we not receive you with open arms?
>
> Did we not welcome you as friends, as fellow humans?
>
> Did we not welcome you as special guests?
>
> Why have you turned our hospitality against us?
>
> What have we done to deserve your disrespect?
>
> Why have we become your sheep and cattle?
>
> Your beasts of burden!
>
> Why do you treat us as children?

And trample upon the wisdom of our ancient ways?

White men from across the seas!

What do you want from us?

You steal the best of our children.

And as if that was not enough

You deprived the stolen ones of their souls.

You take away their dignity

And the very reason for their existence.

Slowly, you empty our land of its future! (ben-Abdallah,1989:4)

In the face of this sacrilege, other factors that contributed to this subversion can be recalled as the performance of resistance against the 'extremity' of the Anlo-Ewe concept of justice by some members of the Anlo-Ewe community following their continued encounters with the Europeans. Afro-pessimism is a lens through which the effect of the trans-Atlantic slave trade and its impact on the lived experiences of enslaved Africans and subsequently African Americans in America can be evaluated, with relation to what happened during the Middle Passage. However, the embodied reality of the retention of the cultural memory and worldview of the enslaved Africans,

for example, the cultural lives and worldview of the Anlo-Ewes can be traced in literatures and ethnographies of African Americans in America.

The spiritual worldview behind indigenous African practices such as *toko atolia,* and banishment by slavery has probably translated into what I would imagine as the indigenous African cultural retentions among African American groups such as the Gullah people. The Gullah people are African Americans who live in the Lowcountry region of the U.S. states of Georgia and South Carolina, in both the coastal plain and the Sea Islands.[43] They developed a culture rich in African influences that makes them distinctive among African Americans. They have till date retained certain cultural practices they inherited from their ancestors. Such cultural practices can be seen in burial rites like burring the dead with their belongings with the belief of providing the needs of the dead in the afterworld.[44]

Likewise, the subjection and the suppression of African American bodies and cultures in the face of social and criminal justice systems in America reflects the external judgment and the subjection of indigenous African execution practices such as *toko atolia*. In both cases, race is the medium by which both indigenous African and African-American cultures and bodies are perceived and denigrated by European/western standards.

[43] (Opala, 1987). There are also available evidence of this in the documentary 'The language You Cry In'

[44] Retention of African cultural worldviews in African American cultures and the concept of Afro-pessimism are part of my proposed further studies project. I only gesture at them here to support my claims. They are not the focus of my thesis n

In the next chapter, I present external perspectives and misconceptions of the Anlo-Ewe concept of justice. I offer explanations that take full account of the cultural values and the religious/spiritual worldview of the Anlo-Ewe people to liberate *toko atolia* from external misconceptions and judgments. I do this by drawing on submissions from earlier chapters presented in this thesis.

CHAPTER V

ETIC PERSPECTIVES AND MISCONCEPTIONS OF THE ANLO-EWE CONCEPT OF JUSTICE

The European and Western Prejudice

The memory of *toko atolia*, like many other extinct African cultural practices, is often recalled as barbaric by outsiders. That external perception has seeped into the indigenous culture. This misconception can be traced to the era of the Middle Passage when the first slave ship arrived on west African ocean to mark the advent of the transatlantic slave trade in 1619, four hundred years ago. Eurocentric and westernized misconception of Africa has since represented nothing but a land of savagery where for instance folks enslaved and exterminated their own kindred through strange mechanisms as a result of their conviction of 'petty' crimes or as prisoners of war, among other reasons. The influence of these 'preeminent' groups eventually generated comprador African intellectuals and a generation that share in these Eurocentric and westernized misconceptions of African indigenous cultural practices, such as banishment by slavery and *toko atolia*, as barbaric. While Eurocentrism and westernization assume that these practices were barbaric, they failed to understand that these practices operated in consistence with the beliefs, values and norms of the indigenous Africans at the time. As I noted in Chapter Four, Indigenous Africans have well expressed their awareness of the Eurocentric and westernized misconception about them and their cultures in the popular African proverb "Until the lions have their own historians, the history of the hunt will

always glorify the hunter." This means that because the history of Africans ignored the meanings of their cultural practices, and was first and predominantly written by foreigners who apparently overlooked deeper meanings in African cultural practices, outsider/etic/external narratives about Africa are nothing short of those that: one, reflect their etic perspectives of Africans and African practices, and two, discriminately put them (the dominant groups) up as superior humans to the African people. Recognized as perhaps the strongest voice among angry African voices, the prominent African poet and novelist Chinua Achebe in his famous 1959 novel "Things Fall Apart" expresses the effect of Africa's encounter with Europeans in these words:

> The white man is very clever. He came quietly and peaceably with his religion. We were amused at his foolishness and allowed him to stay. Now he has won our brothers, and our clan can no longer act like one. He has put a knife on the things that held us together and we have fallen apart. (Chinua, 1995:57)

The very structures and beliefs that held together an African practice like *toko atolia,* which was practiced within the moral judicial code of the Anlo-Ewes, have fallen apart and left the practice and its memory exposed to all forms of denigrations, misconceptions, and prejudice. It is undisputed that similar practices of extreme forms of capital punishment existed throughout the history of humanity across the world. Even in their most extreme forms, execution practices in the western/European world are hardly, if ever at all, described specifically as barbaric. Interestingly, the epistemology of referring to the 'white man' (European/westerner) in Anlo-Ewe language is Ayevu or Yevu which translates as 'tricky dog.' This is their own way of concurrently expressing

and reminding themselves of the hypocrisy and cunningness of the 'white man.' Thus, the 'white man' is consciously blind to the very acts he perpetrates, for which he condemns others for perpetrating equal or even less of those acts. In European history especially, there were various forms of extreme practices of capital punishment that took very expressive/performative forms consistent with the beliefs, values, and norms of the people of the time, and from which they derived perverse pleasures.

For example, in 1975 Michel Foucault published his book *Discipline and Punish: The Birth of the Prison.* In the opening chapter, "The body of the condemned," Foucault gives a thick descriptive account of a gruesome performance of capital punishment in the premodern era. This description forms part of the history of the practices of punishing crime in the late 1700s through the mid-1800s in western/European societies, especially France and England. Recorded as the last execution act in France, *amende honorable*[45] in which the victim was by name Damiens, four horses plus extra two horses were used to execute him by tying his limbs to the horses and forcing them to run in four opposite directions until Damiens was quartered. Preceding the quartering, the body of the condemn was tortured as Foucault captures in the thick description from the accounts of an officer Bouton who together with his son were among the executioners who performed Damiens' execution:

> The sulphur was lit, but the flame was so poor that only the top skin of the hand was burnt, and that only slightly. Then the executioner… took the steel pincers…

[45] A ritual, in which the culprit was led with a rope around the neck without cloth nor footwear with a torch in his hand to beg for pardon from God, king and country in the chapel, incorporated in the French version of capital punishment in which criminals were drawn and quartered by horses.

> and pulled first at the calf of the right leg, then at the thigh, and from there at the two fleshy parts of the right arm; then at the breasts. Though a strong, sturdy fellow, this executioner found it so difficult to tear away the pieces of flesh that he set about the same spot two or three times, twisting the pincers as he did so,...(Foucault, 1975:3)

Foucault's work analyzes this form of punishment in the social and theoretical contexts of power and how it operates in society in ensuring "correct" behavior of the people. Whereas the treatise thrives on social and theoretical frameworks, it explores this act of punishment as being ceremonial and directed at the prisoner's body. It was a ritual performance in which the audience was important and the it was presented as a cultural practice of the French in which their moral-cultural judicial code was imbedded. Dwight Conquergood in his treatise, *Lethal Theatre: Performance, Punishment, and the Death Penalty,* in which he posits that the death penalty is pre-eminently performance and therefore performance is the only lens through which we can truly understand the death penalty, describes Foucault's accounts as "harrowing accounts in gruesome detail of the performance of capital punishment in premodern era" (Conquergood, 2002:340) not barbaric in definite terms. While the Europeans' use of the term barbaric may clearly be seen to be reserved for practices of "uncivilized" people, the Europeans stop short of calling themselves uncivilized, even though they would certainly call such a practice as tearing away flesh with pincers barbaric if they saw it in a non-European culture.

In other examples of extreme form of capital punishment, the racialized "Jewish Execution" in Medieval Germany took the form of hanging Jewish offenders by the feet, not by the neck, and similarly stringing up two dogs beside the culprit to torment the culprit to death. The accounts of this racialized practice of the late thirteenth to the early seventeenth century were retrieved from the diary of Andrea Gattaro of Padua, a delegate from Venice to the Council of Basel. A thick description by R. Glanz in a 1943 article "The 'Jewish Execution' in Medieval Germany," Jewish criminals condemn to die were persistently asked to turn into Christians to avoid being executed like beasts. Those who would accept to become Christians were led to confess their faith and then beheaded – considered a more humane and less torturous mode of execution. Those who would refuse to convert were executed in the "Jewish Execution" mode. In this practice of clear discrimination against the other, absence of freedom of belief and subjection to the majority's worldview, the "Jewish Execution" practice falls short of barbarism.

Many other ancient modes of execution like death by animals: devouring by wild cats, crushing by elephants, bites by snakes, etc. Boiling to death in water, oil, molten lead, etc. Burial alive: traditionally used to execute Vestal virgins for breaking vows. Burning at stake, and crucifixion among others are very extreme modes of capital punishment that existed in European history. Most recent and current modes of execution in the Europe and the Americas such as hanging by the neck, shooting, gas inhalation, beheading, stoning, electrocution, and lethal injection, together with the ancient modes, all largely escape the judgment of barbarism perhaps because they were done in the 'west' and by 'superior' beings.

The most recently outdated execution by electrocution through the electric chair in America did not only take the extreme and torturous form, but innocent people especially people of color suffered that unjustly. Likewise, the ongoing practice of mechanized modes of execution like the lethal injection in America and other parts of the western world and Europe are apparently justified, even in racialized form, within the culture's internal structures and laws. Indeed, none of these forms of execution practices exist or existed in isolation; they existed for definite purposes, even perverse purposes, but because race is the basis on which the dominate white world defines these practices, their sense of appreciation are overshadowed by prejudice. This definite problem is the conventional and racial formulaic conception of African practices, more so, indigenous African execution practice as barbaric. Whereas the western and European execution practice mostly find description, definition and reference in terms like extreme, gruesome, and at most cruel, inhumane and brutal, African modes of execution like *toko atolia* are explicitly and precisely described, defined, and referred to as barbaric, apparently because Africans are racially stereotyped as barbarians and beats and animals.

Behind the Stereotype of Barbarism

It is pertinent for me to dwell extensively on the term barbaric because it embodies judgmental elements that discriminately, prejudicially, and racially define the African community – aborigines and those in the diaspora – in denigratory terms. By associating the term 'barbaric' to Africans and their practices, is, according to google

dictionary, explicitly saying that Africans are, 'savagely cruel,' primitive and unsophisticated, uncivilized and uncultured. It is fascinating to think of these terms in association with Africans and their practices especially a well thought out cultural practice/performance such as *toko atolia* (as I detailed in the previous chapters.) While foreign execution practices may face the judgment of cruelty, when it comes to Africans the modifier "savage" has to be added for denigration, as in 'savagely cruel.' The notion of primitiveness as in not being sophisticated is misplaced in many regards when viewed in the context the time period of the practice. Africans being perceived as uncivilized and uncultured is borne of hate, racism and desire for dominance because obviously there cannot be a more cultured race than the African race considering as many scholars argue today that civilization started from Egypt, Africa. This 'barbaric' stereotype has lasted from generation to generation and has continued to shape the lives and narratives of the African community both home and abroad, in matters of justice for instance. The misconception is not a minor one but a carefully orchestrated apparatus, imbedded in semantics and actions, that imposed external notions of justice and punishment to shape the perceptions of even the Africans themselves.

Judgement and Misconceptions of Toko Atolia by European Missionaries

Missionaries from Bremen came to the Gold Coast in mid-nineteenth century, specifically the Ewe territory, with the agenda to completely wipe out the belief system of the Ewe folks. The Ewes may have benefited from the Germans in many regards, as the Ewe language was developed into writing by the Germans, but the German presence

was sacrilegious in many ways. They demonized the belief system of the Ewes and qualified their practices in very denigratory terms such as devilish and barbaric. They succeeded however in converting many Ewes from their African beliefs to Christianity, ignoring the Judeo-Christian influence on Anlo-Ewe cosmology and causing the Ewes to look down upon their own indigenous practices as they took up the outsiders' perspectives. These converts who may be referred to as compradors turned suddenly to overlook the cosmology that grounded their indigenous beliefs. Hans Werner Debrunner, a Swiss-German historian and theologian who worked on mission history in west Africa and African diaspora, after his interview with some mission school students in the Ewe region between 1969 and 1970 recorded the following views from the students in his book *'A Church between Colonial Powers':*

> 'The traditions of the ancestors are all pagan and paganism is bad'. 'If we held to the traditions of our ancestors, we should not have become civilised and barbarism would have prevailed forever'. 'They worshipped the creature instead of the creator'. 'It is a good thing that the gospel is preached at all costs'. 'The Church is right in giving glory to God alone'. 'Our ancestors were deluded by Satan, the Church brings God's salvation'. 'The gods of our ancestors were false gods. (Debrunner 1965:297)

It is not surprising the student-converts in that time would think from this etic perspective because in a journal of ethnology published in 1906, in German[46] by G.

[46] All my quotes from this document are my free translations from German to English with the help of google translator.

Binetsch and G. Hartrter, who were part of early Bremen missionaries who operated in the Ewe territory of the Gold Coast from mid 1800s, the authors answered questions about the Ewe people and their cultural practices from similar perspectives. Binetsch and Hartrter, in their attempt to give a thick description – with commentaries – of some indigenous cultural practices and rituals of the Ewes like marriage and burial rites, also touched on the Anlo-Ewe cultural practice and concept of justice expressed in *toko atolia*. For instance, while on marriage they comment that "First, it is unnatural if a girl has to marry the man determined by the parents, whether old or young, beautiful or ugly, hardworking or lazy" (p. 46.) The observation that arranged marriage is "unnatural" is a misperception. Arranged marriage was not the practice in a cultured society like the Anlo-Ewe. Marriage in the Anlo-Ewe custom involved numerous rituals and practices that only allowed parents to play supportive roles in ensuring that customs are upheld in the process of marriage of their wards. Likewise, the authors comment on marital dispute settlements in which a restorative type of justice plays out. The offender is required to render a sincere apology followed by payment of a fine where appropriate. The authors, in their further comment on the effective traditional religious magical mode of trail in ensuring justice, record that:

> If a woman gets involved with a strange man, her own man is free to subject her to a God's judgment in order to test her loyalty. …if the potion presented to her has such consequences that she is recognized as guilty, she must name the man with whom she has been dealing and the latter is severely punished for the sake of adultery. But if she emerges from the judgment of God innocently, her

husband must buy her beautiful clothes and all kinds of jewelry in order to restore her honor to people. (p. 47)

This buttresses the fact that other forms or types of justice existed in the Anlo-Ewe community and therefore the retributive justice that is seen in *toko atolia* is but the ultimate sanction resorted to in any case. It also reveals the trust of the people is the justness of God as demonstrated in their belief and practice of traditional religious magical modes of trial in ensuring justice. As death is a crucial element in the outcome of justice among the Anlo-Ewes and for that matter the subject under exploration in this thesis, Binetsch and Hartrter recognize that in events of a natural death, as the corpse is laid in state "the relatives come and everyone puts two or three cowries next to him. These are given to the deceased with his grave so that he can pay the ferry over to Kutiami in the underworld…" (p. 48). This is an integral part of the cosmic belief of the Anlo-Ewes and is fundamental in the concept of justice embodied in *toko atolia,* as I noted in previous chapters. Below is a thick narrative from an etic perspective on *toko atolia* by Binetsch and Hartrter as published in their 1906 journal of ethnology. I recognize this as the earliest published document on *toko atolia,* and it dwells on the crime of indebtedness; one of the very detested crimes in Anlo-Ewe land. It captures among other things:

…our Anlos are a completely carefree persons, to whom their family debts, which are passed on from link to link, are just as little a matter of concern and grief as the ones they have accumulated themselves. Because even these do not go out with death, but are passed on to the offspring. So, when a Negro dies, he

> tells his children or relatives who he owes and where. But often it happens that after the death of a man debts emerge, be it that the deceased did not want to name them or that one or the other believes that he can use this opportunity to extort money. In this case, they resort to an aid or a way out, which can make some people dread. As soon as an unknown creditor wants to raise his money, the members of the deceased family bring the water with which they rinsed the dead man's mouth and kept it for this purpose in a bottle and ask the creditor if he wants to drink from it. If he wants to do it, they pour some of the water in a glass and by handing it to him, they say to him: "If it is true that our father or mother was your debtor, you may like to get your money and stay alive, but if you are lying against the dead, his spirit should kill you. (p. 49)

This part of the narrative projects a practice that existed among the Anlo-Ewes but could easily or deliberately be misconstrued for a strange cultural practice if left as described in this report. Actually, this was one of many types of trial by ordeal as practiced as a form of magical-religious modes of ensuring justice in the Anlo-Ewe community. It is clear from the account, a case of uncertainty or disputed question due to the possibility of a party lying against a deceased person in order to extort money, that the deceased person did not owe, from the bereaved family. This possible act of lying is another highly detested and severely punishable act among the Anlo-Ewes. In instances such as recorded in this account, the solution lies beyond the physical and so there are magical-religious modes beyond the physical mode employed to determine the truth in

such cases of uncertainty or disputed questions of whether or not the deceased owed the self-acclaimed creditor.

These magical-religious modes are solely predicated on the Anlo-Ewe's religious/spiritual worldview, which as noted above are given little serious consideration in European/western scholarship on execution practices. Transcendent modes of ensuring justice in the Anlo-Ewe community are mainly oracle consultation, hexing, and trial by ordeal. Whereas Chris Abotchie (1997) classifies these transcendent modes as magical processes, it is important to stress that they are established on the religious beliefs and practices of the Anlo-Ewe people and take various expressive embodied forms. They are cultural performances. For example, trial by ordeal, as I noted in Chapter Two, usually takes a spectacularly performative form, such as what is described in the missionaries' report. Other examples may include the forms of dipping one's hand in a boiling water or oil, washing one's face with magical potions (as in Fiawoo's play,) etc. Whatever form it takes, there are inauspicious consequences for the guilty party and absolutely no adverse effect on the innocent. So, the account by Binetsch and Hartrter, if the self-acclaimed creditor is innocent of falsehood, he would drink the water and no ill would befall him either instantly or afterwards. This is unlike the accounts of European versions of trial by ordeal where both parties undergo physical pain as a result of the ordeal, for instance, when it takes the form of dipping hands in boiling water or oil both parties would be burnt but the innocent would in a couple of days recover from the injury of the ordeal while the guilty one suffers deterioration from the injury of the ordeal.

The Anlo-Ewes' recognition of the power of the supernatural and the dead, and the community's acknowledgment of the omnipresence and the omniscience of the supernatural cautioned any potential false creditor against such deviant act of falsehood. Their cognizance of the ability of the supernatural entities to protect them against any logical danger associated with the ordeal, and knowledge of the fact that the gods never falter respectively boasted on one hand, support and faith in this practice, and on the other hand, aroused fear that checked deviant motives that may seek to outsmart the judicial structure of the Anlo-Ewes. This conception/acknowledgement compels all role players, such as the family who brings the concoction, who are involved in this affair of justice to be conscious of their roles as well as their audiences. They must be conscious of their audiences who are not exclusively humans, but who are also the dead and the deities.

Their engagement with the transcendent compels the family, in even their subtle role, to be fair in the portrayal of their role. This dovetails into the other cognizance of the Anlo-Ewes that supernatural sanctions for the breach of moral codes and abuse of one's role as a mediator or agent of the spiritual deities in the traditional society are inevitable, a phenomenon Abotchie refers to as "the escape-proof social control mechanism of the traditional society" (1997: 66). It is important to mention that these supernatural entities are not just idolized fantasies but rather entities conceived as spirits of ancestors and lesser gods who continually cohabit their community. There are sacred sites reserved for the dwelling of these entities and due reverence is given them through various forms of worship and sacred observations of taboos. The people's consciousness

of the supernatural informs or influences their embodied expressions in giving reverence to these entities. Located at this intersection of religion/spirituality and performance, is a deeper meaning in this form of trial by ordeal as vaguely reported from an etic perspective. Dwelling further, the report says the following about *toko atolia*:

> Finally, one custom should be mentioned briefly, although it has gotten out of the way due to the influence of culture, more perhaps out of fear of punishment: when someone gets everything his father or uncle acquires, had wasted and made up debts that his relatives could not or did not want to pay, they brought him to Anglo Avhenome, where he was killed, with cunning or violence, which was called "beating the Nyiko drum." It went like this: A friend of the debtor cunningly brought him to Anloga, where he handed the elders 12 cowries and some brandy, secretly telling them why he was coming and asked his companion, the debtor, to accompany him on a certain walk, or to go to the next town with him. Unaware of anything bad, he went with him; but suddenly several men burst out of the thicket, throwing him to the ground, knocking him to death, or burying him alive in a grove near the city. As soon as these men had aligned their order with the debtor, two drums, the so-called Nyiko drums, were stirred in the city of Anloga. One of these was in the Lasibi district, the other in the Gave district. The stirring of these drums told everyone that the death penalty had just been carried out on a debtor. But when the unsuspecting creditors demanded their money from the family, they were told: "Go to Anloga, there you will get it" and they knew immediately that the debtor had been dismissed and his right to

> the family had expired. Alone, it was not always possible to bring the debtor to Anloga. Because when he realized what would happen to him, he went to another city and accumulated more and more debts there. However, if the relatives could not bring a debtor to Anloga, the Anlo elders had the right to have him killed wherever they found him, but even in this case it often happened that a wind got out or he was warned. Then he fled to Anazume, a town in Dahome where nobody could harm him. Many Anlos and similar people from other tribes are said to live in this city, who served the King of Dahome; but if one died, the king confiscated his belongings. If a debtor managed to escape to Anazume, his relatives were liable for the debt; as well as if the creditor preceded the relatives. If he (the creditor) noticed that his (the debtor's) relatives intended to take him to Anloga, he went first and reported the facts and said to the elders of Anloga: "Here is brandy I hold the drum. If the relatives come to beat the drum over him, do slowly until I have my money." In this way, the relatives were forced to pay the creditor. (p. 50)

This etic version of the account of *toko atolia* suggests in a nut shell the corruption or the sacrilege of the religious, traditional, and judicial order of the Anlo-Ewe, which the Europeans are utterly responsible for through the introduction of the transatlantic slave trade. One major effect of the transatlantic slave was the corruption of African indigenous legal institutions such as *toko atolia*. Anne Bailey observe in her treatise on the "Subversion of the Sacred: The Effect of the Atlantic Slave Trade on Anlo Ewe Religious Organizations" that from oral accounts, which my field research

corroborates, there was a time in history in the nineteenth century where the operations and activities of the slave trade intersected with religious organizations of the Anlo-Ewes. Bailey writes that "cult leaders at specific periods in the nineteenth century, in opposition to public good, used the cults to further their own economic interests in cooperation with slave traders" (Bailey, 2006:199.) This resulted in the corruption of the sacred that made indigenous religious-traditional practices such as *toko atolia* make sense.

Furthermore, as many Africans have expressed through various mediums especially the art, in poems and music, the same ship that brought the bible to the shores of Africa was the same ship that bounded Africans and took across the ocean as slaves. So, the impact of Christianity is a pertinent factor in the corruption and sacrilege of the religious and sacred order of the Anlo-Ewes. In the concluding paragraph after the account of *toko atolia* by Binetsch and Hartrter, the authors in their remark state their sacrilegious intention for the indigenous Anlo-Ewe practices subsequent to their corruption of *toko atolia*.

> May the time soon come for the Anlos, where not only this barbaric custom is forgotten for fear of punishment, but also all others are replaced by Christian customs and customs and they all penetrate to right, Christian freedom and also from the Anlos once said: "Which the son frees are quite free! (p. 51)

Accounts by Etic Scholars on Toko Atolia

It is worth noting that majority of the hitherto few scholars who explored *toko atolia* are foreign scholars. Kathryn Geurts in 1998, postulates from her research in the Anlo-Ewe community that quite a number of elderly people she interviewed expressed the belief that *toko atolia* "was something of the past" but its memory however lives in Anlo-Ewe oral history/literature and of course due to the influence or currency of Fiawoo's play *The Fifth Landing Stage* in which the practice of *toko atolia* is so far most vividly represented. Geurts further observers that young people often referred to the memories of this past practice of burying criminals alive in the soil, and left at the mercy of wild birds and other creatures, as a symbol of the strict code of ethics adhered to by their forebears. According to Geurts, from her observation during her research among the Anlo-Ewes, she posits that:

> People's bodies literally shuddered and they spoke in hushed tones when broaching this subject. Since I was an outsider, people seemed pressed to make me understand that *toko atolia* did not represent cruelty or perversity on the part of their forefathers, but rather it was the last resort in their criminal justice system and was a protective and preventive element in maintaining community stability and health. (Geurts, 1998: 139)

I deduce from Geurts' accession a misconception of the practice, as she talks about being an outsider and then the effort of the people to justify *toko atolia* before her. The people would only attempt to explain to correct a misconception when it is noticed. Obviously Geurts sought to confirm the popular notion held about the practice, and it

was incumbent on the natives to correct her misconstrued narratives to protect the memory of the practice for the people it most affects. This burden of always having to correct or convince people to appreciate rather than judge *toko atolia* in denigrator terms is evidently a continuum. For example, Mr. David Kuwornu's experience many years ago while a student at the University of Ghana, and my personal quest to embark on this research point to this lasting burden. While Fiawoo may be considered a forerunner in bearing this burden, he could not afford to disregard his Christian doctrines. James Gibbs in his scholastic engagement with the practice by analyzing Fiawoo's play, asserts that:

> In the community Fiawoo presents, those sentenced to death by the judicial process are buried alive. He is aware that outsiders, for whom the noose or the guillotine is or was the favored method, regarded this as a barbaric method of execution. In his play, live burial epitomizes the utter barbarity of 'the dark continent'; inevitably, Fiawoo must have had to think about the custom in a context provided by his study of the Bible, and in the light of his knowledge of European judicial systems. (Gibbs, 2009: 63-64)

Gibbs who is an outsider himself must have been referring to himself when he acknowledged the judgement of barbarism by outsiders thereby confirming his or the outsider's misconceptions of the practice of *toko atolia.* His view about Fiawoo's position on *toko atolia* as he strategically expressed in his play, projects the misconceptions of the practice by comprador native intellectuals and largely this new generation. This is apparently as a result of Africa's encounter with the other world and their subsequent influence on Africa, for it is important to note at this point that Fiawoo

wrote this play while studying in the United States. Not only did he write it in the United State, he wrote it in response to an advertisement for the composition in an African language on African Customs by the International Institute of African Language and Customs in London, he wrote and submitted the drama *Toko Atolia* in 1932 and won the first prize. Therefore, as I noted in Chapter One, he wrote this play originally in Ewe with the title, *Toko Atolia*, in 1932 which was later translated into English and first published in 1943 with the transliteral title *The Fifth Landing Stage*.

The Dualism of Rev. Dr. F. K. Fiawoo

Whereas I commend Fiawoo for valorizing his Anlo-Ewe culture by writing the play in his native language—Ewe and projecting other cultural expressions of the Anlo-Ewes in the play, his belief in the gospel of Christ and his knowledge of western culture perhaps subjected him to the popular judgement of the practice of *toko atolia* as barbaric. Fiawoo admits in his preface to his play when he tries to justify his dualism, stating: "The case is analogous to the conceptions of the Ancient Jews and of the Christians. The one condemns leniency as a predilection for the offender while the other maintains that the merciful shall obtain mercy, and that none is righteous." (Fiawoo, 1983: 7). To put it simple, many Anlo-Ewe oral historians express that Fiawoo gave his play a "white face." Fiawoo's western inclination can be likened to Foucault's notion of a shift from the body to the soul as target for penal repression, where the state's power goes inside the person to cause reformation. The soul for Foucault in Christian terms is a subject of care where the society has a responsibility to save the soul of the individual, towards a disciplinary

society. This is Fiawoo's departure from *toko atolia* where the soul of the individual is ultimately cast out of the society for the healing of the society. Contrary to my postulation in the final section of Chapter Two, Fiawoo, for want of a better word, suppresses or disregards the significance of the stage in *toko atolia* beyond the malignant-margin of the society. Again, by malignant-margin I mean a stage in the Anlo-Ewe structure of justice where crime is considered malignant to the wellbeing of the entire society.

Fiawoo further demonstrates his dualism in the thematic thrust of his dramatization of the practice of *toko atolia* where he advocates for humane and progressive processes of reform as against the extermination of the culprits in *toko atolia*. Though Fiawoo puts up a strong case that suggests that he acknowledged the need for the practice at the time, his advocacy in the play sets him up as an example of compradors who due to foreign influence see their indigenous cultural practices as primitive, not only in the present but even as it was practice in the olden days, and call for their replacement or modification. It is not surprising that in 1930, just two years preceding Fiawoo's exploration, Diedrich Westermann, a German missionary referred to *toko atolia* in his book "A study of the Ewe Language" as 'a strange way of punishment' among the Anlo-Ewes.

More recently during my conference presentation titled "The Plays of Dr. F. K. Fiawoo: A West African Precedent in Criminal Justice Reform Advocacy," at the 3rd Triennial Ghana Studies Association Conference held at the University of Ghana, in Accra-Ghana in July 2019, I was privileged to have Professor Kofi Anyidoho in my

audience as I projected Fiawoo as a forerunner in advocating Eurocentrically for reformation as against extermination in African practices such as *toko atolia*. Anyidoho, also a native, wrote a poem in 1985 titled "Agbebada: For Rev. Dr. F. K. Fiawoo" in which he concisely projects the central part of Fiawoo's play in a manner that justifies *toko atolia* as was practiced by the forebears of the Anlo-Ewes. However, in his comment after my presentation, he posited that the practice was never intended to exterminate the culprit but rather it was done in such a way that it allowed room for escape. In his comment, as I recall, he said among other things that "…the same tradition as you pointed out says you are not supposed to take the life of a fellow human being. So, it seems to me that what the Anlo tradition has worked out was a kind of capital punishment administered in a way that left room for escape. This was exactly what happened in this play." This was indeed what Fiawoo presented in the resolution of his play which portrays his invention of *toko atolia* as a disservice to the Anlo-Ewe tradition, and shows how his invention has shaped narratives of the practice today.

Likewise, this new philosophy of Anyidoho contradicts his initial stance in his poem thirty-five years ago, because the play he refers to in his comment is the same play he based his poem on and found justification for *toko atolia* within the same Anlo-Ewe tradition, when he said "the gods themselves should understand" (noted in Chapter Two). Ostensibly, this is a replication of Fiawoo's dualism in the thoughts of Anyidoho over half a century after Fiawoo's landmark play *Toko Atolia* in 1932. The question is why this recurring dualism? I would dare say that these are attempts by native scholars to tone down the perceived barbarity of the memory of *toko atolia* as its negative impact

on the identity of the Anlo-Ewes, and all who share a common feature with them, is perennially denigrating.

Nonetheless, I approach *toko atolia* on its own terms and as I have shown so far, the practice sustains an internal logic that escaped outsiders' perceptions. I maintain that within the moral judicial codes of the ancestral Anlo-Ewes, *toko atolia* was a well thought out systematic judicial process, and that it was very sophisticated in its time. Contrary to these misconceptions of *toko atolia*, I demonstrated, in the previous chapters, that *toko atolia* was a well-structured expressive cultural performance which was consistent with the values, beliefs, and norms of the Anlo-Ewes. It was a cultural performance in which the cultural identity and cosmos belief of the Anlo-Ewes was shown to the outside world while reaffirming this identity and belief internally among themselves.

CHAPTER VI

CONCLUSIONS

Summary

George Ryley Scott in his fascinating book on the history of punishment from the medieval era to the twentieth century, posits that "The custom which meets with unanimous approval in one generation may rank as the most reprehensible form of cruelty in the next" (Scott, 1968:11). Apparently, the ancestral Anlo-Ewe practice of capital punishment – *toko atolia* – though extinct in late ninetieth century Ghana ranks in present day as one of the most reprehensible forms of barbarism in Anlo-Ewe history, and by extension African history. This thesis sought to rescue *toko atolia* from the judgement of barbarism by modern sensibilities and external notions of justice and punishment. This humanistic inquiry applied qualitative methods (ethnographic and archival) to questions of meaning (the religious-spiritual significance of the execution ritual, *toko atolia*) in the experience of the eighteenth/nineteenth century Anlo-Ewe people of Ghana. *Toko atolia* exists in the cultural memory of the people, but that memory has been re-invented as outsiders judged the tradition. I set out to explore the complexities of that re-invention. My ninety-day ethnographic research in the Anlo-Ewe community in Ghana (summer 2019), and my twenty-seven-day archival research at the Bremen City Archive in Germany (winter 2019/2020) provided a wealth of perspectives on *toko atolia* from within and outside Ghana. With this new material, I developed an analysis of the relationship today's Anlo-Ewe people have with *toko atolia*.

Rev. Dr. F. K. Fiawoo's play *The Fifth Landing Stage* served as the lens through which I analyzed the complexity of *toko atolia*. The play provided frameworks that assert *toko atolia* as a kind of cultural performance through which the Anlo-Ewe people express plausibility of their concept of justice in the context of their cosmology, moral codes, and social organization by clan. At the same time, the play served as an example of colonial perspectives of *toko atolia* and promoted modern/European/western judgement of the practice as barbaric. Despite the dualism embodied in Fiawoo's play, it retains substantial evidence of *toko atolia* as a cultural embodiment of the cosmology and metaphysical beliefs of the Ancestral Anlo-Ewes. The Anlo-Ewe worldview retained in the play calls for the appreciation of *toko atolia* within the worldview of the eighteenth/nineteenth-century Anlo-Ewe people, as I agued in this thesis.

With no attempt to instigate the reinstatement of *toko atolia* in the present era, I showed the efficacy of the practice in the cosmology of the ancestral Anlo-Ewes. I presented the social and moral-ethical considerations of retributive justice that compelled *toko atolia* through the corporate responsibility of the Anlo-Ewe people as a group. I showed that the corporate responsibility of the Anlo-Ewe people against crime was influenced by their conception of the supernatural from which they acquired divine judicial legitimacy to severely punish crime in the form of *toko atolia*. Clearly, my exploration of *toko atolia* provides an insight into how the folklore of the Anlo-Ewes serves as a repository of the cultural and religious/spiritual experiences/lives of the Anlo-Ewes in their performance of justice through *toko atolia* – capital punishment.

Toko atolia thus offers an insight into the intersections and relationships among the areas of folklore, culture, performance, capital punishment, justice and religion/spirituality.

The worldview of the Anlo-Ewes with respect to death and the supernatural is resurgent in some African American cultures in America. I pointed to the Gullahs as an example of this transnational worldview. Through this cultural resurgence I situated the ancestral Anlo-Ewe worldview as a link between punishment by *toko atolia* and punishment by banishment into slavery during the trans-Atlantic slave trade as having equal penal targets – the soul, and subsequently their equal implications on the soul. Death and burial rites become a common place for the Anlo-Ewes and African American cultures such as the Gullah.

Building on Michel Foucault's concept of punishment in relation to the soul in "The body of the condemned" (1975), I transcended Foucault's philosophy to establish the spiritual implication of addressing penalty to the soul. On the same theme, I built on Victor Turner's ritual liminality in the face of death, which exists as a temporal state of transition, and presented *toko atolia* as having a core purpose of consigning the soul of the condemned to perpetual liminality. These theoretical frameworks offered the context within which the penal severity of *toko atolia* and banishment by slavery were alike as forms of severe punishments in terms of their target of penal repression.

In both punishments, torture directed at the body of a criminal was not the main objective of the Anlo-Ewes. The Anlo-Ewes did not directly direct torture at the body of the condemned, like the birds in *toko atolia* and the slave masters in the Middle Passage. For the Anlo-Ewes, the implication of bad death which resulted from being buried alive

and subsequently by being killed by animals or dying an unnatural death from harsh conditions of slavery in a foreign land was their objective. Ironically, the animals and the European slave traders helped them to achieve this core objective. The Anlo-Ewes treated unnatural deaths that occur within their community with their cognizance of the spiritual implication of bad death, which is embodied in their concept of retributive justice. For example, deaths by accident or suicide are considered unnatural deaths and burial rites for such individuals are ritually done to prevent similar occurrences in the future (see Anyidoho, 1983:80).

Through Victor Turner's theoretical framework of social drama, as I illustrated in Chapter Two and supported with oral narratives and scholarly observations by Chris Abotchie among others throughout this thesis, I showed that the consciousness of the Anlo-Ewe people was grounded in the supernatural. Their cultural lives were defined by a set of beliefs about the cosmos, such as the cognizance that the gods are active and never falter and their concept of death and the afterlife. This cognizance compelled their adherence to the long and slow process of justice, as in the social drama, to ensure that no party was denied justice, for the gods detested injustice.

I established through my presentation of *toko atolia* as a ritualized practice the pervasiveness of the supernatural in the cosmos of the Anlo-Ewes. *Toko atolia,* as I have established, also shows that the Anlo-Ewe people by nature detested crime due to their knowledge and experiences of the consequences of an individual's crime to the larger social group – family, clan, and the entire community. *Toko atolia* served as a deterrent to crime within the community not just because of its extreme physical form but because

of the recognition of its spiritual implications by all members of the community. The presence and acknowledgement of supernatural forces in the Anlo-Ewe community makes sense of *toko atolia* as the community's means of sustaining their harmonious relationship with the supernatural forces and ancestral spirits.

Toko atolia evolved to become an invented tradition for the present-day Anlo-Ewes predominantly through the dramatization of the practice by Rev. Dr. F. K. Fiawoo. What influenced this invention, as I noted in Chapter Five, is Fiawoo's encounter with the European and western standards as well as his modern Christian faith. Equally, Fiawoo's attempt to rescue the practice from modern/European/western judgement of barbarism influenced his invention of the practice to suggest an escape mechanism for the culprit in the practice – a view scholars like Kofi Anyidoho now hold. Fiawoo's dualism has shaped the discourse on *toko atolia* from both emic and etic perspectives in Anlo-Ewe oral tradition as well as scholarship today. As I noted, most of the Anlo-Ewe I encountered in my fieldwork referenced the play.

From my position, Fiawoo's dramatization of *toko atolia* demonstrates an advocacy campaign for humane and progressive processes of reform as against the extermination of the culprits. This reflects a modern Christian view of tempering justice with mercy. Failing to approach *toko atolia* exclusively on its own terms however, Fiawoo's advocacy appears to rob *toko atolia* of its plausibility in the face of the judgment of barbarism. As I noted in Chapter Five, the aspect of Fiawoo's play that suggests that *toko atolia* might be a less severe practice than perceived by both outsider and insiders is the same aspect that robs the practice of its internal logic. This invention

by Fiawoo eventually fueled misconceptions about the practice. While Fiawoo's dramatization is a major reference source of narrative for the elders of the Anlo-Ewe community today, the younger generation considers *toko atolia* more of a fairy tale than real. In the absence of answers to meanings with regard to *toko atolia*, which this thesis provides, it makes sense that the younger generation thinks of *toko atolia* as a myth or otherwise barbaric.

Penultimaltely, "when regarding the supernatural, what is agreeable within one group may seem superstitious, primitive, uneducated, or ignorant to another" (Walker 1995:3.) The various forms of folk-beliefs and expressions that I have illustrated in this thesis provide an understanding of the Anlo-Ewes' belief in the supernatural as a self-conscious formality of embodied actions that are embedded in their folklore. This thesis establishes that these embodied actions are embedded in their folklore, which is grounded in a view of the world as governed by supernatural forces (just as the world is governed by a deity in the Christian worldview).

The interdisciplinary nature of this research bridges historical, anthropological, religious-philosophical, performative, and literary approaches to the practice of *toko atolia.* This thesis aims to contribute to the discourse of justice within the setting of indigenous African traditions, specifically. It focuses on how the Anlo-Ewes rely on the supernatural to ensure justice. Anlo-Ewe concepts of justice are embedded in their folklore - myths and embodied rituals – which are in turn central to their conception of the supernatural. The various examples of folk-beliefs intersecting this Anlo-Ewe conception of the supernatural is a crucial contribution to perspectives from the fields of

Folklore, Anthropology, and Performance Studies. I reconstructed this now banned historical practice and the Anlo-Ewe's experience of justice in the context of their cosmology, philosophy (especially their moral-ethical questions of justice). I thus dealt with *toko atolia* as an aspect of the expressive culture of a people who adhered to ethical principles of truth, valued clan and kinship, and recognized trial by ordeal in a sophisticated justice system. I also engaged capital punishment as performance—a way by which people define and/or interpret their worlds and make sense of themselves. The perceived barbarity of *toko atolia* is therefore mitigated by its place in the specific worldview. Thus, if we view *toko atolia* through the worldview of the eighteenth/nineteenth-century Anlo-Ewes the apparent extremism of this punishment-performance is comprehensible.

With this research I have contributed to advancing intercultural understanding by showing how externally imposed judgments on the means of execution overlook deeper meanings in cultural practices. For example, as I noted in Chapter Five, we can ask: how does America deal with external perceptions of its justice system with regard to the execution practice of lethal injection behind closed doors? Thus, as extreme as practices of old such as execution by burying the culprit alive may sound to our present-day sensibilities, their cultural-historical importance is best apprehended by examining the social and/or moral-ethical logic that compelled them. Likewise, people who are culturally and historically removed from African traditional practices, such as *toko atolia,* must attend to the worldviews in which such practices make sense.

In conclusion, the perspective on this outlawed execution practice, as I have shown, was a performance of justice according to a worldview in which the ultimate punishment is not to the physical body but to a person's spirit, which is condemned to endless wandering. This was at the core of the Anlo-Ewe supernatural-influenced principles that guided their customary performance of justice. As a communal performance, *toko atolia* aligns with Victor Turner's theory of social drama. I have also shown that in the context of Anlo-Ewe cosmology, this execution practice sustains an internal logic that escaped outsiders' perceptions. That the practice 'exists' today - in local memory, poetry, and plays - suggests that Anlo-Ewe ideas of justice warrant continued attention.

Moving forward, whereas this thesis focuses on a specific indigenous African culture set in relief against western conceptions of justice, my further studies (Ph.D.) would seek to examine African American cultures and bodies in American social and criminal justice systems. In both studies, race is the medium by which both indigenous African and African-American cultures and bodies are perceived and their systems of justice denigrated. I seek to explore African American literature for particular African cultural retentions and transformations of these systems of justice.

Observations

As part of my observations throughout this research, it is apparent that the identity of the Anlo-Ewes in the Ghanaian society is complicated. Typically, through social media posts and other media outlets, Ghanaians perform their cognizance of the

dual quality/characteristic of the Anlo-Ewes in terms of their loyalty and spirituality. The spirituality and loyalty of the Anlo-Ewes have become a source of content for comic skits where they are trivialized through mockery or sarcastic posts. This becomes how the identity of the Anlo-Ewes is put out for the world to view. However, loyalty and spirituality are intrinsically woven together in every form of portrayal of the identity of the Anlo-Ewes because the Ghanaian community believes that the presence of supernatural forces in the Anlo-Ewe community compels its members to be loyal lest they face the wrath of the gods. So, loyalty and spirituality are in fact positive qualities to the identity of the Anlo-Ewes, however, the lack of answers to questions of meaning and actuality have subjected these qualities to media and public ridicule.

Also, throughout my fieldwork I observed that most of the oral historians are familiar with etic researcher-scholars like Anne Bailey, Sandra Green and others who visited the Anlo-Ewe community at various times to conduct research and to whom the Anlo-Ewe historians narrated the history and narrative of *toko atolia*. However, they have very little knowledge, if any at all, of what these scholars have turned the information they gathered from them into. The complex nature of *toko atolia* perhaps hinders coherence in the narrative of the practice. From my research experience, it appears as though the elders are tired of making efforts to constantly convince researchers that *toko atolia* was not barbaric. Perhaps a mere narrative would not suffice in rescuing the practice from external misconceptions. Also, the loss of cultural practices like story telling and other informal modes of impacting traditional knowledge in the younger generation has left questions of meaning about the internal logic of *toko atolia*

largely unattended. The task of finding answers to the deeper meanings of *toko atolia* has been left to researchers, most of whom are outsiders. Evidently, information on the practice is scanty and uncertain. To my surprise, neither Sandra Greene's discovery of the diary records of Paul Sands nor the diarist himself is known to Anlo-Ewe oral historians per my research.[47] This shows clearly that the history (deposited in the oral historians) of the Anlo-Ewes is limited and barely transcends past generations with regard to *toko atolia.*

My fieldwork and the C-Torch Foundation's initiative through which I gathered information from a larger group of people in the Anlo-Ewe community revealed that the community at present is divided on opinions of the practice. To some, per their Christian views, *toko atolia* was barbaric and should never be considered as a means of punishment in any human era. Aside the Christian faith, some people believe that no one has the right to subject the fellow human being to any form of torture, let alone take his or her life. On the other hand, to others, regardless of their religious faith, the rise of violence, crime and injustice in the community and in Ghana at large compels them to reason with the folks of old that *toko atolia* was never barbaric and that it should be reinstated. The latter group holds this position because they believe that one, its severity would deter people from committing crime, and, two, that its spiritual aspect would ensure that justice is served rightly and not manipulated. Furthermore, leaders would be mindful of their positions and corruption would be extinct from the traditional system and Ghana at large. The current chief of staff to the Awoamefia – the paramount chief of

[47] They have not heard about Paul Sands.

the Anlo-Ewe land remains resolved that *toko atolia* should be reinstated. A major defensive response of the Anlo-Ewes who maintain that *toko atolia* was not barbaric is their reference to European practices of execution (both extinct and extant) which they consider more inhumane than theirs which is constantly reprehended.

Recommendations

From my observations, I have noted the problem of inadequate information about the internal logic of *toko atolia* which requires serious attention. The fact that I grew up in the Anlo-Ewe community but knew very little about the internal logic of *toko atolia* suggests that a lot of dissemination of information about the internal logic of *toko atolia* needs to be done before decisions and judgments are made. The means and format of dissemination should be easily accessible and attractive to both the Anlo-Ewe people and the outside community. To set the ball rolling, I plan to develop a documentary from the data from my ethnographic research in the Anlo-Ewe community.

Based on my observations, media content creators such as movie makers should explore the rich cultural practices of the Anlo-Ewes in their movies. In Ghana, the Anlo-Ewes are one of the easily recognizable groups with no vibrant movie productions. I recommend movies as one effective medium of performance through which information about *toko atolia* can be effectively disseminated. With the right support, I hope to shoot my exploration of *toko atolia* in this thesis into an epic movie.

Finally, organizations like the C-Torch Foundation (which encourages pupils to develop interest in exploring indigenous knowledge) should be supported by all stake

holders who wish to strengthen and promote the dissemination of unadulterated indigenous knowledge, such as the internal logic of *toko atolia*, toward the advancement of intercultural understanding.

When adequate information about the internal logic is available and accessible to both insiders and outsider, the judgement of barbarism on *toko atolia* will be largely reversed. Likewise, denigratory and humorous projections/representations of the identity of the Anlo-Ewes in Ghanaian media/culture will cease to be funny.

REFERENCES

Abdallah, Mohammed Ben. *The Slaves*. Sedco Publication Limited, 1989.

Abotchie, Chris. *Social control in traditional southern Eweland of Ghana: Relevance for modern crime prevention*. Accra: Ghana Universities Press, 1997.

Anyidoho, Kofi. *Death and burial of the dead: A study of Ewe funeral folklore*. Indiana University, 1983.

Anyidoho, Kofi. *Earthchild, With, Brain Surgery: Poems*. Woeli Publishing Services, 1985.

Austin, J. L. *How to do things with words* (Vol. 88). Oxford University Press, 1975.

Bailey, Anne Caroline, "The impact of the Atlantic slave trade on the Anlo Ewe of Southeastern Ghana" (1998). *Dissertations available from ProQuest*. AAI9829856. https://repository.upenn.edu/dissertations/AAI9829856

Bailey, Anne Caroline. *African voices of the Atlantic slave trade: Beyond the silence and the shame*. Beacon Press, 2005.

Bessler, John D. *Death in the Dark: Midnight Executions in America.* Northeastern: Northeastern University Press, 1997.

Binetsch G., Hartrter. Journal of ethnology published. Germany: Bremen Archive, 1906

Cabana, Donald A. *Death at midnight: The confession of an executioner*. UPNE, 1998.

Chinua, Achebe. *Things fall apart*. London: Heinemann, 1958.

Conquergood, Dwight. "Lethal theatre: Performance, punishment, and the death penalty." *Theatre Journal* 54, no. 3 (2002): 339-367.

Debrunner, Hans Werner. *A Church between Colonial Powers: a study of the Church in Togo*. Lutterworth Press, 1965.

Dietrich, Christi M. *Spirit Messengers, Divine Encounters: Practitioner Inhabitants of the Anlo-Ewe Spirit World*. University of California, Santa Barbara, 2012.

Drehle, David V. *Among the lowest of the dead, the culture of capital punishment.* New York: Crown, 2006.

Fiawoo, F. Kwasi. *The fifth landing stage: A play in five acts*. Sedco, 1983. (1943)

Fiawoo, Ferdinand K. *Tuinese: Fia yi dziehe. Two plays in Ewe and English. Ferdinand K. Fiawoo. German introd.: H. Jungraithmayr*. Selbstverl. des Verf., 1973.

Flood, Gavin. *The importance of religion: Meaning and action in our strange world*. John Wiley & Sons, 2011.

Foucault, M. Discipline and punish: The birth of the prison. Vintage, 2012.

Gbolonyo, Justice Stephen. "Indigenous knowledge and cultural values in Ewe musical practice: Their traditional roles and place in modern society." Ph.D. diss., University of Pittsburgh, 2009.

Geurts, Kathryn. *Culture and the senses: Bodily ways of knowing in an African community*. University of California Press, 2002.

Geurts, Kathryn Linn, "Sensory perception and embodiment in Anlo-Ewe cultural logic and symbolic life" (1998). *Dissertations available from ProQuest*. AAI9913457. https://repository.upenn.edu/dissertations/AAI9913457

Gibbs, James. *Nkyin-kyin: Essays on the Ghanaian theatre*. BRILL, 2009.

Glanz, Rudolf. "The" Jewish Execution" in Medieval Germany." *Jewish Social Studies* (1943): 3-26.

Goffman, Erving. *The presentation of self in everyday life*. London: Harmondsworth, 1978.

Greene, Sandra E. "Sacred terrain: religion, politics and place in the history of Anloga (Ghana)." *The International Journal of African Historical Studies* 30, no. 1 (1997): 1-22.

Greene, Sandra E. "The Anlo-Ewe: Their Economy, Society and External Relations in the Eighteenth Century." Ph.D. diss., Northwestern University, 1981.

Greene, Sandra E. *Sacred sites and the colonial encounter: A history of meaning and memory in Ghana*. Indiana University Press, 2002.

Greene, Sandra E. *West African Narratives of Slavery: texts from late nineteenth-and early twentieth-century Ghana*. Indiana University Press, 2011.

Innes, Martin. *Understanding social control*. McGraw-Hill Education (UK), 2003.

Kartey, Saviour. *Toko Atolia Painting*. 2016. Oil on plywood painting. JEFF ARTZ. Anloga. < https://www.facebook.com/photo.php?fbid=1284637641586763&set=a.148713131845892&type=3&theater > accessed 11 March, 2019.

Kripal, Jeffrey. *Comparing Religions* (Wiley-Blackwell, 2014), Ch. 4 "The Creative Functions of Myth and Ritual: Performing the World," 110-141

Kumassah, Agbotadua. *The migration saga of the Anlo-Ewes of Ghana*. Photo-City Press, 2016. (2005)

Laleye, Solomon A. "Punishment and Forgiveness in the Administration of Justice in Traditional African Thought: The Yoruba Example." *International Journal of Philosophy and Theology*, 2014.

Landis, Kelvin and Suzanne Macaulay et al. *Cultural Performance: Ethnographic Approach to Performance Studies*. Palgrave: Macmillan Education, 2017.

Mamattah, Charles M. K. *The Eves of West Africa*. Volta Research Publications, 1978.

Mangena, Fainos and Jonathan Chimakonam. *The Death Penalty from an African Perspective: Views from Zimbabwean and Nigerian Philosophers.* Vernon Press, 2018.

Nhlapo, Thandabantu. "Homicide in traditional African societies: Customary law and the question of accountability." *African Human Rights Law Journal* 17, no. 1 (2017): 1-34.

Novak, Andrew. "Capital punishment in precolonial Africa: the authenticity challenge." *The Journal of Legal Pluralism and Unofficial Law* 50, no. 1 (2018): 71-93.

Prejean, Helen, and Tim Robbins. *Dead man walking: An eyewitness account of the death penalty in the United States*. Vintage, 1994.

Sarat, Austin, and Christian Boulanger. 2005. *The Cultural Lives of Capital Punishment: Comparative Perspectives.* Redwood City: Stanford University Press, 1996.

Schechner, Richard. *Performance studies: An introduction*. Routledge, 2013.

Scott, George R. *The History of Corporal Punishment.* London: Tallis Press Ltd, 1968.

Shakespeare, William, Stanley Wells, and Gary Taylor. *The Oxford Shakespeare: the complete works*. Oxford: Oxford University Press, 2005.)

Smallwood, Stephanie E. *Saltwater Slavery*. Harvard University Press, 2007.

Study on the Question of the Death Penalty in Africa. The Working Group on the Death Penalty in Africa, African Commission on Human and Peoples' Rights (2011). < https://www.achpr.org/public/Document/file/English/activty_report_workingroup_death penalty_eng.pdf >

Turner, Victor Witter, and Richard Schechner. "The anthropology of performance." *New York: PAJ*, 1988.

Turner, Victor. "Betwixt and between: The liminal period in rites of passage." *Betwixt and between: Patterns of masculine and feminine initiation.* La Salle, Ill.: Open Court (1987): 3-19.

United Nations Human Rights Commission. "Human Rights and Traditional Justice System in Africa." *Geneva, United Nations* (2016). < https://www.ohchr.org/Documents/Publications/HR_PUB_16_2_HR_and_Traditional_Justice_Systems_in_Africa.pdf >

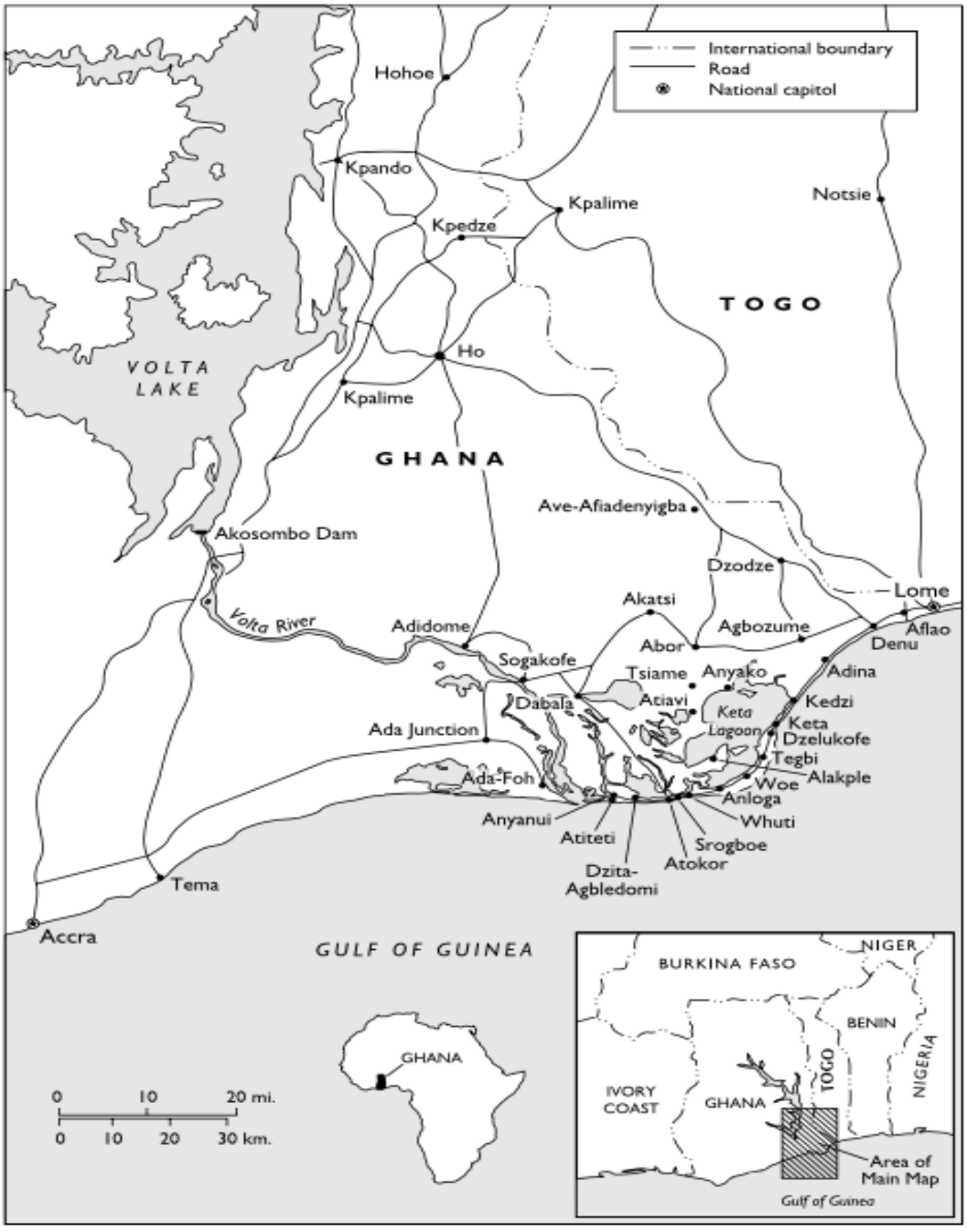
Walcott, Derek. *Omeros*. Farrar, Straus and Giroux, 2014.

Walker, Barbara. *Out of the Ordinary*. Utah State University Press, 1995.

Westermann, Diedrich. *A study of the Ewe language*. London: Oxford University Press; H. Milford, Oxford University Press [1930, reprinted 1965], 1965.

APPENDIX

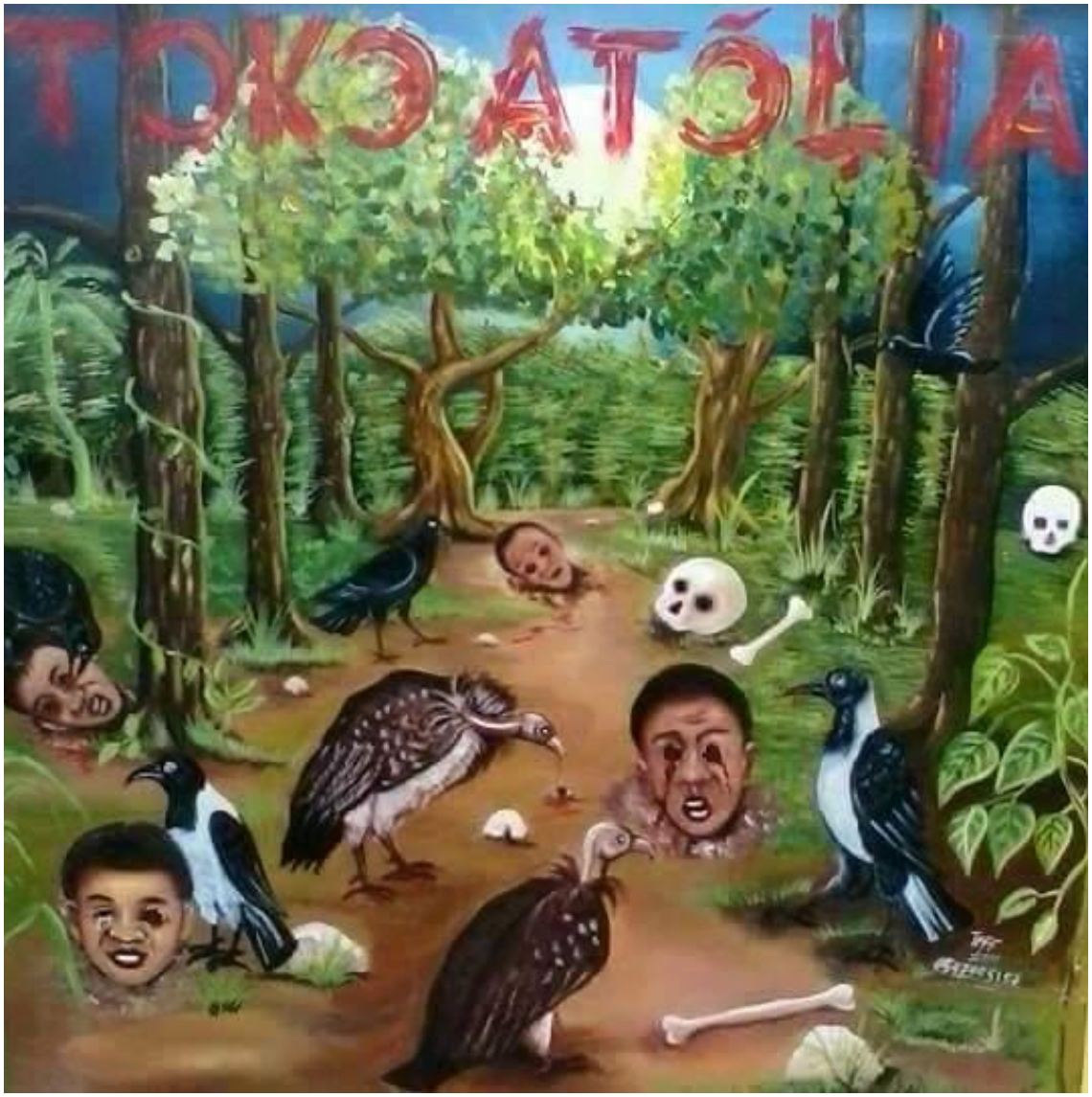
PICTURES



Southeastern Ghana

Truncated African map showing Anlo territory. (Source: Reprinted from Guerts, 2003)

Picture of Rev. Dr. F. K. Fiawoo. (Source: Reprinted from Fiawoo, 1973)



An Artistic representation (painting) of the Anlo-Ewe execution practice of burial alive – *toko atolia*. (Source: public domain image / Kartey, 2016)

Picture of the male nyiko drum. (Source: Author)

Picture of the housing for the male nyiko drum, in a sacred space - Agowowornu. (Source: Author)

Picture of the female nyiko drum. (Source: Author)

Picture of the housing for the female nyiko drum in the center of Anloga, the Anlo-Ewe traditional capital. (Source: Author)

Picture of the grove that served as the site of *toko atolia*. (Source: Reprinted from Greene, 2002)

Picture of the Police Station currently at the location of the grove. (Source: Reprinted from Greene, 2002)

Picture of the Police Station currently at the location of the grove. (Source: Author)

A drone photograph of the central part of Anloga capturing the site of *toko atolia*. (Source: Author)