

**African Jurisprudence Re-Examined: Emphasising Social Equilibrium, Harmony and
Distributive Justice**

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African Jurisprudence Re-Examined?: Emphasising Social Equilibrium, Harmony and Distributive Justice
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Abstract

This paper critically examines African jurisprudence. The paper observes that Africa has its own rich and unique jurisprudence that significantly differs from that of Western societies. The paper discusses the key features and principles of African jurisprudence. It notes that African jurisprudence is rooted in the culture and customs of the African people. Despite having its own theoretical and philosophical perspective of law and legal systems, the paper posits that African jurisprudence has largely been marginalized in the current era. The paper discusses some of the key challenges facing African jurisprudence. In addition, the paper suggests how African jurisprudence can be reinvigorated by emphasising social equilibrium, harmony and distributive justice.

1.0 Introduction

Jurisprudence refers to the study of law in a logical and philosophical manner¹. In addition, jurisprudence can also be described as the theoretical and philosophical study of law, exploring its fundamental principles, structures, and implications on human behavior². Jurisprudence has also been defined as the field and discipline that examines the theoretical and philosophical foundations of law, including its nature, authority, purpose, and relationship with justice³. In particular, jurisprudence examines law and legal systems as phenomena that are shaped by rules, institutions, interpretation, political authority, ethical principles, and changing social conditions among other factors⁴.

It has been pointed out that jurisprudence is a wide field that can be divided into three branches: analytical; sociological and theoretical⁵. The analytical branch of jurisprudence defines terms and prescribes methods that can enable one to understand and view the legal order as logical and internally consistent system⁶. The sociological branch of jurisprudence on the other hand

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¹ Introduction to Jurisprudence., Available at <https://www.manupatracademy.com/notes-for-law-students/second-year-introduction-to-jurisprudence> (Accessed on 16/09/2026)

² Hutchinson. J., 'Jurisprudence' Available at <https://www.ebsco.com/research-starters/law/jurisprudence> (Accessed on 16/09/2026)

³ What is Jurisprudence., Available at <https://www.worldsupporter.org/en/summary/what-jurisprudence-why-would-you-study-it-and-where-best-place-study-intern-or-work-abroad> (Accessed on 16/09/2026)

⁴ Ibid

⁵ Jurisprudence., Available at <https://www.britannica.com/science/jurisprudence> (Accessed on 16/09/2026)

⁶ Ibid

examines the impact of law in a given society and the influence of social perspectives on the law⁷. In addition, the theoretical branch of jurisprudence evaluates and critiques law in terms of its ideals and goals⁸.

Jurisprudence is therefore an important field that can promote a better understanding of law and legal systems. For example, jurisprudence provides methods for interpreting the law and legal systems, studying the relationships between law and society, and predicting the effects of legal decisions⁹. In addition, it has been observed that jurisprudence provides approaches that can enable us to understand legal landscapes and dynamics by comparing different ideas about what law is, how it operates, and what it ought to achieve¹⁰. Rather than treating existing laws, rules and legal systems as self-explanatory, jurisprudence encourages close examination of the relationship between law, morality, political authority, social structures, and competing ideas of justice¹¹. Further, jurisprudence equips individuals with the ability to critically analyse legal systems and principles, examine the nature, purpose, justification and effectiveness of laws and interrogate the relationship between law and other disciplines¹². In particular, it has been observed that jurisprudence is a vital concept in legal education, legal scholarship, policy making, judicial decision-making and law reform movements among other areas in law since it provides standards and principles for evaluating the legitimacy, fairness, morality, predictability, consistency, and practical effects of laws¹³. Examining jurisprudence is therefore necessary towards broadening our understanding on different interpretations and perspectives of law and legal systems across societies.

This paper critically examines African jurisprudence. The paper observes that Africa has its own rich and unique jurisprudence that significantly differs from that of Western societies. The paper discusses the key features and principles of African jurisprudence. It notes that African jurisprudence is rooted in the culture and customs of the African people. Despite having its own theoretical and philosophical perspective of law and legal systems, the paper posits that African jurisprudence has largely been marginalized in the current era. The paper discusses some of the key challenges facing African jurisprudence. In addition, the paper suggests how African jurisprudence can be reinvigorated by emphasising social equilibrium, harmony and distributive justice.

⁷ Ibid

⁸ Ibid

⁹ Jurisprudence., Available at <https://www.dictionary.com/browse/jurisprudence> (Accessed on 16/09/2026)

¹⁰ What is Jurisprudence., Op Cit

¹¹ Ibid

¹² What is Jurisprudence?., Available at <https://www.worldsupporter.org/en/summary/what-jurisprudence-100425> (Accessed on 6/09/2026)

¹³ Ibid

African jurisprudence focuses on the philosophical and theoretical study of law, legal systems and justice and their practical application within African social, economic, cultural and political contexts¹⁴. In addition, African jurisprudence has been described as the indigenous legal thought system in Africa¹⁵. The idea of African jurisprudence therefore presupposes the existence of a unique African philosophical and theoretical foundation about the nature and function of law and legal systems in Africa before the introduction of modern legal thought systems in the continent¹⁶. African jurisprudence has been described as a rich and dynamic field that covers legal philosophies, beliefs, systems and practices of the people and communities of Africa¹⁷. In particular, African jurisprudence is rooted in the continent's diverse cultures, epistemologies and histories¹⁸.

Africa has its own philosophical and theoretical perspective about the nature and function of law and legal systems that significantly differs from that of other societies. For example, it has been observed that a people's system and conception of law is deeply connected with and rooted in their history¹⁹. Therefore, jurisprudence does not have a life of its own, separate from its cultural context, but is an integral part of the culture and thought system in its particular cultural context²⁰. It has been correctly observed that jurisprudence is interconnected with culture since the beliefs, customs, values and practices of a given society govern how laws are developed, interpreted and enforced²¹. Consequently, as part of African history, traditions and cultures, African jurisprudence has its own unique characteristics that respond to the values and philosophies of the people of Africa²². For example, it has been observed that African jurisprudence reflects a unique approach to law and justice that prioritizes communal harmony, social cohesion,

¹⁴ Ndima. D.D., 'The anatomy of African jurisprudence: a basis for understanding the African socio-legal and political cosmology' Available at <https://unisapressjournals.co.za/index.php/CILSA/article/download/8695/4689/48922> (Accessed on 17/09/2026)

¹⁵ Ibid

¹⁶ Komolafe. L., 'African Jurisprudence as Historical Co-extension of Diffused Legal Theories' Available at <https://hal.science/hal-03768104v1/file/Leye%20Komolafe.%20African%20Jurisprudence%20as%20Historical%20Co-Extension%20of%20Diffused%20Legal%20Theories.pdf> (Accessed on 17/09/2026)

¹⁷ African Jurisprudence: Philosophical Foundations and Historical Evolution., Available at <https://www.studocu.com/row/document/university-of-nairobi/llb/african-jurisprudence-philosophical-foundations-and-historical-evolution/131257545?sid=b7f566d1-83d5-4936-a3f0-5cf042bce12d1789629508> (Accessed on 17/09/2026)

¹⁸ Ibid

¹⁹ Idowu. W., 'African Philosophy of Law: Transcending the Boundaries between Myth and Reality' Available at <https://www.brunel.ac.uk/creative-writing/research/entertext/documents/entertext042/William-Idowu-African-Jurisprudence-Transcending-the-Boundaries-between-Myth-and-Reality-an-essay.pdf> (Accessed on 17/09/2026)

²⁰ Ndima. D.D., 'The anatomy of African jurisprudence: A basis for understanding the African socio-legal and political cosmology' Op Cit

²¹ Mautner. M., 'Three Approaches to Law and Culture' *Cornell Law Review.*, Volume 96, Issue 4 (2011)

²² Ndima. D.D., 'The anatomy of African jurisprudence: A basis for understanding the African socio-legal and political cosmology' Op Cit

contextual adaptability, and resilience²³. In addition, it has been observed that at the core of African jurisprudence lies a worldview and perspective of law and justice that emphasises communalism, interconnectedness, common humanity and spirituality²⁴.

In order to achieve its objectives, African jurisprudence is guided by the unique perspectives and philosophies of law of the people of Africa. For instance, law is part and parcel of culture in most African communities²⁵. Consequently, law is viewed as an instrument for maintaining social equilibrium, peace and harmony with emphasis placed on distributive justice rather than formal justice as envisaged under Western jurisprudence²⁶. In particular, it has been observed that African jurisprudence is rooted in *Ubuntu*, which is an African philosophy and worldview that focuses on common humanity, interconnectedness, social equilibrium and collective well-being at the expense of individualism²⁷. *Ubuntu* has been described as an African philosophy and worldview that places emphasis on 'being self through others'²⁸. It is a form of humanism which can be expressed in the phrases 'I am because of who we all are'²⁹. It has been observed that the African philosophy of *Ubuntu* emphasizes the interconnectedness of all humanity³⁰. As a result, *Ubuntu* rejects Western worldviews which focus on individualism by emphasising harmony, collaboration and teamwork³¹. Consequently, *Ubuntu* is part of the philosophical and theoretical understanding of law and legal systems in Africa with humanness, peace, justice, harmony and reconciliation being at the centre of decision-making process³². It has been observed that in the African context, law and legal systems are viewed as instruments for upholding *Ubuntu* with emphasis on peace, reconciliation and forgiveness at the expense of punitive justice which can

²³ African Jurisprudence: Philosophical Foundations and Historical Evolution., Op Cit

²⁴ Ibid

²⁵ Ebijuwu. A.O., 'African jurisprudence and conflict management: A critical reflection' *International Journal of Law, Justice and Jurisprudence.*, 2023; 3(1): 10-14

²⁶ Ibid

²⁷ Mugumbate. J., & Nyanguru. A., 'Exploring African Philosophy: The Value of Ubuntu in Social Work.' Available at <https://ro.uow.edu.au/cgi/viewcontent.cgi?article=4272&context=sspapers&httpsredir=1&referer#::~:xt=Ubuntu%20can%20best%20be%20described,ngumuntu%20ngabantu%20in%20Zulu%20language> (Accessed on 17/09/2026)

²⁸ Ibid

²⁹ Ibid

³⁰ Omodan. B., 'Ubuntu Politics of Process: An Alternative Conflict Management Culture in Universities' Available at https://www.researchgate.net/publication/364033950_Ubuntu_Politics_of_Process_An_Alternative_Conflict_Management_Culture_in_Universities (Accessed on 17/09/2026)

³¹ Embodying the African Spirit of Ubuntu at Work., Available at <https://ebsedu.org/blog/embodying-the-african-spirit-of-ubuntu-at-work/#::~:~:text=The%20book%20describes%20how%20leaders,partisanship%2C%20progeny%2C%20and%20production.> (Accessed on 17/09/2026)

³² Batchelor. B., Chetty. N., & Makore. S., 'Incorporating Afrocentric Alternative Dispute Resolution in South Africa's Clinical Legal Education' Available at <https://www.saflii.org/za/journals/LDD/2021/17.pdf> (Accessed on 17/09/2026)

undermine social harmony³³. Therefore among African communities, law is not viewed as a tool for apportioning right and wrong but rather, it is viewed as an instrument of maintaining social equilibrium, peaceful co-existence and harmony as envisaged under the African philosophy of *Ubuntu*³⁴.

African perspective of law and legal systems is therefore anchored in the philosophy of *Ubuntu*. It has been observed that through this approach, law and legal systems focus in communalism by prioritising social cohesion and maintenance of community relationships³⁵. In addition, restorative justice is a core purpose of law and legal systems in Africa with emphasis placed on forgiveness, healing and restoring relationships contrary to punitive approaches to law and legal systems under Western approaches to jurisprudence³⁶. Further, it has been observed that spirituality is a key element of jurisprudence in Africa since legal norms are usually interconnected with spiritual beliefs including veneration of ancestors and taboos thus providing a basis for enforcement of legal decisions on the basis of spirituality, morality and culture rather than coercion under Western jurisprudence³⁷.

From the foregoing, it is evident that Africa has its own unique jurisprudence that is anchored in *Ubuntu*, communalism, restorative justice and spirituality among other philosophical foundations. However, it has been observed that colonial disruptions led to the imposition of Western values, philosophies and systems of law in the continent resulting in the subjugation of African jurisprudence³⁸. The introduction of Western systems of justice in Africa have been impacted Africa's perspective of law and legal systems since law which is viewed as an instrument of fostering social equilibrium, peace, harmony and restorative justice among African societies is now being utilised as a tool for punishing conflicting parties³⁹. In addition, it has been observed that there is a misguided notion that Africans did not have their own system of law before colonialism despite the existence of rich and dynamic legal systems, worldviews and perspectives on law all over the continent that predate the colonial era⁴⁰. Further, it has been observed that African jurisprudence continues to be disregarded and discredited in academic and scholarly debates where it is considered inferior to Western jurisprudence despite its rich history and efficacy⁴¹.

³³ Mugumbate. J., & Nyanguru. A., 'Exploring African Philosophy: The Value of Ubuntu in Social Work.' Op Cit

³⁴ Ebijuwa. A.O., 'African jurisprudence and conflict management: A critical reflection' Op Cit

³⁵ Ibid

³⁶ Ibid

³⁷ African Jurisprudence: Philosophical Foundations and Historical Evolution., Op Cit

³⁸ Ndulo. M., 'African Customary Law, Customs, and Women's Rights' Available at https://law2.xtu.edu.cn/_local/C/93/42/1E341279B2125F160AA7FEC08A7_16372F46_1EC7FC.pdf?e=.pdf (Accessed on 17/09/2026)

³⁹ Adeyinka. A., & Lateef. B., 'Methods of Conflict Resolution in African Traditional Society' *An International Multidisciplinary Journal*, Ethiopia Vol. 8 (2).

⁴⁰ Ebijuwa. A.O., 'African jurisprudence and conflict management: A critical reflection' Op Cit

⁴¹ Ibid

In light of the foregoing concerns, it is imperative to reignite African jurisprudence for justice, equity and development.

3.0 Reaffirming African Jurisprudence by Emphasising Social Equilibrium, Harmony and Distributive Justice

Africa has its own unique jurisprudence that views laws and legal systems as instruments of maintaining peace, cohesion and harmony with emphasis on distributive justice, forgiveness and reconciliation⁴². Unlike Western jurisprudence where law and legal systems focus on individual rights, African jurisprudence is rooted in the culture, customs, traditions, norms and philosophies of the people of Africa including *Ubuntu*, communalism and spirituality⁴³. It is therefore necessary to recognise and promote African justice in scholarly debates and justice systems. In particular, due to the communal nature of most African communities, laws and legal systems should be viewed and utilised as a platform for maintenance of social equilibrium and harmony rather than promoting punitive justice which can undermine social and communal ties⁴⁴. Distributive justice is another key feature of African jurisprudence with values and philosophies such as *Ubuntu* emphasising on communal well-being including through the use of law and legal systems to ensure fair and equitable allocation of opportunities and resources such as land in order to enhance social cohesion, prevent inequalities and discrimination and promote community well-being⁴⁵.

In light of the foregoing, it is imperative to decolonise jurisprudence in order to reaffirm the place of African jurisprudence. In particular, it has been observed that by reigniting indigenous legal systems, values, philosophies and epistemologies in Africa, the continent's rich and dynamic jurisprudence can regain its lost status⁴⁶. As a result, states have been urged to recognise and respect African customary law in modern legal systems through constitutional and judicial reforms in order to effectively promote African jurisprudence⁴⁷. In addition, by recognising and utilising justice systems that focus on restorative and distributive justice, it is possible to reinvigorate African jurisprudence. For example, traditional justice systems are regarded as a restatement of African jurisprudence and an essential element of the cultural heritage of African communities, embodying unique philosophies, values, rituals, and practices that have historically played a crucial role in preventing and resolving conflicts and fostering peace, harmony and

⁴² Ebijuwa. A.O., 'African jurisprudence and conflict management: A critical reflection' Op Cit

⁴³ African Jurisprudence: Philosophical Foundations and Historical Evolution., Op Cit

⁴⁴ Idowu. W., 'African Philosophy of Law: Transcending the Boundaries between Myth and Reality' Op Cit

⁴⁵ Mugumbate. J., & Nyanguru. A., 'Exploring African Philosophy: The Value of Ubuntu in Social Work.' Op Cit

⁴⁶ Atuguba. R., 'Customary Law Revivalism: Seven Phases in the Evolution of Customary Law in Sub-Saharan Africa' Available at <https://intergentes.com/seven-phases-in-the-evolution-of-customary-law-in-sub-saharan-africa/> (Accessed on 17/09/2026)

⁴⁷ Ibid

community cohesion⁴⁸. Traditional justice systems in Africa give prominence to Appropriate Dispute Resolution (ADR) strategies including traditional forms of negotiation, mediation, conciliation and arbitration which emphasize cooperation, reconciliation, communitarism, strong group coherence, social obligations, consensus-based decision-making, social conformity, and strong social sanctions in accordance with the spirit of conflict management inherent in African communities⁴⁹. Utilising traditional justice systems in conflict management is therefore an effective approach towards upholding African jurisprudence.

In addition to legal, policy and institutional reforms that are necessary towards integrating African jurisprudence in modern justice systems, it has been correctly observed that African legal scholars and academics have a key role to play in fostering awareness and understanding of African jurisprudence through legal scholarship⁵⁰. Through legal scholarship including research and writing, it is possible to reposition African jurisprudence as a valuable school of thought that has a rich history in the continent and which still remains relevant in modern justice discourses.

4.0 Conclusion

African jurisprudence is a thought system that focuses on the meaning, characteristics, nature, and functions of the law and legal systems in Africa⁵¹. In particular, African jurisprudence is anchored in fundamental values, philosophies and worldviews of the people of Africa including *Ubuntu*, communalism, spirituality and restorative justice⁵². In light of current challenges, there is need to reignite African jurisprudence by emphasising social equilibrium, harmony and distributive justice. In particular, it is imperative to introduce constitutional, judicial and statutory reforms in order to reinvigorate African jurisprudence⁵³; utilise ADR processes towards culturally-appropriate dispute resolution in accordance with African jurisprudence⁵⁴; and enhance legal scholarship towards promoting awareness and understanding on African jurisprudence⁵⁵.

⁴⁸ Olawale. F.E., Hooi. K.Y., & Balakrishnan. K.S., 'The dynamics of African traditional justice systems: Perspectives and prospective' *African Security Review.*, Volume 33, Issue 3 (2024)

⁴⁹ Kariuki. F., 'African Traditional Justice Systems' Available at <https://kmco.co.ke/wp-content/uploads/2018/08/African-Traditional-Justice-Systems.pdf> (Accessed on 17/09/2026)

⁵⁰ Idowu. W., 'African Philosophy of Law: Transcending the Boundaries between Myth and Reality' Op Cit

⁵¹ Ndim. D.D., 'The anatomy of African jurisprudence: A basis for understanding the African socio-legal and political cosmology' Op Cit

⁵² African Jurisprudence: Philosophical Foundations and Historical Evolution., Op Cit

⁵³ Atuguba. R., 'Customary Law Revivalism: Seven Phases in the Evolution of Customary Law in Sub-Saharan Africa' Op Cit

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