

Oruka on the Spirit and Letters of Law

Friday N Ndubuisi¹

¹University of Lagos, Philosophy, Lagos, Nigeria

fryndubuisi@yahoo.com

In his seminal work *Sagacious Reasoning*, Oruka delves into the controversial issue of the spirit and letters of the law, which in another parlance is called the ‘is’ “ought” controversy or the link between law and morals. This features in his efforts to scrutinize the link between philosophy and other disciplines. In this adventure Oruka explores the roles and perception of law by practicing lawyers which he sees as positivistic in outlook and philosophers that see beyond what the law say consequently go further into the fundamentals. According to him a lawyer is concerned with ‘what is law’ not so much with the question such as ‘ what does the law say’. The interest of the lawyer is what rules permit, forbid or oblige in a given legal system. He contends that the positivistic aspect of the law does not concern itself so much with whether a legal rule is morally verified or not . Its concern is with whether or not the rule is valid or invalid. The contention of the positivists is thus: “ moral justification is no measure for validity or invalidity of a legal rule”. A legal rule is valid or invalid in spite of its moral contents.

Oruka posits that the task of a legal philosopher is to discuss the nature and sources of the law and the relation of law to Ethics or morality. This paper, while examining the merits in Oruka's arguments also assert that his thesis is an extension of the controversial relationship between law and morals as championed by great philosophers such as Cicero, Thomas Aquinas, Jeremy Bentham and such other thinkers. At this juncture it is worth restating that the issue of validity and legitimacy of law is very crucial. This is an institution that could be used to protect or harm the interest of man in his community.