



EXPLICATING THE RELATIONSHIP BETWEEN LAW AND MORALITY: PERSPECTIVES FROM CONTEMPORARY AFRICAN JURISPRUDENCE

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ABSTRACT

The relationship between law and morality is not only topical but has remained an ever-living debate with so many questions hitherto still emerging. Nevertheless, the question as to whether law can frame moral standards and legal order is related and constitute one of the oldest and most captivating problems in public philosophy and jurisprudence. The overall aim of this paper is to analyse the relationship between law and morality with perspectives from contemporary African jurisprudence. The doctrinal research method is employed in conducting this research because it concerns with the examination, analysis and discussion of legal doctrines, legal rules, principles and propositions derived from both primary and secondary sources. Therefore, the findings of the paper showed that law and morality are related and that the nature of their relationship is thick and thin, close and far; in that there are times or intervals of their convergence and divergence, there are also intervals of their coming together and departure. It is concluded that law and morality are related and that the nature of their relationship is thin and thick, close and far. The paper recommended among others, that stakeholders should utilise moral principles in the construction of constitution or statutes as to strike a balance in order to make the law legitimate and widely acceptable to the society it operates.

KEYWORDS: *Morality, African Jurisprudence, Moral Relativism*

1. INTRODUCTION

The relationship between law and morality is not only topical but it has remained an ever-living debate with so many questions hitherto still emerging. The said debate would have been reduced if such moral posers or questions had ended. Such emerging moral questions which are now problematic can only stop or discontinue upon the demise or cessation of the society, human race and the continuous quest or desire for knowledge. The emerging moral issues are responsible for the unending debate; hence much would have not remained without this problem. Law and morality are among sophisticated social phenomenon which dictate or serve as norms of human behavior. They are closely related and at the same time separate and distinct. It is therefore important to reminisce this relationship and the emerging issues it is raising as to understand the social nature of law in a bid to resolving social issues for the good of society. The study of the relationship between law and morality and the attendant issues has been in progress from antiquity. Aristotle



and Plato made a lot of contributions. Jeremy Bentham and H.L.A Hart also lent their opinions.¹ Even judges and jurists and other scholars alike, have contributed enormously to the discourse, yet, it seems the debate remains endless.

It is therefore important to note that sometimes law follow and flows with the view of moral whereas, at other times, there is no nexus or link between morality and law. There, however, seems to be no straightforward answers to the emerging questions on the relationship between Law and Morality. Wigwe posits that much juristic ink has been spilled in trying to define law² and this paper agrees with his position by adding that much intellectual resources and enterprise has been spent trying to define law, yet the conclusion is that there is no single or definite answer to the question “ what is law” it because of the competing theories on the issues. One of the greatest problems is that scholars give their views dependent on their dispositions or factors that may have induced them to so view. Over the years, debates on the relationship between law and morality has assumed significant stage in the evolution of jurisprudence both at national, regional and international scenes. However, there is a problem inherent in morality.

This is the problem of relativity of morality. What a particular society might consider as immoral might be considered as normal by others. For example, Islamic Law frowns at the charging of interests for loans. On the other hand, the charging of interest is considered perfectly normal by the Western world. It is due to this problem of the relativity of morality that law comes in to play an important role. The purpose of the law here is to give the moral view of the predominant members of the society the backing of the law. Once a moral rule is backed up by the law, all members of the society have to conform or they would face the sanctions provided by the law. In most cases, the idea of morality supported by the law is that of the predominant group in the society.

In view of the several postulations and debates, it is evident that both law and morality are efficient regulators of human behaviours though relative in scope. Law regulates human conducts basically by imposing sanctions on whoever disobeys the established principles while a violator of moral principles suffers public disapprobation. Moreover, morality is relative in nature. What a particular society considers as immoral may be justified in other settings and vice versa. It is due to this relativity that law comes in to play a pivotal role as regulatory mechanism of human conducts. Laws are established to curtail moral conflicts that moral divergence might insinuate. Mostly, legal rules are products of moral principles. The perspective of contemporary African jurisprudence and legal theory will be considered by reflecting on six conceptual approaches. The paper will argue that the perspective of conceptual complementariness between law and morality shows or manifest

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¹ C C Wigwe *Jurisprudence and Legal Theory* (Readwide Publishers 2011) 76.

² Wigwe (n1) 76



in a more convincing manner. The paper will also conclude that the perspective of conceptual complementariness constitutes a formidable challenge against legal positivists' view that law and morality are necessarily separated.

2. HISTORICAL BACKGROUND OF THE RELATIONSHIP BETWEEN LAW AND MORALITY

Legal doctrine has had great difficulties from the very beginning in delimiting the concept of law from that of morality. According to a conception of doctrine, the sphere of law and morals would interpenetrate or the law would be a minimum of morality.³

The subject of the relationship between morality and law has been the interest of legal thinking since antiquity. If in ancient Greece there wasn't yet a clear demarcation between the two concepts of social norms, the Roman legal theory, being very anxious with the development of the legal system, took significant steps to conceive the independence of the law in relation to morality. In the beginning, as the rule of law, there was only the traditional *suum cuique tribure* (to give to everyone what they deserve), *neminem laedere* (to not bring any harm to anyone) being later declared. The legal doctrine has had great problems from the very beginning in delimiting the concept of law from that of morality. As reported by a conception of doctrine, the domain of law and morals would interpenetrate or the law would be a minimum of morality. Aristotle believed that there must be a relationship of subservience between law and morality.⁴ So, he said that as soon as the highest goal of promoting virtue vanishes, "the law becomes a simple convention, being only a guarantee of individual rights, without any interruption to the morality and personal justice of the cities."

In Cicero's view, morality is a foundation for law.⁵ Cicero is recognised to be the first and one of the few lawyers who acknowledged that justice, being a social ethic, presumes people's love for others. An idea that was later taken over by Christianity as well. Undoubtedly, the origin of law is in nature because good and evil, being principles of nature, are judged in consonance with it. In this parlance, the evangelist is the passage in the work of De Re Publica: "Yes, there is a righteous, true, coherent and cogent law in line with nature, inscribed in all hearts, immutable, eternal, whose voice dictates our debts, whose threats hinder us from doing evil, without ever having her principles pretended to be good or to move the wicked."⁶ According to Jida,⁷ philosopher Thomasius was the first who, from the theoretical conception, made an otherness between law and morality. In his

³ Aristotle, 'Conception of Legal Doctrine on the Relationship Between Law and Morality' <<https://rais.education>> accessed 25 March 2026.

⁴ *Ibid.*

⁵ M T Cicero, *De Re Publica: Selection* (International Journal of the Classical Tradition, Spring Publisher, 1995).

⁶ T Aquinas, 'Political Philosophy: The Morality of Good and Evil' <<https://iep.utm.edu/thomas-aquinas-political-philosophy/#:~:text=According%20to%20Aquinas%2C%20the%20very,contradiction%20serves%20the%20speculative%20reason>> accessed 26 March 2026.

⁷ M Jida, 'About the Apparent Contradiction Between Law and Morality' <<http://www.culturavietii.ro/2013/09/15/>> accessed 26 March 2026.



essay,⁸ the scholar acknowledges that law is distinguished from moral content, because moral duties are imperfect since they do not provide for sacrifices, whereas legal ones are perfect with sanctions.

Given the standpoint of Immanuel Kant, which was distinct from ancient philosophy, moral action conquers. This, innate in itself, permits it to subordinate the moral right, within the dissimilarity between the two, the law to only external relations. Thus, morality is a limit for the law, and it cannot act on the moral province of life. However, there is a distinction between these two ideas, law and morals still have a shared connection: the fact that both originate a common reason. Similarly in the philosopher Kant's view in the book *The Metaphysics of Morals*, morality is built on the consciousness of individuals, not on the horror of sanction, in the work of *Metaphysics of morals*, but it is accepted as true that the moral corresponds to rights which consist in the moral possibility of force in the realisation of moral obligations with the help of the public view.⁹ Hegel recognised morality to be an inspiration of law, and that it does not detach from it, nevertheless gives it substance by securing means within the scope of law. Morality is a midway stage to the idea of law, and both law and morality must be lower to ethics¹⁰. There are as well, authors who have gone to the other extreme for the reason that they ignore any connection between morality and law. Kelsen, for instance, trusts that the science of law is pure theory of law and that, in his research he must desist from moral or political control over the law.¹¹

Many experts agree that between law and morals there is a close linking, for the reason that the moral principles of good, justice and truth are used and promoted by the rule of law, notwithstanding the right and the moral hold its uniqueness. Nevertheless, over time, their views on the problem of knowing what is the relationship between law and morals were opposing. Amongst law and morals, this paper considers that there is only an apparent contradiction, because the two concepts are corresponding. The right would seem a trap for lawyers in that could make them to resist the temptation to not see beyond the letter of the law, given that the need for law enforcement and understanding of its spirit. An ideal man of law must not only know the law, but then as well, look beyond it and realize that the main attraction of the law is moral law.

3. RELATION BETWEEN LAW AND MORALITY

One may have definitely heard these two terms Law and Morality in your daily life. Although, law and morality have two different meanings, but in jurisprudence, it shows glaring relationship between law and morality. In this segment of the study which treated on the relationship between law and morality, we will appreciate this relationship with the help of definitions and some case laws. The philosophies of law originated in morality, this being the foundation of the law. The core of the difference between legal and moral norms, according to Vecchio, is that “the law constitutes

⁸ M Juda, *Fundamenta Juris Naturalae et Gentium* (1705),

⁹ I Kant, *Metaphysics of Morals* (Bucharest: Antet Revolution Publishing House 2013) 67.

¹⁰ G W F Hegel, *Principles of the Philosophy of Law* (Bucharest: Univers Enciclopedic Publishing House 2015) 56.

¹¹ H Kelsen, *Critical Legal Science: The Concept of Basic Norms* (Oxford University Press 1962) 43.



objective ethics and the moral subjective ethics”.¹² In order to correctly regulate the relationship between law and morality, we must take into consideration the circumstance that only morality, as an obligation, is related to the law, it can be rearranged into legal norms, but we cannot regard morality as ambition to be related to law, placed on virtue. Even though the law is autonomous, it must not be taken to the extreme, because there is a risk that, if it discharges from rational and moral control, vicious legislation like Nazi Germany will be built. A right which is not in the facility of morality and which does not aim to spread human virtues is no longer a right. Since the right is rational, its abuses will only be viewed as accidents, because the recipients who leave themselves to reason will respect it by conforming. Only a rational right can be expected to be regarded principally in such a way. Consequently, legal sanction, as a fundamental element of any legal norm, is only outstandingly evident in law.

The main purpose of the law is the recognition of justice. It is a means by which justice is completed, since the totality of the law signifies a host of rules and principles that clearly derive from morality. Accordingly, the end of the law is also morality. Jurisprudence must apply, when necessary, to moral principles and equity, as the law cannot control all possible circumstances. On this issue, Aristotle has an interesting parable, a contrast that he made amongst the moral rule and a lead ruler that was used by the populaces of the island of Lesbos.¹³ This monarch was made of a more supple material; it could be more easily shaped if the measured material had smashes. Therefore, the rule of law may be compared to a lead ruler, which may experience changes in some situations. Utmost essential principles of law derive from morality, so a true lawyer must constantly look beyond the letter of the law and detect his spirit. Of any kind, the views of the differences between law and morality, are however corresponding. The lawyer who controlled the Romanian legal scene in the interwar period, Micescu, states that “law is a kind of morality, but a morality imposed, with the assurance of securing the respect it be obligated.”¹⁴ By way of explanation, the law is the morality of those who do not have morals ‘and that contrasting other sciences who’ are satisfied to find what it is and to express what it discovers, the law has an additional claim: after having found, after has noticed, after detaching the relations as they are, to judge them under the angle of view of moral values and, as a substitute of looking with notification to what it is, to enforce with authority what must be.

4. THE RELATIONSHIP BETWEEN LAW AND MORALITY IN NIGERIA

Mostly, everyone in the society has its own form of behaviour, attitudes and norms. It is nevertheless, an exception to Nigeria. For a number of years, since the period of colonisation of different parts of the country, moral values have moulded laws which directed our behaviour. The

¹² G Del Vecchio, *Lessons of Legal Philosophy* (Bucharest: Europa Nova Publishing House 1993) 89.

¹³ Aristotle, *Encyclopedia of Scientology* (Oxford University Press 1996).

¹⁴ I Micescu, *Civil Law Course* (Bucharest: All Beck Publishing House 2000).



purpose why there remains a broad territory common to law and morality is not far to pursue.¹⁵ All through the colonial period, most laws that were recognised and adopted in various parts of Nigeria were the common law. The common law is laws which has its origin from the United Kingdom which were general to the different British societies. It implies the law established by the old Common Law Court of England, specifically the King's Bench, the Court of Common Plea and the Court of Exchequer. What was quite common to the British societies was therefore introduced into Nigeria, and since Nigeria's norms and beliefs were different from the British, there was a disagreement between Nigerian local custom and British common law. For example, the law of Bigamy which is entirely alien to Nigerian Culture notwithstanding, it is a law. The law of Bigamy consequently has never been accepted by the average Nigerian ethnic culture.

As a result of this, the British knows that they could not just introduce British law into Nigeria without taking into recognition the local custom and beliefs of the people. It was in 1973 that this view was put into practice. Section 26(1) of the High Court laws of Lagos State¹⁶ states that the High Court shall hold and impose the performance or practice of every customary law which is applicable and is not repugnant to natural justice, equity and good conscience nor incompatible either directly or by suggestion with any law in force for the time being. This is a typical instance of combination of customary law. Although, such custom must not oppose or conflict with British laws or existing enacted laws. This introduction of morals and customs into our legal system is that moral disapproval alone does not constitute a crime, but exercises considerable influence within certain bounds. The political authority dictates what conduct ought to be forbidden in the interest of the state and the citizens. It is nevertheless imperative to note that the moral character mentioned to in this case is Islamic law applicable in the Northern part of Nigeria.

Lately, the Nigerian Courts have voiced their views about law and morality. Their opinions have cancelled the positivist place of standing. They assert that law should be understood and imposed as "it is" and not as "it ought to be." In the case of *Nigerian Bank for Commerce and Industry v Standard (Nig.) Engineering Co. Ltd.*,¹⁷ the Court held that the order he made turned out to be a moral issue in the light of his findings that the contract was frustrated by the supplier who were the agent of the respondents. Courts of law do not follow moral issues outside the district of the law.

This opinion was similarly stated in the case of *Madia v Madu*¹⁸ where the Court likewise itemised inter alia that: "Ours is to interpret and apply the law as it is and not as it ought to be until such a time when a situation emerges where the latter application will be the order of the day." From these conversant opinions, it is established that Nigerian Judges interpret the law as it is and do not take any moral thought into account. If any law occur that lack some moral efficacy the Judge

¹⁵ C C Wigwe, 'The Sharia and the 1999 Federal Republic Constitution' [2009] (5) *Journals of Jurisprudence and Contemporary Issues*.

¹⁶ Lagos State of Nigeria (1973) Cap. 52.

¹⁷ (2002) 8 NWLR (Pt. 768) 132.

¹⁸ (2008) 6 NWLR (Pt.1083) 296



should wait pending the amendment of such a law by the legislators. There are several crimes in Nigeria that originate fundamentally from recognised morality of the society. That is the reason Professor Hart held that “we would all agree that a harmony of moral opinion on certain matter is indispensable if society is to be worth living for.” That is why murder and theft are legislated against under the Nigerian Criminal Code and are likewise seen socially inexcusable and morally wrong too. Hart more so contended that laws against murder and theft would otherwise be of minute use if they were not supported by a widely diffused belief that what they forbid is correspondingly moral. There are additional sections in the Criminal Code which spells out offenses which have some kind of moral undertone. They contain offences like attempted suicide,¹⁹ obtaining by false pretence²⁰ and sexual offence against girls under the age of 13 years and psychologically defective.²¹ In a similar vein, in *Agana v Olushi*,²² is in respect to morality and commercial law which the law prevailed²³. Other case related to law and morality in different areas and very relevant to this study are capital punishment and morality. It was also indicated in Okonkwo’s report.²⁴ *Usani v Duke*²⁵ is related. For doctrine of frustration of contract by force majeure in relation to morality and what the law says is in *NBCI v Standard (Nig.) Eng. Co. Ltd.*²⁶ and *Obanyuwana v Governor of Bendel State*.²⁷ The views of morality in trial of an accused person within a reasonable time under Nigerian law as decided by the Supreme Court in 2015 in *Danladi v Dangiri*²⁸ and *Madia v Madu*.²⁹ Next is moral view of COVID 19 and its impact on Tenancy and Leases as reported by Olugbode. Divorcing marriage from marital Assets: why Equity which aids morality and Women fail in property.³⁰ Wigwe also discussed some instances and cited case on Morality and Plea Bargain,³¹ with strict adherence to law or quality of something or an act being legal.

Not every moral issue is legislated upon in the Nigerian legal system, generally because Nigeria is a country with more than 250 ethnic groups all having their distinct understandings on what is morally right. Yet, the best answer to this problem is to find moral values that are mostly mutual to this divergent tribal group and legislate on them. This procedure was practiced in the United Kingdom. The law which oversaw the United Kingdom was christened the common law. The laws were advanced by the judges and it was viewed to be common to all British societies and communities at that time. Under the Nigerian Criminal Law system, there are some crimes which

¹⁹ Nigerian Criminal Code Act Cap 38 Laws of the Federation of Nigeria, 2004, s 327; Penal Code Act Cap 89 Laws of the Federation of Nigeria, 2004, s 231

²⁰ *Ibid*, ss 418-419.

²¹ Criminal Code Act (n 19), s 357; Penal Code Act (n 19), ss 218-283.

²² (1907) 1 NLR 66

²³ *Ibid*.

²⁴ (2002) 8 NWLR (Pt. 768) 192

²⁵ (2006) All FWLR (Pt. 340) 1093

²⁶ (2002) 8 NWLR (Pt. 768) 104.

²⁷ (1982) LPELR-2160 (SC).

²⁸ (2015) 2 NWLR (Pt. 1442) 124.

²⁹ (2002) 8 NWLR (Pt. 768) 104 CA

³⁰ *Abacha v State* (2002) 5 NWLR (Pt. 761) 638; *Gaji v Paye* (2003) 8 NWLR (Pt. 823) 583.

³¹ *Nigerian Bank for Commerce and Industry v Standard (Nig.) Eng. Co. Ltd* (2002) 8 NWLR (Pt. 768) 104.



are said to be morally offensive that have been arranged properly in a legal form. Emblematic examples are rape,³² incest,³³ (which is punishable for 7 years imprisonment), homosexuality,³⁴ (punishable with 3 years' imprisonment under Criminal Code and 7 years imprisonment under Penal Code). Also, the Penal Code Act punishes a person who practices sodomy as a means of income.³⁵ The Nigerian Criminal Code Act similarly punishes people who solicit for the purpose of prostitution and also those who make earnings from setting up brothels. Moreover, acts like fornication and adultery are punishable under the penal code of Northern Nigeria. Entirely these criminal acts have some moral underpinnings virtually every society in the world. This is as well very peculiar to Nigeria. Whereas the number of years a criminal bag may be at variance and some moral acts may be codified in some parts and properly organised or written down in another (adultery and fornication) nevertheless, what is most significant is that the society perceives such acts as morally reprehensible and should be safeguarded against.

Of late, there has been claims by Dr Aguda, and Professor Isabella Okagbue that morally wrong act like homosexuality (among consenting adults males which is in private), and fornication, prostitution and adultery are private issues and that the law should not inhibit more than it should in people's private life. That everybody in Nigeria has liberty or freedom to privacy which is guaranteed under the constitution and that any law which opposes such law should be null and void. Accordingly, private matters should be left to religious and educational institutions to impact. They as well formed an opinion that the Nigerian Courts are even now overburdened with serious court cases that this would cause more interference with our justice system. In an opposite view, Ladan disagrees with this myopic view (with due respect) stated by the two learned authors. He maintained that their views with law, if it should take its hands off, morally wrong acts cannot stand the test of time. From his opinion, since a government's main concern is to promulgate laws that protect everything important to the social existence of society (and moral values being part of that team and being crucial to its existence) then the law must take into account morals. Additionally, the chief intention of the criminal law is to prevent harmful act to the society and since such acts are understood to be injurious, nevertheless done in private then it should not be immune from interference of the law.

This paper hereby unpretentiously agrees with Ladan's view and disagree with professor Isabella Okagbue, Dr Aguda and Professor Hart's opinions or claims. In the meantime, our forefathers decided to penalise such acts like prostitution and adultery, it is not in my position to go against or contradict on such. Meanwhile Most laws originate from morally reprehensible acts in society (like the common law of England), and the purpose of the law is to defend society from whatsoever that is socially pervasive, then it would be fair to assert that the law should intrude into these immoral

³² Penal Code, ss 282-283; Criminal Code, s 357.

³³ *Ibid*, s 390

³⁴ Criminal Code, s 217; Penal Code, s 285.

³⁵ Penal Code, s 405 (2) (e).



acts by way of regulating them. In the circumstances whereby, there is same sex marriage would destroy the African marriage background and since the family is the unit of our society, then it will be a catastrophe to the entire country or nation.

It is therefore submitted that though law and morality are dissimilar, we cannot claim that they do not interrelate or co-operate at other times. Suffice to hold that every law has some moral undertone.

5.CRITICAL ANALYSIS OF THE RELATIONSHIP BETWEEN LAW AND MORALITY FROM THE PERSPECTIVES OF AFRICAN JURISPRUDENCE

From the relevant literature investigated in this study, it appears that law can actually frame moral standards to a greater degree as law and morality and law are related. It is herein posited that the law protect morality while morality shapes the law as they are found into the body of law³⁶. Although the exactness of degree of the relationship between law and morality in shaping the legal order is still indeterminate. This is because like other climes, Africans also face the controversy of balancing the relationship when taking or making legal decisions. However, it is now sufficiently proven from some relevant literature in this study that law and morality are related³⁷, the degree of relationship be it closely or thinly is a matter of further investigation. Hence the inquiry as to whether law can frame moral standards is in the affirmative.

From the African jurisprudence perspective, all relevant literature investigated in course of this study show that law and morality in Africa are related and their nature is such that moral rules or standards that found themselves into the body of law are codified as law.³⁸ Whereas, law protect these moral codes and standards with the backing of sanctions and that Law Courts in Africa also consider morality and law in reaching a binding decision. Sometimes, the exercise of such judicial interpretations in determination of cases before court or tribunal may be discretionary or strictly on law. The only area of controversy is that the concept African Jurisprudence is still sketchy as it lacks conceptualisation because of infrequent or regular investigation or study into the area.³⁹ There actually exist Jurisprudence in Africa, or African Philosophy or African Jurisprudence.

The problem of conceptualisation remained the issue. Although, it is not the sole aim of this study, this study has made a good attempt to conceptualise African jurisprudence to mean the same thing as Jurisprudence in Africa or the Philosophy of Africa. The nature of the relationship between law and morality can also be likened to figure 8 shape which shows the point of departure and coming together of law and morality. Law and morality under the figure 8 theory are sometimes related

³⁶ Exodus Chapter 20, Verses: 13, 15,16 and 17. Deuteronomy Chapter 5, Verses :17, 19, 20, 21B (King James Version.

³⁷ C C Wigwe, 'The Sharia and the 1999 Federal Republic Constitution' [2009] (5) *Journals of Jurisprudence and Contemporary Issues*.

³⁸ J A Bewaji, *The Rule of Law and Governance in Indigenous Yoruba Society* (Rowman and Littlefield 2016)

³⁹ M Edet and S Segun, 'The Natural Law Theory in Traditional African Jurisprudential Thought' [2014] (26) *Journal of Law, Policy and Globalisation*, 50.



because they have intervals of convergence and divergence, points of agreement and disagreement too.

There is a confirmation that law and morality do relate.⁴⁰ The data collected and reviewed from the literature relevant to this study suggest that there are moral standards that are now legal rules and there are laws that are more considered as moral principles because they lack the sanction or punitive characteristics of law when eventually breached or violated. This can also be deduced from the provision of Chapter 11 of the Constitution of the Federal Republic of Nigeria⁴¹ on Fundamental Objectives and Directive Principles of State Policy.⁴² The Constitution set some principles to be followed by or to guide public office holders exercising governmental powers and discretions. Just as Justice Oliver Wendel Holmes propounded that what the Court says is the law.⁴³ The legality test can by and large also make moral standards tested by the Law Court as the Law.

The African Legal Philosophers view on the relationship between law and morality is similar that to that of Western Jurisprudence/Legal Philosophers because all are based on investigation on the nature of the relationship.⁴⁴ The study admits that remnants of the colonial legal knowledge which create contestations that inform scholars' demands for a homecoming to traditional legal systems. It settles that a reconstructive jurisprudence in Africa must take an account of the continent's historical and evolutionary legal practices, but that an integrated or uniform theory may not be adequate to address the choice of functional jurisprudence.⁴⁵

6. CONCLUSION

Law and morality from the African jurisprudence perspective are connected and their nature is such that moral rules or standards that found themselves into the body of law are arranged as law. While, law protect these moral codes and standards with the backing of sanctions, morality also shapes and enhance the law. The Law Courts in Africa also reflect on morality and law in arriving at a binding decision. Given the nature of African socio-political construction, the image we can draw on the nature of the relationship between law and morality is that law and morality do relate in their distinct ways. It is hereby also concluded that African legal philosophers conceived that the relationship between law and morality as one that is both thick and thin, close and far, because of their intervals of parting and coming together. Consequently, their points of agreement,

⁴⁰ 2nd Timothy chapter 3:16, *The Holy Bible* (King James Version)

⁴¹ Constitution of the Federal Republic of Nigeria 1999 (as amended), chap 11.

⁴² Ibid.

⁴³ O W Holmes, *Jurisprudence and Facts; Legal Theory on the conflict between a mere Legislation and the Legislation tested by the Court of Law* (1919)

⁴⁴ L Komolafe, 'African Jurisprudence as Historical Co-extension of Diffused Legal Theories' [2022] (8)(1) *Thought and Practice: A Journal of the Philosophical Association of Kenya*, 51-68.

⁴⁵ HLA Hart, *The Concept of Law* (Oxford: Clarendon Press 1994); J Raz, *The Concept of a Legal System: An Introduction to the Theory of the Legal System* (2nd edn, Oxford University Press 1980).



disagreement, convergence and divergence is what is considered by African Legal Philosophers as the thick and thin relationship between law and morality.

7. RECOMMENDATIONS

It is based on the analysis above that the following recommendations are made:

1. Since law and morality are related, stakeholders are urged to utilise moral principles in the construction of constitution or statutes as to strike a balance for and thereby make the law legitimate and acceptable by the people.
2. Stakeholders, especially lawyers, jurists and legal philosophers alike, are further admonished to utilise their arguments for further recognition or embodiment of moral principles.
3. Stakeholders should, in the event of a conflict of authorities, carefully examine the thick and thin relationship between law and morality so that an application to a specific fact situation will produce different results, all geared towards solving societal problems.
4. Regular and intensive study, inquiry or investigation into the area Law and morality in the African perspective using the African Jurisprudence or jurisprudence in African as a tool will popularise the concept for a better African construct.
5. In a similar vein, stakeholders are implored to dig deep into the Western Construct of jurisprudence in comparison to the African construct geared towards a uniform conceptualisation of the African Jurisprudence or Jurisprudence in Africa, howsoever named.
6. Finally, stakeholders are recommended or admonished to investigate or inquire into the origin, nature and functions of the African jurisprudence for proper African construct of the area. This will create more opportunities for studies and clarity of the concept.

It is expected that if these recommendations are considered and implemented by all the stakeholders in the legal practice and jurisprudence, resolving problems arising therefrom and the expansion of the study area, especially in Africa will be worthwhile.