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AFRICA PEACE AND CONFLICT JOURNAL

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VOLUME 2 NUMBER 1 JUNE 2009



AFRICA PEACE AND CONFLICT JOURNAL

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Design and composition: Auburn Associates, Inc., Baltimore, Maryland, United States

Printing: Appi Sàrl, Gland, Switzerland

ISSN 1659-3944

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Publication of the *Africa Peace and Conflict Journal* is made possible by
the financial assistance of IDRC.



AFRICA PEACE AND CONFLICT JOURNAL

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Articles and case analysis—critical case studies or thematic discussion and analysis of topical peace and conflict themes (7,000 words maximum, including endnotes; abstract, 150 words or less).

Briefings/practice—training or intervention strategies, outcomes and impacts, policy review and analysis, country situational updates, and so on (2,000 words maximum).

Book reviews—critical assessments of new books that integrate peace and conflict concerns (1,500 words maximum).

Resources—reports, upcoming conferences and workshops, notices of new books and videos, e-communications, and Web sites that link peace and conflict studies (150 words maximum); documents, declarations, communiqués, and other relevant nongovernmental or multilateral organizational statements (1,000 words maximum).

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- Submissions must be original and not under consideration for publication by another journal or organization or have been published previously.
- Submissions should be prepared in word-processing software, preferably Microsoft Word 6 or later.
- For notes and references, use the short-title system (not the author-date system) as per *Butcher's Copy-editing: The Cambridge Handbook for Editors, Copy-editors and Proofreaders*, 4th edn (2006).

Include full name; brief bio(s) with institutional affiliation of author(s); and contact details, including mailing address and telephone number.

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AFRICA PEACE AND CONFLICT JOURNAL: ISSN 1659-3944. Published in June and December by the University for Peace Africa Programme, PO Box 2794, Code 1250, Addis Ababa, Ethiopia, and the University for Peace, El Rodeo de Mora, Ciudad Colón, Costa Rica.

YEARLY SUBSCRIPTION RATES: African subscriptions, US\$50 for institutions, US\$25 for individuals. International subscriptions, US\$100 for institutions, US\$50 for individuals.

ELECTRONIC ACCESS: Visit www.apcj.upeace.org or e-mail the managing editor at editor@apcj.upeace.org.

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AFRICA PEACE AND CONFLICT JOURNAL

Volume 2 Number 1 June 2009

INDIGENOUS SYSTEMS OF PEACE IN AFRICA

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Guest Editor's Note

The African continent continues to be afflicted by the scourge of conflict. The mechanisms mandated to address these violent disputes seem to have a limited capacity to generate and sustain durable solutions. The importance of the role of culture in conflict resolution and governance has become increasingly more prominent. In particular, one growing school of thought argues that indigenous cultural practices and traditional structures of leadership have a vital role to play in the building of sustainable peace in Africa. The *Africa Peace and Conflict Journal* assesses the merits of this claim in this thematic issue dedicated to indigenous systems of peace in Africa.

The contributors to this special issue explore the potentially innovative role that indigenous institutions of peacemaking and governance are playing currently in the promotion of more stable societies in Africa. Samuel Gbaydee Doe sets the stage by outlining a conceptual framework for assessing how postconflict state reconstruction processes can be indigenized. He examines the debates on internally and externally led state reconstruction and argues that the international system has in effect created a sense of dependency among local actors. Doe concludes by asserting that international actors involved in postconflict state reconstruction are not necessarily transferring responsibility to local actors.

Martha Mutisi assesses the revitalization of the *gacaca* endogenous approach in addressing Rwandans' trauma from the genocide of the 1990s and their postconflict reconstruction needs. She notes that the revival of *gacaca* courts in Rwanda not only serves to promote peace, justice, and reconciliation, but might also end a culture of impunity and promote accountability. Mutisi observes that critics of this endogenous tradition do not believe that it is entirely adequate or capable of promoting healing and postconflict reconstruction, but she argues, however, that being a model of alternative or restorative justice provides added value to the *gacaca* system.

In a similar vein, Joseph Wasonga examines the use of *mato oput*, a traditional Acholi approach to peace and justice, in northern Uganda. He notes that *mato oput* is a voluntary peace and justice process involving mediation in conflict, trust building, acknowledgment of wrongdoing, compensation, reconciliation, and restoration. Wasonga examines the main principles and practices of *mato oput* and assesses its applicability as a mechanism for sustainable peace in the context of the intractable conflict in Uganda.

Susan Kilonzo, Sussy Kurgat, and Simon Omare analyse the role of taboos in the management and conservation of the Kakamega forest in western Kenya. Theirs is a study of taboos as examples of informal cultural institutions through which indigenous norms, rather than governmental laws, regulate human behaviour. Kilonzo, Kurgat, and Omare also assess how the use of taboos to manage the forest can also be extended to the process of peace-building among the Isukhas who inhabit the area. They conclude that based on their research, many taboos have functions similar to those of formal legal and conflict management institutions although they have not been sufficiently recognized as such.

Onyinye Onwuka discusses the Economic Community of West African States' (ECOWAS) Council of the Wise as an indigenous-based mechanism for preventing conflict and resolving disputes. Onwuka reveals that the Council of the Wise is a new take on the traditional 'council of elders' concept, representing the institutionalization of indigenous African principles in the management and resolution of contemporary conflicts. She also assesses ECOWAS' experience in promoting peace and the establishment of the institution's peace and security architecture, of which the Council of the Wise plays a part.

Jonathan Chukwuemeka Madu addresses the problem of gender inequality, which is prevalent in the majority of indigenous approaches to peacemaking. He analyses in particular the Nigerian Igbos' processes for making peace and ensuring governance. Madu notes their systems' limitations with respect to gender equality and the inclusion and exclusion of women in decision-making and governing. He discusses peacemaking contributions made by women in several Igbo communities and concludes by asserting that traditional councils of elders must take the lead in ensuring the inclusion of women in their peacemaking processes.

Chris Kwaja examines the decline in the production of endogenous knowledge in Africa as a result of the current wave of globalization. He observes that when the saliency of local African cultures and traditional authority structures are undermined, social cohesion and local conflict resolution mechanisms are also endangered. Kwaja asserts that the challenge is for Africa to protect and promote its endogenous knowledge systems.

Kwesi Sansculotte-Greenidge examines the evolution of endogenous or traditional systems of leadership and governance among the BeRà and the effect of conflict in Darfur on them. In Darfur, the *judiyya* customary approach to third-party mediation is led by *ajawid* (elders), who are sanctioned by the disputing parties and proceed on the basis of recognition of the grievances of the victims and the willingness of the perpetrators to make reparations according to communal customs and customary laws. Sansculotte-Greenidge concludes that these systems are likely to survive the current conflicts due to their resilience as well as their utility as mechanisms for mobilizing and sustaining ethnic identity.

Bonnie Berkowitz reviews *Ubuntu: Life-Coping Skills from Africa*, Johann Broodryk's informative, practical, and pioneering text on how to incorporate *ubuntu* principles into everyday life. She conveys Broodryk's view that an ubuntu-informed perspective requires constantly promoting good relations between people predicated on a culture of caring, sharing, and respect, which is the only way to ensure the well-being of the collective whole. Tumaini Minja analyses *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*, an edited volume compiled by the International Institute for Democracy and Electoral Assistance. The book presents case studies on the use of traditional justice systems in Burundi, Mozambique, Rwanda, Sierra Leone, and Uganda.

The contributions to this issue of APCJ illustrate that despite Africans' inability thus far to successfully resolve all their conflicts, there is a case to be made for encouraging the revitalization of indigenous institutions of peacemaking on the continent. How these systems and processes can be incorporated into constitutions of modern African states, and thus become part of the institutional edifice of how societies are

governed, is a topic that merits further research. Indigenous institutions and cultural traditions in Africa are endowed with valuable lessons and insights that can contribute towards the urgent task of building and sustaining peace.

Tim Murithi
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From the Managing Editor

The first issue of the *Africa Peace and Conflict Journal* has been a resounding success. Readers from around the world have expressed satisfaction and hope of a bright future for APCJ. John Maresca, rector of the University for Peace (UPEACE), officially launched the journal in Addis Ababa in March at an event attended by members of the diplomatic corps and civil society organizations, researchers, academics, ministers from the Federal Republic of Ethiopia, UPEACE alumni, and the general public. Lively discussions followed presentations by Maresca, UPEACE Africa Programme director Jean-Bosco Butera, and myself, as managing editor of APCJ. I want to believe that with the ongoing support of our current and future readers and subscribers, APCJ will win acknowledgment as one of the best research and writing projects on peace and conflict in Africa.

All peer-reviewed journals face the challenges of maintaining strong added value to the discourse on the issues of concern to them and sustaining the link between theory and praxis. A further challenge is keeping the journal focused on pressing policy issues, in our case ones that affect the lives of Africans. Those of us at APCJ hope to meet these challenges through continued rigour in our review process as well as a deliberate effort to maintain the relevancy of theory to praxis.

As a conflict analysis and resolution specialist with African roots, I am naturally concerned about events on the continent. What does being African or having African roots represent? What do Africans think of when they consider peace and conflict? How do they deal with issues of peace and conflict? How do Africans resolve conflicts at various levels of human interaction? Are so-called African approaches to conflict resolution really different from those of other cultures? When compared with other approaches are the differences, if any, substantive or merely nuanced by context and culture? In the inaugural issue of APCJ, Bertha Kadenyi Amisi, Pamela Machakanja, and Edith Natukunda-Togboa provided a number of answers to some of these questions.

Contributors to the current issue examine specific African approaches to peace and conflict. Descriptive in most instances, their contributions look at the processes of peacemaking and peace-building in select countries and communities. Each addresses traditional African conflict resolution mechanisms, representing a continuation of the discussions opened in the journal's first issue. Challenges to and opportunities involving traditional mechanisms of conflict resolution found in Chad, Kenya, Nigeria, Rwanda, and Uganda are examined at various stages and levels of intervention—for example, conflict prevention, peacemaking, peace-building, postconflict reconstruction, and conflict transformation. African societies, it is revealed, are not much different from many others. More important, the variety of mechanisms affirm that Africa is not a homogenous community, a fact that still needs to be reinforced to dispel the myth of one Africa and one African.

The APCJ staff will continue to reach out to readers around the world, but especially to those in Africa, where the voices of Africans need to be heard loud and clear. We strive for excellence and to get the attention of those who matter—practitioners,

researchers, academics, policy makers, and above all, the people whose lives are affected by our work.

In closing, I would like to express my sincere gratitude and thanks to our guest editor, Tim Murithi. In his editorial note, Tim succinctly captures the essence of the following contributions on the various conceptions and representations of endogenous and indigenous African conflict resolution mechanisms and what they mean to Africans and those who follow events on the continent.

Tony Karbo



Indigenizing Postconflict State Reconstruction in Africa: A Conceptual Framework

Samuel Gbaydee Doe

Current approaches to state building, primarily dominated by the liberal peace thesis, tend to gloss over indigenous or organic mechanisms rooted in the sociological, historical, political, and environmental realities of postconflict contexts. Liberal peace theories prescribe electoral democracy and the free market as panaceas for all postconflict states, irrespective of the institutional and cultural ripeness of the societies to cope with the inherent competitiveness of 'democracy' and the markets. Such universalized and 'best practice' approaches not only restore superficial states, they also extend the colonial project of undermining organic processes of state formation and state building. Indigenization stands as a complement to the liberal peace approach. Central to indigenization is the recognition of the role of emerging agencies and structures as part of the basis for recovery. There exist any number of ways that postconflict state reconstruction processes can be indigenized.

WITH INCREASING STATE IMPLOSIONS, the multipolar international system that has replaced the cold war bipolar system has assumed responsibility for ending deadly internal conflicts and reconstituting failed and collapsed states.¹ It does this through what Marina Ottaway refers to as the 'state reconstruction industry' and Roland Paris calls the contemporary liberal peace thesis.² Africa has hosted the largest number of multilateral peacekeeping and state-rebuilding missions in the world, and given the growing social, economic, and political debility on the continent, this trend is likely to continue for some time. The scale and impact of the multilateral state reconstruction

1. The 1995 Failed States Index compiled by the Fund for Peace shows that seventeen of the thirty-three countries in a critical state of failing were in Africa, as were twelve of the forty-two countries with strong signs of failure. The more detailed 2006 index has four clusters: critical condition, strong signs of failure, basically unstable, and stable countries. All the African countries fell into the first two categories; fifteen of the twenty-eight critically failing states were in Africa. No African state was considered to be stable. See the index at www.fundforpeace.org/web.

2. M. Ottaway, 'Rebuilding state institutions in collapsed states' in J. Milliken (ed.), *State Failure, Collapse, and Reconstruction* (Oxford, Blackwell Publishing, 2003), 246.

Samuel Gbaydee Doe is the development and reconciliation adviser for the Office of the Resident Coordinator at the United Nations Development Programme, Colombo, Sri Lanka. This article derives from the author's ongoing work on his doctoral dissertation, 'Indigenizing state reconstruction: The role of the Poro Society in Liberia and Sierra Leone.'

project and its primacy in international policy agendas—which David Chandler rightly observes is a marked contrast to the political norm that had governed the postindependence and cold war periods—present a conundrum with a steep learning curve.³ Thus far, debate has revolved around three key questions: Who leads in reconstructing collapsed states and what is the moral, legal, and strategic basis for their role? How are states being reconstructed? How viable are the outcomes? Research into these questions allows for a plausible argument to be made that the process of indigenization guarantees the most viable outcome in state reconstruction.

THE STATE RECONSTRUCTION DEBATE

Emerging frameworks and doctrines, such as the Responsibility to Protect (R2P), have weakened strong advocacy for ‘a sovereign state to be treated as an independent political unit . . . allowed to pursue its domestic affairs without external interference’.⁴ In 2001, the International Commission on Intervention and State Sovereignty (ICISS) issued a report asserting that ‘where gross human rights abuses are occurring, it is the duty of the international community to intervene, over and above considerations of state sovereignty’.⁵ In endorsing the report, the General Assembly declared, ‘each individual state has the responsibility to protect its populations from genocide, war, crimes, ethnic cleansing and crimes against humanity’.⁶ In the event that a state proves to be incapable of doing so or is complicit in these crimes, the international community should be ‘prepared to take collective action in a timely and decisive manner, through the Security Council, in accordance with the UN Charter, including Chapter VII.’⁷ Former UN secretary-general Javier Pérez de Cuéllar was right when he said that ‘we are clearly witnessing what is probably an irresistible shift in public attitudes towards the belief that the defense of the oppressed in the name of morality should prevail over frontiers and legal documents.’⁸ This development has sparked fierce debate regarding the reconstruction of failed and collapsed states. Essentially there are three sides to the debate: those who argue for internal leadership in state reconstruction, those who argue for external, UN-led state reconstruction, and those who are concerned with the quality of the outcomes whether led internally or externally.

Internally Led State Reconstruction

Although the legal and strategic arguments noted above may justify the current overwhelming support for external leadership in state reconstruction, some observers

3. D. Chandler, ‘Introduction: Peace without politics?’ *International Peacekeeping* 12:3 (2005).

4. Murata Koji (ed.), *From Humanitarian Intervention: The Evolving Asian Debate* (Tokyo, Japan Center for International Exchange, 2003), 11.

5. ‘The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty’, International Development Research Centre, Ottawa, December 2001, www.iciss.ca/report-en.asp.

6. UN General Assembly, ‘2005 World Summit outcome document’, October 2005, para. 138, <http://daccessdds.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>.

7. *Ibid.*, para. 139.

8. Integrated Regional Information Networks, ‘Justice unfettered? Internationalizing justice in the human rights era’, July 2006.

and practitioners, among them Christopher Clapham, doubt from an outcome point of view whether outsiders can actually reconstruct a state for others. Clapham bases his argument on the thesis that all states must be built on foundations of strong social capital and indigenous 'raison d'être'.⁹ Agreeing with Clapham, Ottaway contends that 'external actors may build organizations but', she insists, 'they cannot build institutions'.¹⁰ If Paul Sillitoe is justified in asserting that institutions are forms of discourse, then Ottaway is indeed correct: Institutions can only be built, or at least given life and *raison d'être*, from within.¹¹ Amos Sawyer agrees with the discursive claim for institution building. He contends that durable institutions are those developed through processes of decision-making characterized by informed discourse among the people of a society.¹² Such an internally induced institutional reconfiguration and transformation process after conflict and eventual reconciliation of existing social forces, whether indigenous or otherwise, Chandler posits, result in the building of domestic consensus, that is, a sense of political community.¹³ As Alex de Waal asserts, 'Outside interventions interfere with this process instead of hastening or strengthening it'.¹⁴

This domestic institutionalist debate aside, Alejandro Bendana questions the international community's technical and administrative approach to state reconstruction in which rules and procedures are designed by external actors, often based on claims of best practice.¹⁵ There is little room, if any, for mobilizing public consent in the affected society. Krishna Kumar corroborates Bendana's point by arguing that although members of the international community may have years of experience and technical knowledge in economic and to some extent social reconstruction, they are more limited in terms of political, or state, reconstruction.¹⁶

Martin Doornbos and de Waal, agreeing with Kumar, focus on the unintended consequences of these reconstruction projects.¹⁷ The overwhelming and rapid intervention of external actors in state reconstruction, Doornbos observes, tends to create internal and external dichotomies. In this relationship, internal actors are often disempowered by the mere presence and capacity of the external actors or the domineering and usurping characteristics of international state reconstruction practices.¹⁸ All this, de Waal contends, hinders the development of strong bonds between state and

9. C. Clapham, 'The challenge to the state in a globalized world' in Milliken, *State Failure, Collapse, and Reconstruction*, 35.

10. Ottaway, 'Rebuilding state institutions in collapsed states', 259.

11. P. Sillitoe, *Participating in Development Approaches to Indigenous Knowledge* (London, Routledge, 2002).

12. A. Sawyer, *Beyond Plunder: Towards Democratic Governance in Liberia* (London, Lynne Rienner Publishers, 2005).

13. Chandler, 'Peace without politics'.

14. A. de Waal, *Famine Crimes: Politics and the Disaster Relief Industry in Africa* (London, African Rights and the International African Institute; Oxford, in association with James Currey; Bloomington, Indiana University Press, 1997).

15. Cited in Chandler, 'Peace without politics'.

16. K. Kumar (ed.), *Rebuilding Societies after Civil War: Critical Roles for International Assistance* (Boulder, Colorado, Lynne Rienner, 1997).

17. M. Doornbos, 'State collapse and fresh starts: Some critical reflections' in Milliken, *State Failure, Collapse, and Reconstruction*; and de Waal, *Famine Crimes*.

18. Doornbos, 'State collapse and fresh starts'.

society and therefore undermines the development of ‘democratic good governance’, the pretext under which the international community usually embarks on projects in the first place.¹⁹

The jury is still deliberating internationally led state reconstruction projects, but John Tirman, judging from current outcomes in Kosovo, Timor-Leste, and Sierra Leone, for example, paints a grim picture for the future of post-internationally reconstructed collapsed states: ‘When the peacekeeping troops and relief workers depart, when the extraction companies return, when the miracle of the free market is nowhere to be found, the cycles of deprivation and violence reappear. [T]he rondelet then begins anew.’²⁰

Externally Led State Reconstruction

With anti-international state reconstruction efforts seemingly strong, Moore, citing Edward Luttwak, asks whether one should ‘give war a chance’. In addition, as charged by de Waal and others, ‘Can one really believe that the humanitarian international is slowing the wheels of history and thus stalling the emergence of a strong indigenous—and one hopes against hope, liberal democratic—bourgeoisie?’²¹ While acknowledging the limitations of current approaches and the need for improvement, Moore and others doubt whether an internal leadership is a viable option or whether things will get any better if the international community adopts a hands-off approach.²² Contrary to de Waal and Doornbos’s claim of negative consequences, Moore insists that the opposite holds true.

According to David Moore, externally led intervention strengthens the beneficiary state to the extent that it is ‘capable of coping with the ravages of a new world “order”’. He dismisses the call for internal leadership as ‘nostalgia for the state of days gone by’.²³ Moore reminds proponents of internal leadership that in the current era, the state has ‘been effectively drawn into multileveled and increasingly non-territorial decision making networks that bring together governments, international agencies, non-governmental organisations and so on’.²⁴ Although current practice in state reconstruction and humanitarian intervention ‘will not lead to de Waal’s imagined statist *status quo ante*’, Moore insists, it ‘contributes to the creation of a new and partially globalised “state class” and citizenry better equipped to deal with the global processes of state and so-

19. Cited in J. Tirman, ‘The new humanitarianism: How military intervention became the norm’, *Boston Review*, December 2003/January 2004, 7, <http://bostonreview.net/BR28.6/tirman.html>. See also de Waal, *Famine Crimes*. De Waal’s book remains the most widely cited among critics of humanitarian intervention as currently practised in state building and relief in situations of famine or other disasters.

20. Tirman, ‘New humanitarianism’, 9.

21. D. Moore, ‘Humanitarian agendas, state reconstruction and democratisation processes in war-torn societies’, *New Issues in Refugee Research*, Working Paper 24, July 2000, www.jha.ac/articles/u024.htm.

22. Rwanda comes to mind here. Although the liberation of Rwanda can be credited to internal leadership through the Rwanda People’s Liberation Front (RPF) under the leadership of Paul Kagame, the price of the international community doing nothing was so grave that its inaction remains a bane on the international conscience.

23. Moore, ‘Humanitarian agendas, state reconstruction, and democratization processes in war-torn societies’, 2.

24. *Ibid.*, 1.

cietal restructuring in which war-torn societies are most intricately intertwined'.²⁵ He notes, however, that the current efforts of state reconstruction are inadequate and calls for 'longitudinal studies to assess the efficacy of current approaches in contributing to "democratic state-ness" in new and/or renewed states'. Until such evidence is established, Moore insists, the argument against international state reconstruction is speculative. Then too, it is difficult to back up Moore's own claim that such projects create a 'globalised "state class"' capable of engaging the international community, even if it involves ignorance of the local.²⁶

There are also 'moderates' in the debate. Mark Duffield proposes that the discussion focus on the outcome, rather than who leads. As long as the process and its outcomes are 'felt to "do no harm" and generally support the conflict resolution and transformational aims of liberal peace it should be permissible and justified'.²⁷ Duffield fails, however, to demonstrate concretely how the principle of do no harm can be operationalised in contexts in which contradictory interests and self-proclaimed experts compete for space and relevance. Edward Newman and Albrecht Schnabel suggest the focus should be more on a synergy of effort by insiders and outsiders.²⁸ Regardless of whether outsiders lead, local actors will ultimately assume the responsibility of consolidating state reconstruction achievements. Newman and Schnabel argue that an impartial external leadership in the short-term will provide the buffer for local actors to renew trust and confidence among themselves.

Roland Paris adds to the debate discussions on the epistemic basis and quality of the outcomes of the project.²⁹ He argues that the internationally driven state reconstruction project is an extension of the contemporary version of the liberal peace thesis, which posits that democracy and market economies offer the best chances of guaranteeing long-term peace. The resulting states emphasise, however, the need for effective governmental institutions to regulate the inherent competitiveness of liberalized and marketized states. Paris does not challenge the importance of transforming post-collapsed states into 'democratized' and 'marketized' states. In fact, he calls for the continuation of the liberal peace project under the firm control of the international system. However, he argues that the contemporary project has taken for granted the presence and centrality of institutions in ensuring a regulatory environment for the turbulence inherent to any transition to and maintenance of democratized and marketized states. In his proposed 'institutionalization before liberalization' approach,

25. Ibid., 3.

26. During the independence era, the same claim was made: African political elites are better placed to rule because they know the centre, speak the language of the colonial masters, and are trained to operate the complex state institutions. Although that assumption failed woefully, current actions by the international community appear to reflect an obliviousness to this reality.

27. Cited in Tirman, 'The new humanitarianism', 5.

28. E. Newman and A. Schnabel (eds.), *Recovering from Civil Conflict: Reconciliation, Peace, and Development* (London, Frank Cass, 2002).

29. R. Paris, 'The globalization of taxation? Electronic commerce and the transformation of the state,' *International Studies Quarterly*, 47:2 (2003), 153–82; idem, *At War's End: Building Peace after Civil Conflict* (New York, Cambridge University Press, 2004); idem, 'Bringing the Leviathan back in: Classical vs. contemporary conceptions of the liberal peace,' *International Studies Review*, 8:3 (2006), 425–40.

Paris posits that postwar societies need political stability and effective administration of territory, 'democratic ferment', and economic upheaval. He argues that oversight must remain in the hands of international peace builders until conditions are ripe for elections and the return of the state to domestic actors.³⁰

The debates in the literature so far remain shallow. Although proponents of domestic leadership have strong arguments on their side, they fail to address the total breakdown of the social fabric, entrenchment of cleavages, and the lack of financial and human resources that often dog post-collapsed states. There also exists the generalization that whatever is within has legitimate claim to the project. The perennial confrontation between indigenous institutions in Africa and the elites who take control of the state and drive it toward collapse is not recognized in the debate. This also applies to the insidious corruption of indigenous institutions over the last decades, and in some cases even centuries, which transform them into what Amos Sawyer and Warren L. d'Azevedo call 'personal amorphous' structures exercising what is called here personal amorphous authority.³¹ This domestic indigenous and domestic conventional divide remains an obstacle to any attempts at rebuilding from within.

Paris's thesis is problematic in three areas: the seeming equation of institutionalization with the establishment of institutions; the implicit assumption that external actors are better placed to establish institutions than those for whom they are established; and the theory that by maintaining an enduring presence, externally established institutions will take root. Institutionalization is an aided and natural process of achieving congruence in the institutional environment. It is more about nurturing structures to growth rather than just establishing structures and keeping watch over them. Charles Perrow proffers that organizations are institutionalized when they transcend their incentive functions to become sources of identity, while W. Richard Scott focuses on the infusion of values in organizations, which the internal and external stakeholders are determined to preserve.³²

The value-laden and incentive-transcendent requirements of institutionalization beg a number of questions, which Paris fails to address: Who establishes state institutions? What values are being institutionalized and what are their origins? What systematic strategy is in place for institutionalization? Paris also overlooks the institutional environment. How will the new institutions be negotiated among the myriad of conflict-re-created institutions in the context of establishing institutional congruence?³³ It is yet to be established whether one can achieve an institutionalized, stable state under the trusteeship of the cocktail of international actors who are the purveyors of the liberal peace project. The anarchical institutional framework and conflict-

30. Paris identifies the presence of electoral systems, effective civil society structures, and the elimination of divisive propaganda machinery as indications of ripeness. He also cites as necessary the existence of the institutions needed to regulate economic shocks.

31. A. Sawyer, *The Emergence of Autocracy in Liberia: Tragedy and Challenge* (San Francisco, Institute for Contemporary Studies Press, 1992); W. L. D'Azevedo, 'Some historical problems in the delineation of a central west Atlantic region', *Annals of the New York Academy of Science* 96 (1962), 512–38.

32. W. R. Scott, *Institutions and Organizations* (Sage Publications, Thousand Oaks, 1995); C. Perrow, *Complex Organizations: A Critical Essay*, 3d edn (New York, Random House, 1986).

33. Perrow emphasises that adapting institutions to the values of the internal groups and those external in its society is a sine qua none for achieving the institutionalization process.

ing values they manifest compromise the goals of institutionalization and the effective governmentality that is a hallmark of classical liberal peace thesis.³⁴

Overall this debate has been disappointingly unproductive. Neither sides offers concrete, policy-relevant strategies that can be effectively implemented by outsiders, insiders, or the two together. The proponents of domestic leadership put forth little evidence that justifies their claims; the jury remains out on the outcomes of the international process. In addition, the internally led state reconstruction proponents fail to delineate between the internal conventional and the internal indigenous. This is particularly important in the case of Africa given the polarization between African political elites and indigenous institutions at independence and the persistent exploitation of the latter by the former.³⁵

The shallowness of the debate reinforces Clapham's observation that 'state reconstruction has become a far more complex and ambivalent business under the pressures of globalization.'³⁶ As J. L. Holzgrefe concedes, 'current theorizing of state reconstruction takes place in a state of evincible ignorance' where the 'empirical claims are little more than guesswork.'³⁷ There are, however, points of agreement. First, the current turbulence in Africa suggests that the state as understood in the Treaty of Westphalia is yet to take root on the continent.³⁸ Ali Mazrui attributes this turbulence to the collision and reconfiguration process between indigenous and modern state institutions.³⁹ Durable peace and a sustainable, postconflict reconstituted state can only be assured if ownership—whether assumed or transferred—rests in the hands of local actors.

Of particular concern should be the apparent absence of indigenous institutions and mechanisms in both debates. To date, there are no theoretical frameworks or policy-relevant strategies on how to assess the efficacy of indigenous institutions and engage them to lead or inform state reconstruction processes. Even where perspectives argue for short-term external leadership and eventual transfer to internal actors, the debate fails to present concrete examples in current state reconstruction policies and operations.⁴⁰ As excruciating as the birth pangs may be, postconflict collapsed states in Africa run the risk of failing to attain the postcolonial reordering that Mazrui has so eloquently pre-

34. In postconflict collapsed states, intervention draws on an abundance of players, many of whom are contracted by states or multilateral agencies to further their respective interests. Whether states can actually be reconstructed by such a scramble for power, visibility, and influence is highly suspect.

35. See Basil Davidson, *The Black Man's Burden: Africa and the Curse of the Nation-state* (New York, Three Rivers Press, 1993).

36. Clapham, 'The challenge to the state in a globalized world', 41.

37. Cited in Tirman, 'The new humanitarianism', 3.

38. See R. H. Jackson, 'Quasi-states, dual regimes, and neoclassical theory: International jurisprudence and the third world', *International Organization*, 41:4 (1987), 519–49; C. Clapham, *Third World: An Introduction* (London, Routledge, 1985); A. Mazrui, 'The African state as a political refugee: Institutional collapse and human displacement', *International Journal of Refugee Law*, 7 (1995), 21–36; and Patrick Chabal and Jean-Pascal Daloz, *Africa Works: Disorder as Political Instrument* (Oxford, James Currey, 1999).

39. Mazrui, 'The African state as a political refugee'.

40. 'UN peacekeeping: Transition strategies for post-conflict countries lacks result-oriented measures', a 2003 report by the U.S. General Accounting Office, notes the lack of conceptual and operational clarity regarding when and how the international community enters and exits state reconstruction processes and how internal institutions, especially indigenous institutions, are empowered to assume the role of state consolidation or state reconstruction in earnest. The report is available at www.gao.gov/new.items/d031071.pdf.

dicted unless emerging transformational structures and mechanisms indigenous to contexts of collapsed states form the basis of reconstruction. Thus a call is needed for a return to the dialogue of indigenizing postconflict state rebuilding, especially in Africa.

INDIGENIZATION

‘Indigeneity’ as used here refers to institutions, mechanisms, and practices predating colonialism and the Westphalian state that draw their roots from the sociological, historical, demographic, environmental, and geographical context in which they exist. ‘Indigenization’ is the process of enabling people to reflect upon their own practices, identify their own resources, and cultivate their own sources of power to heal themselves, reconcile their society, and build new institutions or transform old ones so that they respond to their new challenges and needs. Beatrice Pouligny has argued that all ‘societies have at their disposal social modes of regulation and resources able to serve as a basis for reconstruction and recovery.’⁴¹

Indigenization is not the same as endogenization in that it does not preclude the role of outsiders. The key here is that in indigenization, the materials and structures are organic, with outsiders acting as a type of catalyst. Also, indigenizing is not the same as localizing. Although localizing is about contextualizing or developing a new institution to fit into or work within an alien local context, indigenizing is about evolving local institutions and mechanisms through processes of internal as well as internal-external dialogues to respond to emerging social, political, and economic situations.⁴² Five broad assumptions and principles apply to indigenization: context centrality, celebration of heterogeneity, interactivity, normativity, and regenerativity.

Context Centrality

The nature and function of *all* institutions are contingent upon context. Context centrality challenges assertions of universality and emphasizes the uniqueness of institutions, including those in the same institutional environment. A range of structures and agencies interact in each context. Dynamics of the structures and agencies are determined by what critical realists call ‘transitive’ and ‘intransitive’ objects. Transitive objects are inherent powers and liabilities; intransitive objects are those powers and liabilities outside a structure or agency that can affect the ability of the structure or agency to function. Figure 1 illustrates the application of context centrality to the state reconstruction discourse.

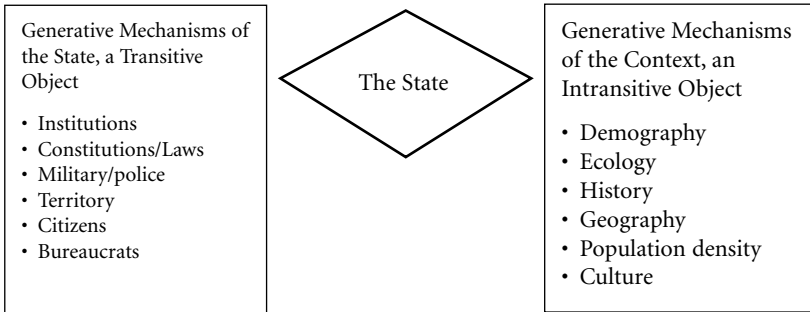
In Figure 1, the box on the left contains powers and liabilities intrinsic to the state—a transitive object. The box on the right contains intransitive objects—powers and liabilities in the context of the state—which though outside the state mechanism interact individually and collectively with its intrinsic structures and agencies. This interaction accounts for the multiple outcomes associated with types of states and their stability. Postindependence state builders in Africa ignored the influence of context

41. B. Pouligny, ‘Building peace after mass crimes’ in Newman and Schnabel, *Recovering from Civil Conflict*, 202–21.

42. Sawyer, *Beyond Plunder*.

Figure 1

Transitive and Intransitive Objects of the African State



Source: Samuel Gbaydee Doe.

and instead assumed that by establishing bureaucratic institutions and bureaucrats, constitutions and laws, military and other security apparatuses, defined territories and so-called citizens—elements inherent to the Westphalian state—the state could operate unimpeded without regard to the intransitive objects in its context. As a consequence, while institution building, training of bureaucrats, establishment of constitutions and laws, and so on were given credence, state builders paid little attention to demographic composition, ecological conditions, cultures, history, and geography. Clapham observes that because mechanisms outside the state in the African context were given little consideration in the state-building and management equation, they have inadvertently undermined the performance and viability of the African state.⁴³ Today, the lack of recognition of the intransitive objects in state reconstruction processes, it can be postulated, exposes reconstructed states to further decay and collapse.

Celebration of Heterogeneity

State builders have over the decades made futile attempts to melt all ethnicities and polities within territories into one national identity and polity despite the heterogeneity common in indigenous polities in postcolonial Africa. Key strategies of the homogenization project include assimilation, demographic re-engineering, and one-party systems. Indigenization argues for a reorientation to allow for maintaining unique indigenous societies and institutions while promoting unity through the principles of solidarity that were the basis of intergroup political systems in most of precolonial Africa. The ethnic rivalry that plagues postindependence Africa is not a consequence of its mosaic of cultures and ethnicities. Rather it is a result of the centralized nature and determination of state builders to homogenize African societies. Decentralization

43. Clapham, 'The challenge to the state in a globalized world'.

and cultural pluralism are the immutable realities of the African state. They must determine the structures of governance and politics of Africa.

Interactivity

All institutions exist within what is called the institutional environment. They are defined by their interaction with other formal and informal institutions in the institutional environment. As indicated above, normative institutionalists define institutionalization as a process of facilitating coherence between the values and functions among and between formal and informal institutions. In this view, an institution is fully institutionalized when it achieves congruence in context. Evidence of institutional congruence includes institutional stability and public respect for, belief in, and loyalty to the integrity and function of the institution and its effect on the general health of society. Conversely, institutional incongruence is manifested in corruption, public disdain and cynicism for institutions, civic and social instability, and generalized societal malaise. The proposed indigenization approach set out here takes the discussion further by positing that institutional congruence is made more possible when new institutions take root in the historical, sociological, economic, and environmental contexts where they are being established. In the case of most postconflict state institutions, the roots of new politics, social compacts, and resources for governing tend to emerge from the violent turbulence of collapse. Locating the emerging resources is the first step in indigenization. Contemporary state builders practice the opposite. They begin with the assumption that postconflict contexts are devoid of all previous agencies and structures, and it is their duty to establish new ones, which are often prefabricated in liberal capitals.

Normativity

Whereas Max Weber's rational legal institution is based on the pursuit of interest and the logic of consequentiality, indigenization follows the thesis of normative institutionalism, which argues that institutions are value-laden organizations based on the 'logic of appropriateness'. Most important, institutions, particularly those designed to reflect or define the collective identity of a society, are not simply secular incentive structures. They must mature to the point where they are sacred as perceived in indigenous societies. In this view, institutionalization goes beyond simply serving the public interest and winning public trust to building the public's belief in the essence of institutions. Public belief engenders deference for public institutions.

Regenerativity

Unlike the internationally led reconstructive approach that suggests that postconflict contexts are blank slates on which the international system can write new meaning, structures, civic consciousness, and so on, indigenization argues that postconflict contexts are regenerative and emergent. Disruptions to the social and institutional fabrics of society do not just empty a society of its structures and systems; they also create opportunity for the redefinition of power relations, livelihoods, worldviews, and civic consciousness. New resources for coping and resilience as well as new leadership and

Figure 2

Framework for Indigenization in State Reconstruction

Strategic Approach	Emerging Institutional, Social, and Economic Fabrics		
	Authority	Institutions	Community
Political	<ul style="list-style-type: none"> • Power • Legitimacy 	<ul style="list-style-type: none"> • Control/restraint • Administration 	<ul style="list-style-type: none"> • Civic consciousness • Solidarity • Effective support and demand
Social	<ul style="list-style-type: none"> • Trust • Belief 	<ul style="list-style-type: none"> • Values • Trust • Attitudes 	<ul style="list-style-type: none"> • Bonds • Intergroup bridging • Healing and reconciliation
Technological	<ul style="list-style-type: none"> • Competence 	<ul style="list-style-type: none"> • Effectiveness • Efficiency 	<ul style="list-style-type: none"> • Effective communication networks • Physical intergroup links (roads, schools, etc.)

Source: Samuel Gbaydee Doe

worldviews emerge from adversity. Indigenization insists that rebuilding should begin by locating these emerging resources and building on them.

FRAMEWORK OF INQUIRY FOR INDIGENIZATION

The framework of inquiry for indigenization presented here explores how the institutional environment of postconflict societies might be managed to facilitate convergence between prewar and postwar indigenous and conventional institutions in order to build an efficient and responsive state system (see Figure 2).

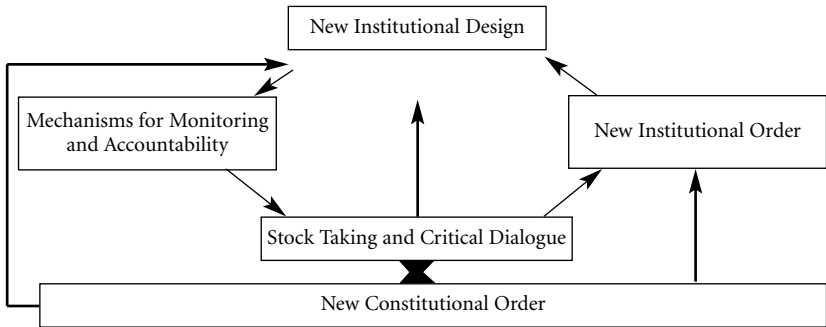
Indigenization argues that the focus of state building must be comprehensive—engaging the political, sociological, and technological dimensions of rebuilding authority, institutions, and community. It also proposes that the overall aim of state reconstruction should be state transformation, rather than state restoration, with all emerging institutions drawing their roots from the post-collapse context.

In such cases, transformation basically refers to a qualitative change in the structures, ideologies, and networks of relationships.⁴⁴ Comprehensiveness on the other hand means that state reconstruction is not just technical, as viewed in the international practice, nor limited to institution building. Jeremy Weinstein has argued that ‘institutions are much more than bureaucracy or a set of rules and [technical know-how]’. They are a ‘result of a bargain—a social compact between rulers and constituents’—derived from lived experiences.⁴⁵ State building therefore goes beyond restoring

44. Piotr Sztompka, *The Sociology of Change Theory* (Oxford, Blackwell Publishers, 1993), 25.

45. J. M. Weinstein, ‘Autonomous recovery and international intervention in comparative perspective’, Centre for Global Development, Working Paper 57, 9, www.cgdev.org/content/publications/detail/2731.

Figure 3

Cycle of Institution Building

Source: Based on A. Ghani, C. Lockhart, and M. Carnahan, 'An agenda for state-building in the twenty-first century,' *Fletcher Forum of World Affairs*, 30:1 (2006).

institutions and authority, to include deliberate processes to build or transform communities and worldviews.

Robert Putnam has argued that the most important characteristic of a responsive and efficient state is not its technological sophistication or political savvy. It is the degree of 'civic-ness' established within the community that determines the building of an efficient and responsive state after collapse.⁴⁶ This claim resonates with William Zartman's proposition that state collapse is only consummated when societal institutions collapse along with those of the state.⁴⁷ It is therefore inadequate to invest resources only in restoring state institutions as practised in the international system while downplaying societal mechanisms, structures, and communities.

STRATEGIES FOR INDIGENIZING STATE RECONSTRUCTION

Interaction between institutions in the institutional environment, both macro and micro authorities, and groups or communities are fundamental to indigenization. This involves two broad strategies: a comprehensive and deliberate approach to rebuilding institutions and a focus on the communicative space where the transformation of mindset and discourses take place. The latter is referred to here as an ideational approach.

Comprehensive Approach to State Reconstruction

The comprehensive process of state rebuilding addressed here draws especially on the work of Ashraf Ghani and his colleagues, Francis Fukuyama, Stephen Krasner,

46. R. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton, Princeton University Press, 1993).

47. I. W. Zartman (ed.), *Collapsed States: The Disintegration and Restoration of Legitimate Authority* (London, Lynne Rienner Publishers, 1995).

James Katorobo, and Jeremy Weinstein.⁴⁸ Ghani, along with Clare Lockhart and Michael Carnahan, provide a useful process of building postconflict state institutions (see Figure 3), identifying the following as stages of postconflict institution building: stock taking and critical dialogue, a new constitutional order, a new institutional design, a new institutional order, and mechanisms for monitoring and accountability.⁴⁹

Stock Taking and Critical Dialogue

As asserted by Ghani and his colleagues, internationally led institution-building practitioners tend to bypass the important step of thoroughly analysing the distinct institutional history, patterns, and environment of postconflict societies. They argue it is imperative for all postconflict institution-building practitioners, whether insiders or outsiders, to reflect on the nature and character of public institutions and services prior to, during, and immediately after collapse.⁵⁰ Arjen Boin and his colleagues concur and add that institutional crisis arises from the disjuncture between the values, history, and prevailing behavior of the context in which postconflict institutions are established.⁵¹ These contextual realities and the degree to which they affect the collapsed institutional arrangement are critical to any new or emerging postconflict institutional design. In addition to focusing on the past, Clapham suggests that stock taking should also aim to identify the natural emerging capacities and liabilities of the state and society and establish the new institutional order on them.⁵²

New Constitutional Order

The case has been made for revisiting the social contracts that preceded collapse. In fact, it is necessary in most cases to negotiate a new social compact. Lakhdar Brahimi and Amos Sawyer identify a number of elements as sine qua none for building responsive and efficient state institutions in a new constitutional order with new rules of the game, a new polity, new sets of relationships between the state and its citizens, and a new social contract for the organization and function of the state and society.⁵³

48. A. Ghani, C. Lockhart, and M. Carnahan, 'An agenda for state-building in the twenty-first century', *Fletcher Forum of World Affairs*, 30:1 (2006); S. Krasner, 'Sharing sovereignty: New institutions for collapsed and failing states', *International Security* 29:2 (2004), 85–120; J. Katorobo, 'Democratic institution building in post-conflict societies', paper prepared for UNDESA for the Fifth International Conference on New or Restored Democracy, 2003; F. Fukuyama, *State-Building: Governance and World Order in the 21st Century* (Ithaca, Cornell University Press, 2004); Weinstein, 'Autonomous recovery and international intervention in comparative perspective'.

49. Ghani, Lockhart, and Carnahan, 'An agenda for state-building in the twenty-first century'.

50. Ibid.

51. Arjen Boin et al., *The Politics of Crisis Management: Public Leadership under Pressure* (Cambridge, Cambridge University Press, 2000).

52. Clapham, 'The challenge to the state in a globalized world', 40.

53. L. Brahimi, 'Statebuilding in crisis and post-conflict countries', paper delivered at the Seventh Global Forum on Reinventing Government: Building Trust in Government, Vienna, 26–29 June 2007; Sawyer, *Beyond Plunder*.

New Institutional Order

How shall the people be governed? What institutions should regulate interactions, the equitable distribution of resources, and serve as symbols of political, social, and economic collective identity and security? These are critical questions that collapsed states cannot afford to bypass. Most institutions in postcolonial Africa were either created to serve colonial interests or the interests of the elites who inherited the colonial state. Generating a shared vision for the nature, character, and scope of the state help establish new foundations based on consensus. New institutional orders must be grounded in new political and bureaucratic discourses.

New Institutional Design

This is the process of determining what structure should be established to meet the expectations of the public. It includes the design of institutional and organizational structures, monitoring systems, communication networks, and a code of discipline. Regardless of the sector, the design should be efficient, responsive, resilient, and integrative. The concept of architecture that is often alluded to in postconflict institution-building processes as indicated by Luc Reyhler entails the assessment of all relevant factors influencing a prospective structure before beginning to design it. Such a process takes into consideration the views of the community in which the new structure will be erected, the soil on which it will be built, the builders of the new structures, and the people who will occupy them.⁵⁴ The opposite has been the case in international practice. Elements of the postconflict state architecture are built by different actors before imagining what the whole structure will ultimately look like.

Mechanisms for Monitoring and Accountability

Ensuring consistent and effective institutional monitoring regimes should be established at the outset. This structure should be constitutionally empowered to cover all institutional practices, values, and efficacy.

These stages are not independent nor necessarily linear. For instance, the constitutional order that forms the basis of the institutional order must be informed by thorough stock taking. This does not suggest that stock taking is a one-time event. It occurs throughout the cycle. Institutional design should not be pursued without a vision, but this does not mean that one stops envisioning once a sense of the institutional architecture has been developed. Links also exist between stock taking and monitoring and accountability, given the need to keep in check institutional excesses and performances.

IDEATIONAL APPROACH

Patrick O'Hallaran asserts that the current internationally led state reconstruction practice, confined to rational thinking, assumes that states can be restored by modify-

54. Luc Reyhler, 'Peace architecture', *Journal of the Network of Peace and Conflict Studies*, 9:1 (2002).

ing their institutions and increasing material incentives for them.⁵⁵ This, he continues, is only half the story. State building is also about society building. It therefore cannot be divorced from constructing the ideas on which a society must craft a state system to regulate interactions within and outside. One must not forget that perception of the state in Africa remains conflicted and largely negative. It is more so in post-collapsed states. For instance, the security sector exists too often as an instrument of terror that must be avoided at all cost; at the same time, civil administrative structures are perceived as instruments for exploitation and predation by the ruling elite. The concept of authority and power is also troubling, with ongoing exploitation of the indigenous concept of power by political leaders to create fright among members of the society. The transformational exercise that Peter Kruezer and Mirjam Weiberg advance focuses on the 'inner structure and content (including values, norms, and behavioral guidelines)' of both the society and the institutions of the state.⁵⁶ Dialogue and civic education are two common tools used to achieve ideational transformation.

Dialogue requires 'genuine interaction' in which the participants open themselves to opportunities for change. Such an interaction creates dissonance as participants discover the human side of their opponents and thereby challenge some of their own fundamental interpretations about themselves and the 'other'. Dialogue also affords the opportunity to create new democratic spaces where ordinary voices that hitherto were silent during dictatorships or violent conflict can reverberate in the public sphere as discourse on new social and political interactions, authority, service, and the concept of the state in general. This sense of 'newness', particularly critical for postconflict collapsed states, is often dismissed by the international system. It is essential that the communicative space, language, structures, and so on be indigenous to the context. In other words, dialogue must be meaningful, but this is only possible if it resonates with the context. Civic education provides opportunities for individuals and communities to learn the new rules, their responsibilities and rights in society, and how to engage in the public space. Civic education fosters the civic consciousness already established through the public dialogue process by institutionalizing it within educational structures and mechanisms of the new society.

CONCLUSION

Decision making in state reconstruction remains for the time in the hands of international actors. Claims of transferring responsibility to local actors remain more or less in reality an abandonment of responsibility, usually after the international system has exacerbated confusion and a sense of dependency. Internationally led state reconstruction interventions achieve little because they are largely uninformed by indige-

55. P. O'Halloran, 'The role of identity in post-conflict, multiethnic state-building: The case of Bosnia-Herzegovina and the Dayton Accord', a paper presented at the First Annual Graduate Student Symposium, Conference of Defence Associations, Western Ontario, 13–14 November 1998, www.cda-cdai.ca/cdai/uploads/cdai/2009/04/ohalloran98.pdf.

56. Peter Kruezer and Mirjam Weiberg, 'Framing violence: Nation- and state-building: Asian perspectives', Peace Research Institute Frankfurt, PRIF Report 72, 2005, 3.

nous institutional and ideational contexts. Postconflict contexts possess seedlings of the foundations of state and society for the emerging society. Each is distinct, proceeding at its own pace and logic. Unless intervention is based on locating and building on these unique emerging structures, agencies, and qualities, state reconstruction will simply involve patching old structures that are likely to collapse five to ten years down the road. It will also undermine societal rebuilding. Thus the concept and framework of indigenization remain relevant in rebuilding durable, efficient, and responsive states after collapse.



Gacaca Courts in Rwanda: An Endogenous Approach to Postconflict Justice and Reconciliation

Martha Mutisi

The relevance of endogenous approaches to postconflict reconciliation is now widely recognised. The inadequacy of eurocentric and other western models to effectively address healing requirements within societies in Africa is increasingly evident. Endogenous *gacaca* courts were revived in post-genocide Rwanda to promote peace, justice, and reconciliation as well as to end a culture of impunity while promoting accountability. Critics of endogenous approaches assert that these methods are neither completely adequate nor practicable in advancing healing and post-conflict reconstruction, while proponents argue that such endogenous methods as *gacaca* courts represent a model of alternative or restorative justice that fosters healing and reconciliation.

MORE THAN A DECADE AFTER THE GENOCIDE OF 1994, Rwanda remains engaged in post-conflict reconstruction. In 2001 the Rwandan government enacted the *Gacaca* Law to give indigenous courts a mandate to deal with cases of individuals who had committed atrocities in their communities during the genocide. *Gacaca* is a traditional mechanism of conflict resolution originally practised among the Banyarwanda, who use it to resolve disputes at the grassroots level through dialogue and a community justice system. It is an intricate process based on custom, tradition, and social norms. *Gacaca* is one of the largest community-based restorative justice processes in post-genocide Rwanda. Despite the increasing prominence of endogenous approaches in the literature, it is important to examine whether these methods of healing are adequate and capable of addressing the cases of trauma confronting communities.

According to Michèle Jacobs, ‘endogenous conflict handling mechanisms’ refers to those methods that exist within a particular cultural context for dealing with

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disputes.¹ That is, endogenous approaches to conflict resolution are embodied in the cultures and traditions of communities. With reference to Africa, William Zartman asserts that conflict resolution mechanisms can only be labeled endogenous if 'they have been practiced for an extended period and have evolved within African societies rather than being the product of external importation'.² Endogenous conflict resolution methods are unique, informal, communal, restorative, context specific, and diverse. John Paul Lederach asserts that endogenous methods of healing and reconciliation are based on the premise that 'understanding conflict and developing appropriate models of handling it will necessarily be rooted in, and must respect and draw from, the cultural knowledge of a people'.³ Endogenous mechanisms of conflict resolution are ubiquitous, existing in every community in Africa, Asia, Europe, and the Americas.

RWANDA IN CONTEXT: THE CHALLENGE OF TRANSNATIONAL JUSTICE

In Rwanda, a country of approximately 12 million people, an estimated 800,000 Tutsis and Hutus were killed and 2 million refugees fled the country in one of the most brutal genocides of the twentieth century. Thus, the fundamental aspect of post-genocide Rwandan society and politics has been the need for reconciliation to heal ethnic tensions.⁴ The post-genocide Rwandan government revitalized and adopted the gacaca system for this purpose.

From a practical perspective, Rwanda's formal courts faced a backlog of more than 120,000 accused perpetrators, known as *génocidaires*, living in debilitating conditions. The national court system and the UN-sanctioned International Criminal Tribunal for Rwanda proved unable to process these cases fast enough.⁵ The gacaca system was resurrected so justice could be administered at the community level. From an ideological perspective, the Rwandan government recognized the need to promote culturally relevant or endogenous approaches to reconciliation. It subsequently enacted the Gacaca Law in 2001 to give gacaca courts a legal mandate for trying cases involving acts committed during the 1994 genocide. The training of judges began in April 2002 and lasted for six weeks. The official launch of this gacaca system took place in June 2002.

1. M. Jacobs, 'Endogenous conflict handling mechanisms: Eliciting a valuable resource for sustainable peace building', *Cahiers Internationales Betrekkingen en Vredesonderzoek*, 70:1 (2005), <http://soc.kuleuven.be/iieb/CPRS/cahiers/Vol70.pdf>.

2. I. W. Zartman, 'Introduction: African traditional conflict medicine' in I. W. Zartman (ed.), *Traditional Cures for Modern Conflicts, African Conflict 'Medicine'* (Boulder, Colorado, Lynne Rienner Publishers, 2000), 1–11.

3. J. P. Lederach, *Preparing for Peace: Conflict Transformation across Cultures* (Syracuse, New York, Syracuse University Press, 1995), 10.

4. A. E. Tiemessen, 'Rwandan gacaca: Competing and collaborating for justice after genocide', paper presented at the annual meeting of the International Studies Association, Montreal, Quebec, Canada, 17 March 2004, www.allacademic.com/meta/p74581_index.html.

5. The International Criminal Tribunal for Rwanda was established by a UN Security Council resolution in November 1994 to prosecute high-level *génocidaires* for violations of international humanitarian law committed between 1 January and 31 December 1994.

THE GACACA SYSTEM

Gacaca, a Kinyarwanda concept, literally means ‘justice on the grass’. Gacaca courts as an endogenous Rwandese dispute resolution system involves people sitting outside, on the grass, to settle their disputes in the presence of community members. Leah Werchick notes that in its precolonial form, gacaca was used to moderate disputes concerning land use rights, cattle ownership, marriage, inheritance rights, and petty theft, among other interpersonal disagreements.⁶ The gacaca system did not deal with terribly complicated issues, such as mass murder.

The gacaca system rests upon the voluntary confession, demonstration of remorse, apology, and request for forgiveness by perpetrators. Traditionally, gacaca emphasised morality as the basis for adjudication. As a result, gacaca courts were run by members of the community known as the *inyangamugayo*, or ‘persons of exemplary conduct’, who were renowned for courage, honor, justice and truth.⁷ The *inyangamugayo*, deemed to be above reproach, were given this role based on their high moral and ethical standards. In traditional Rwanda, when a dispute had been resolved, a ritual or ceremony would be held to reflect the symbolic and practical importance of the process. Gacaca sessions often ended with the parties sharing a traditional libation and a meal as a gesture of reconciliation. Serious offences would result in the offender being ostracized from the community. The gacaca system as a typical endogenous method of conflict resolution resembles similar processes that developed in other parts of Africa, including *mato oput* in northern Uganda,⁸ the *gadaa* system among the Oromo of Ethiopia,⁹ and the *guuirt* of Somaliland.¹⁰ Gacaca is a distinctly traditional Rwandan practice, although it has been instrumentalized and infused with some European-based ideas about justice.¹¹

The Gacaca Process

In contemporary Rwanda, gacaca processes involve local residents giving testimony for and against suspects, who are essentially tried in the communities where they are accused of having committed crimes. The majority of individuals tried in gacaca courts are typically prisoners prepared to confess to the atrocities they may have committed and freely willing to engage in community adjudication. According to Anne

6. L. Werchick, ‘Prospects for justice in Rwanda’s citizen tribunals’, *Human Rights Brief*, 8:3 (2001), www.wcl.american.edu/hrbrief/08/3rwanda.cfm.

7. The term *inyangamugayo* is a Kinyarwanda word that translates literally as ‘people who hate evil’. These are persons of integrity who are known to be uncorrupted.

8. *Mato oput* is a reconciliation ceremony conducted among the Acholi of northern Uganda. The resolution of the conflict is symbolized by the conflicting parties drinking a bitter herb mixture from the *oput* tree from the same vessel.

9. The *gadaa* is a system of age-grade classes that succeed each other in assuming political and social responsibilities. A complete *gadaa* cycle consists of five age grades. The authority held by elders is derived from their position in the *gadaa* system. For details, see Gumii Bilisummaa Oromiyaa, ‘Understanding the *gadaa* system’, 2000, www.gumii.org/gadaa/understd.html.

10. The *guuirt* is the highest-level council of elders in Somaliland and the highest traditional authority. Each council consists of a body of elders who represent the lineages in the clan and is headed by clan leaders, or sultans.

11. See M. Sabera et al., ‘The gacaca justice system: A process for reconciliation and sustainable peace’, *Women’s World* (Kampala), 2007.

Kubai, approximately, 11,000 gacaca courts are in operation today in Rwanda, each with a panel of nineteen judges.¹² As in precolonial Rwanda, the genocide-related gacaca trials are chaired by *inyangamugayo*. The judges receive no salaries, but their families are entitled to free access to education and medical care. To convene a gacaca session, a minimum of fifteen judges must be present as well as 100 witnesses and members of the community.

The gacaca courts are authorized to try and sentence anyone suspected of carrying out or being an accomplice to crimes committed during the genocide. The courts cannot impose the death penalty or try army personnel. More serious cases, that is, involving perpetrators with responsibility for organizing and executing genocide-related atrocities, are processed through the formal judicial system.

In practical terms, the key principle of the gacaca process is truth telling. The assumption at the outset is therefore that survivors, witnesses, and alleged perpetrators have convened to witness justice in action. The process requires that all parties participate in a debate on what happened in order to establish the truth. The validity of the evidence provided is cross-referenced by the number of witnesses in the community who can attest to the alleged atrocity committed.

In terms of process, the gacaca court first identifies the victims' families who were affected by atrocities during the civil war and genocide. Suspects in these crimes are then identified and classified based on four distinct categories of *génocidaires*: Category one consists of the planners, organizers, and leaders of the genocide and those who used their position of authority to orchestrate murders. The gacaca courts cannot handle the cases of individuals in this category because they fall under the jurisdiction of the national courts.¹³ Category two comprises people accused of homicide or other acts against persons resulting in death. Category three concerns individuals who committed violent acts without intent to kill. Category four covers people who committed property crimes.

When categorization is complete, the perpetrators are summoned to participate in the courts in their local community, where local witnesses speak for or against them. After the witnesses have given evidence to the satisfaction of the court, the *inyangamugayo* pass judgment. That the gacaca system emphasises soliciting genuine confessions, repentance, and apologies helps in confronting the culture of impunity that had engulfed Rwanda during the genocide. Through the principle of truth telling, the defendant and witnesses are required to provide a detailed description of the offence, how and where it was carried out, confirm the victims, and if applicable, provide information about where the victims' bodies were left. Perpetrators who give full confessions of their genocidal acts normally receive lesser sentences. Peter Uvin considers gacaca's emphasis on confessions to be one of the most innovative and important aspects of this mechanism.¹⁴ Uvin also argues that confessions can lead to substantially more 'truth' than conventional justice systems elicit.

12. A. Kubai, 'Africa Watch: Between justice and reconciliation: The survivors of Rwanda', *African Security Review*, 16:1 (2007), www.iss.co.za/index.php?link_id=25&slink_id=4943&link_type=12&slink_type=12&tmpl_id=3.

13. If convicted of an offence, these individuals are often sentenced to life in prison.

14. P. Uvin, 'Case Study: The *gacaca* tribunals in Rwanda', *Reconciliation after Violent Conflict* (Strömsborg, International Institute for Democracy and Electoral Assistance, 2003), 116–21, www.idea.int/publications/reconciliation/upload/reconciliation_chap07cs-rwanda.pdf.

Gacaca's inclusion of apology is also an important ingredient in promoting reconciliation. Overtures demonstrating contrition through some form of reparation or community service before the perpetrator's reintegration into the community contribute to the mending of broken relationships and improving victims' lives. Uvin, in arguing in favour of the gacaca system, recognises that western-style justice may be an impossible goal in Rwanda given the cultural context in which the post-genocide trials are operating. Uvin urges pragmatism when analyzing the gacaca, arguing that total and untainted justice in the aftermath of mass violence may be unattainable. In other words, the gacaca system respects the spirit of justice 'in a locally appropriate form' that a formal justice system might not be able to create.¹⁵

Advantages and Limitations of the Gacaca System

The gacaca system in Rwanda highlights the role of culture in postconflict resolution, and in particular, Rwandan society's ability to settle its problems through an endogenous system of justice and conflict resolution.¹⁶ A key advantage of the gacaca process is that it gives people a chance to talk about genocide, and in so doing, offers a visible form of justice in which community members have a voice and opportunity to participate in solving their country's problems. Barbara Oomen notes how the gacaca system, as a grassroots initiative, contributes towards reconciling individuals and rebuilding communities that have been brutalised by the genocide.¹⁷ The psycho-sociological role of the gacaca in facilitating reconciliation and healing is also acknowledged by Patrick Kanyangara and his colleagues, who suggest that the gacaca in Rwanda has the potential to significantly address the emotional concerns of the Rwandan community in the aftermath of the 1994 genocide.¹⁸

Vamik Volkan asserts that if painful memories about past atrocities are not adequately dealt with by one generation, they will contaminate future generations with cycles of violence and counterviolence.¹⁹ The gacaca process can play a role in preventing the transgenerational transmission of trauma in Rwanda. By publicly addressing issues of genocidal trauma, and facilitating the 'closure' of this painful episode, gacaca courts contribute towards efforts to prevent a relapse into vengeful violence by future generations of Rwandans.²⁰ The gacaca system, through community participation, provides for consensus building, because the approach requires the *inyangamugayo* to agree on the verdict after having listened to the members of the community.²¹

15. Ibid.

16. K. Avruch, *Culture and Conflict Resolution* (Washington, United States Institute of Peace Press, 1998); A. L. Des Forges, *Leave None To Tell the Story: Genocide in Rwanda* (New York, Human Rights Watch, 1999).

17. B. Oomen, 'Rwanda's gacaca: Objectives, merits and their relation to supranational criminal law', 2006, www.ceri-sciencespo.com/themes/re-imaginingpeace/va/resources/rwanda_gacaca_oomen.pdf.

18. P. Kanyangara, B. Rim, P. Phillipott, V. Yzerbyt, 'Collective rituals, emotional climate and intergroup perception: Participation in "gacaca" tribunals and assimilation of the Rwandan genocide', *Journal of Social Issues*, 63:2 (June 2007), 387–403.

19. V. Volkan, 'Traumatized societies and psychological care: Expanding the concept of preventive medicine', *Mind and Human Interaction*, 11:3 (2000), 177–94.

20. L. S. Graybill, 'Pardon, punishment and amnesia: Three African post-conflict case studies', *Third World Quarterly*, 25:6 (2004), 1117–30.

21. Tiemessen, 'Rwandan gacaca'.

Gacaca has encouraged people in Rwandan communities to work together as witnesses, tribunal personnel, and jurors. This pursuit of the same goal creates a communal experience, thereby replacing the divisiveness of the genocide with a cohesiveness of administering justice and promoting reconciliation. During the gacaca proceedings, everyone has a right to contribute to the local court proceedings. This decentralization of power and enhanced participation of the grassroots in social change processes is essential for long-term stability in Rwanda. The gacaca system also reflects the unison of hybrid approaches to peace and reconciliation by integrating culture and modern approaches in peace-building and healing. Toran Hansen commends the blending of restorative justice principles with the retributive western legal model, arguing that such cross-fertilization has created a uniquely Rwandan model of postconflict reconstruction.²²

Given that gacaca processes were traditionally meant to resolve minor, relatively uncomplicated, and local-level civil disputes, the nature and number of genocide-related cases can be quite overwhelming to the system. The gacaca process is expected to deal with not only serious but also numerically significant genocide-related cases. As such, the gacaca system ironically may not be able to empty the Rwandan prisons as some of its proponents thought it would, especially if it remains overburdened by cases, as is currently the situation.

Although gacaca was conceived as a traditional institution for communal justice and has retained its traditional outdoor setting, the system has been modernized, formalized, and extended, through the state to operate in the realms of retributive or criminal justice with a prosecution-based approach to justice. According to Article 39 of the Organic Law of 2001, gacaca courts have broad competences, 'similar to those of ordinary courts, exercising attributes of investigation, prosecution and judgment.' Nonetheless, the gacaca is a regulated forum with discussion restricted to the genocide-related case at hand, and its approach of examination and trial is similar to other 'courtrooms'. Michael Mann documents how gacaca courts have been used to intimidate the current Rwandan regime's critics and opponents.²³ This challenges the notion that African jurisprudence systems are naturally restorative rather than retributive. Lyn Graybill and Allison Corey and Sandra Joireman consider the gacaca as a punitive, adversarial approach to postconflict resolution.²⁴

Although gacaca valorizes the concept of truth telling, the system must confront the 'problem of truth.' Truth telling does not always result in peace-building or reconciliation.²⁵ In a similar vein, Mahmood Mamdani argues that truth does not necessar-

22. T. Hansen, 'The gacaca tribunals in post-genocide Rwanda', Center for Restorative Justice and Peacemaking, School of Social Work, University of Minnesota, 27 November 2005, www.cehd.umn.edu/ssw/rjp/Resources/RJ_Dialogue_Resources/RJ_Dialogue%20Approaches/Gacaca_Tribunals.pdf.

23. M. Mann, *Dark Side of Democracy: Explaining Ethnic Cleansing* (New York, Cambridge University Press, 2005).

24. Graybill, 'Pardon, punishment and amnesia'; A. Corey and S. F. Joireman, 'Retributive justice: The gacaca courts in Rwanda', *African Affairs*, 103:410 (2004), 73–89.

25. M. Minow, *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence* (Boston, Beacon Press, 1998).

ily invoke mercy and forgiveness.²⁶ Brandon Hamber notes that truth alone does not always lead to reconciliation.²⁷ He observes that in some cases, truth may lead to reprisals against those who present it. In addition, the problematic of truth is compounded by what C. O. Lerche identifies as the elusive, relative, and complex nature of truth. Lerche asserts that there are always competing narratives of victimhood, with each side having its own version of the truth concerning ‘what really happened’.²⁸ Hayner is equally skeptical of truth, asserting that truths are often multiple, competing, contested, and sometimes contradictory.²⁹

This challenge is exacerbated by the absence of psychosocial support to assist victims and perpetrators after the gacaca process. The truth might trigger memories that could lead to vengeance and a breach of the peace. People will therefore consider their safety and relations with other community members before they give authentic testimonies. This situation is compounded by the lack of mechanisms, procedures, and resources for the gacaca courts to protect witnesses. Security has become a real concern for those involved; a report by Penal Reform International suggests that fear has sharply decreased participation in the trials.³⁰ In confronting the challenge of false testimony, the Gacaca Law provides for a penalty of one to three years imprisonment for anyone who provides false testimony or refuses to testify.

The gacaca system also faces structural limitations in the sense that the nature of the crimes presented before the gacaca courts might be widely at variance with the stature of the court. Alison Des Forges argues that crimes of genocide necessitate more than community-healing mechanisms.³¹ Other critics contend that the training period for gacaca judges is insufficient. In addition, the reliance on eyewitnesses can be challenging because some witnesses may be guided by self-interest, fear, or error. Thus there is no guarantee (as in other courts) that all eyewitness accounts and confessions are accurate.³²

Another limitation of the gacaca system is that some observers perceive the tribunals as one-sided and ethnically biased because they seemingly focus on crimes committed by the Hutus against the Tutsis. Gacaca does not deal with the atrocities committed by the Rwandan Patriotic Front (RPF), the then-Tutsi-based rebel movement that mobilized in Uganda. According to Human Rights Watch, prior to the 1994 genocide RPF destroyed property, recruited child soldiers against their will, carried out systematic slaughters of civilians, displaced thousands, and committed various other human rights abuses as they launched attacks against the Rwandan government.³³

26. M. Mamdani, ‘The truth according to the TRC’ in Ifi Amadiume and Abdullahi An-Na’im (eds.), *The Politics of Memory: Truth, Healing and Social Justice* (London, Zed Books, 2000), 176–83.

27. B. Hamber, ‘Masculinity and transitional justice: An exploratory essay’, *International Journal of Transitional Justice*, 1:1 (December 2007), 375–90.

28. C. O. Lerche III, ‘Truth commissions and national reconciliation: Some reflections on theory and practice’, *Peace and Conflict Studies*, 7:1 (2000).

29. P. B. Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York, Routledge, 2001).

30. Penal Reform International, ‘From camp to hill: The reintegration of released prisoners,’ Research Report on the Gacaca, no. 4, Kigali and Paris, 2004, 110 (available online).

31. Des Forges, *Leave None To Tell the Story*.

32. Lerche, ‘Truth commissions and national reconciliation’.

33. Human Rights Watch, ‘Africa: Rwanda’, *World Report 2003*, www.hrw.org/wr2k3/africa9.html.

Although gacaca was conceived of as reconciliatory justice, its potential for inciting ethnic tension should not be underestimated, especially if Hutus continue to perceive it as an instrument of Tutsi power. Eghosa Osaghae observes that 'the relevance and applicability of traditional strategies have been greatly disenabled by the politicization, corruption and abuse of traditional structures, especially traditional leaders, which have steadily delegitimized conflict management built around them in the eyes of many and reduced confidence in their efficacy'.³⁴ Mamdani asserts that during the gacaca sessions, victims are almost solely seen as 'Tutsi genocide survivors', which leads to his conclusion that *gacaca* courts impose a victor's justice.³⁵ Some observers point to a tendency to assign collective guilt to Hutus under the gacaca system.³⁶ Alana Tiemessen notes that despite the government's agenda of forging a single political identity for Rwandans, the identity of participants in the justice process remains linked to ethnicity.³⁷ Corey and Joireman express the concern that 'without the equal application of the gacaca process to both Hutu and Tutsi, it will be perceived more as revenge than reconciliation'.³⁸ It is therefore necessary to analyse how the use of gacaca might affect the security of all Rwandan citizens in the future, especially if it continues to be seen as pursuing inequitable justice and accentuating the ethnic divide.

John Conley and William O'Barr have noted that Rwandan culture is gendered.³⁹ The gacaca system of conflict resolution is also beset by limitations stemming from accusations of gender bias. Traditional African indigenous structures were largely exclusionary on the basis of gender. The majority of indigenous women were not included in the primary structures of decision-making. The gacaca courts reflect the resurrection of this aspect of traditional patriarchal culture in modern Rwandan society. The patriarchal nature of the gacaca system is one reason why crimes of rape are under-represented in Rwanda's post-genocide healing process. As a result of the public nature of the gacaca, most women who were raped during the genocide are reportedly reluctant to come forward and testify in gacaca courts because the burden of proof for rape lies with the woman, whose only weapon is her word against that of the accused. In the report *Struggling to Survive: Barriers to Justice for Rape Victims in Rwanda*, Human Rights Watch details the factors hindering the effective handling of cases of rape, including the vulnerability of women to stigmatization, retraumatization, and a lack of adequate witness-protection programmes.⁴⁰

In addition, as noted above, the *gacaca* system does not appear to be achieving the objective of reducing pressure on Rwanda's prisons. In fact, it seems that gacaca hearings merely facilitate a 'rotation of prisoners'; although some prisoners are being released by national courts, others are simultaneously being convicted by the gacaca and

34. E. E. Osaghae, 'Applying traditional methods to modern conflict: Possibilities and limits' in Zartman, *Traditional Cures for Modern Conflicts*.

35. Mamdani, 'The truth according to the TRC'.

36. M. Drumbl, 'Rule of law amid lawlessness: Counseling the accused in Rwanda's domestic genocide trials', *Columbia Human Rights Review*, 29 (Summer 1998), 546-67.

37. Tiemessen, 'Rwandan gacaca'.

38. Corey and Joireman, 'Retributive justice'.

39. J. M. Conley and W. M. O'Barr, *Just Words: Language and Power* (Chicago, University of Chicago Press, 2005).

40. Human Rights Watch, *Struggling to Survive: Barriers to Justice for Rape Victims in Rwanda*, 29 September 2004, www.hrw.org/en/node/11975/section/1.

incarcerated.⁴¹ The gacaca experience in Rwanda illustrates the complexity and tensions between the concepts of justice and peace. In most cases of genocide, finding the right balance between justice and reconciliation or between retribution and forgiveness is a delicate process. Wendy Lambourne notes that there are challenges and dilemmas in meeting the need for justice in the aftermath of violence because sometimes justice tends to compete with the need to secure peace.⁴² This discord leads Eva Bertram to conclude that the questions of ‘amnesty and reconciliation are one of the most troubling quandaries for peacebuilders.’⁴³

Enhancing the Efficacy of the Gacaca System

The Rwandan state has played a significant role in the gacaca process, but there is a need to balance this with a role by civil society in transitional justice. The inclusion of civil society inside and outside Rwanda can contribute towards addressing some of the limitations discussed above. In specific, civil society and the international community should continue to support the Rwandan government in implementing gacaca proceedings, and civil society organizations must be allowed to monitor them. Such transparency will help ensure that the system is effective in the promotion of justice, healing, and reconciliation.

As noted, one challenge of the truth-telling process is dealing with the risks confronting witnesses and those who confess to crimes. In this regard, it is important for the Rwandan government to adopt measures to protect the personal safety of witnesses and victims without adulterating the process of transitional justice. It is equally important for the gacaca courts to ensure that the accused have a right to a fair trial. This can be achieved through mechanisms for ensuring that gacaca defendants, especially those facing long terms of imprisonment, can appeal to the formal court system. Currently, the gacaca has no appeal process. Gacaca judges should continually receive training and capacity building to assist their handling of cases. To ensure that the gacaca process is not continually perceived as an exclusionary form of ‘justice for the powerful’, the government of Rwanda should give the system a mandate for trials involving atrocities committed by *all* Rwandans, irrespective of their official or unofficial status.

CONCLUSION

The gacaca endogenous system of postconflict justice and reconciliation is informative and instructive because it is a community-owned process of transitional justice. Most Rwandans ‘own’ the gacaca process as they participate in the election of the judges. One key achievement of the system is that it provides space for the truth to be told about the genocide. In this respect, gacaca processes are paving the way for the

41. J. Fierens, ‘Gacaca courts: Between fantasy and reality’, *Journal of International Criminal Justice*, 3:4 (2005), 896–919.

42. W. Lambourne, ‘Post-conflict peacebuilding: Meeting basic needs for justice and reconciliation’, *Peace, Conflict and Development*, 4 (April 2004).

43. E. Bertram, ‘Reinventing governments: The promise and perils of United Nations peacebuilding’, *Journal of Conflict Resolution*, 39:3 (September 1995).

adoption and revitalization of endogenous approaches to justice, healing, truth telling, and reconciliation.

Despite the positive aspects of gacaca as a framework for promoting transitional justice, the system has some significant limitations. As a method of conflict resolution and healing, it has not significantly altered the victim-perpetrator narratives. It is vulnerable to being perceived as an unjust and one-sided process, particularly if and when perpetrators are predominantly Hutus and the victims Tutsis. A more qualitative and detailed study is necessary for determining the extent to which this perception is held within the Rwandese body politic. In the short to medium term, these limitations need to be addressed because the gacaca has the potential to lay the foundation for healing, reconciliation, and peace-building.

At the very least, the truth telling involved in the gacaca system might help Rwandans avoid collective amnesia about the mass killings. More important, there is practically no other viable alternative to confronting the collective guilt and actions of individuals during the genocide, as well as dealing with the backlog of perpetrators. What remains is reformation and revitalization of the gacaca process to ensure that universal standards of fairness in trials are upheld and that past human rights abuses are managed through a transparent restorative justice system. This will not only provide an opportunity for closure on this tumultuous era, but will also enable victims and perpetrators to take part in a process of reconciliation.



Rediscovering *Mato Oput*: The Acholi Justice System and the Conflict in Northern Uganda

Joseph Wasonga

The Acholi and neighbouring populations of northern Uganda have suffered civilian atrocities at the hands of the Lord's Resistance Army since the late 1980s. In 2003 Ugandan president Yoweri Museveni referred the situation to the International Criminal Court. Some of the victims along with sectors of civil society, community leaders, and some government representatives challenged the relevance of the court. Instead, they advocated the use of *mato oput*, a traditional Acholi voluntary peace and justice process involving mediation, trust building, acknowledgment of wrong doing, compensation, reconciliation, and restoration. The principles and practice of *mato oput* are founded upon the Acholi belief that crime is essentially a violation of relationships in a community. Hence, *mato oput* can be instrumental in restoring broken relationships between victims and survivors and between perpetrators and the entire community. Ugandans continue to debate the capacity of *mato oput* as a mechanism for sustainable peace in the context of the intractable conflict in the north.

THE LORD'S RESISTANCE ARMY (LRA), the rebel movement led by Joseph Kony, is one of several guerrilla groups that arose in Uganda after Yoweri Museveni's National Resistance Movement/Army (NRM/A) assumed power in 1986.¹ The movements' members, believing in Kony's view of spiritual redemption, seek to rule Uganda as a theocracy based on the Ten Commandments.² All LRA members must be ritually initiated and cleansed. The initiation rites, usually following the inductees' abduction by the LRA, have included clubbing, stamping, and beating to death friends and relatives. Some initiates have had to lick brains, drink blood, and eat the flesh of their dead relatives as part of the indoctrination process.³ The LRA has committed numerous atrocities against the people of Acholiland and neighbouring populations, including

1. R. Doom and K. Vlassenroot, 'Kony's message: A new Koine? Lord's Resistance Army in northern Uganda', *African Affairs*, 22:98 (1999), 22.

2. P. Jackson, 'The march of Lord's Resistance Army: Greed or grievance in northern Uganda?' *Small Wars and Insurgencies*, 3:13 (2002), 49; International Crisis Group, 'Northern Uganda: Understanding and solving the conflict', *Africa Report*, 77 (2004), 4.

3. Doom and Vlassenroot, 'Kony's message', 22.

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enslavement, murder, imprisonment, torture, and rape and sex slavery. It has also forcibly conscripted children as soldiers.⁴

Kony, who considers himself to be God's 'spokesman', had expected the popular support of the Acholi population because he purportedly was fighting to defend them from being annihilated by the NRM/A, which had seized power following the overthrow of President Tito Akello, an ethnic Acholi. The LRA's cruelty and coercive methods led people instead to question Kony's goals, denying him blessings from Acholi elders and support from the broader Acholi population.⁵ The LRA therefore turned their weapons on their own people in Acholi, looting people, destroying villages, and abducting boys and girls as young as eight or nine. The actions of the LRA and its conflict with the government has led to thousands of Acholi becoming internally displaced persons (IDPs).

After several failed attempts to militarily defeat the LRA, the Ugandan government in 2003 referred the situation in northern Uganda to the International Criminal Court (ICC), which initiated investigations and subsequently issued arrest warrants for the LRA's top commanders for allegedly committing atrocities against the civilian population.⁶ According to the ICC, the LRA's actions constituted 'serious violations of human rights',⁷ which falls within the framework of crimes against humanity.⁸

Immediately after the ICC announced the indictments, the LRA offered to negotiate with the government for a peaceful settlement on the condition that the ICC withdraw the arrest warrants. A cross-section of the local population, especially traditional leaders and the broader civil society, embraced the offer by the LRA based in part on the knowledge that several attempts by the Ugandan government to bring the war to an end through military means had come to naught. To them, the LRA's offer to negotiate represented an opportunity to be exploited in pursuit of a solution to the conflict.⁹ This perspective helped shape negative attitudes and objections about the work of the ICC.

Some critical of the ICC felt that its involvement would exacerbate violence and become an additional stumbling block to the peace process.¹⁰ The local population doubted that the LRA leadership would surrender freely without the ICC prosecutor withdrawing the indictments against its commanders.¹¹ Moreover, local leaders

4. T. Allen, *Trial Justice: The International Criminal Court and the Lord's Resistance Army* (New York, Zed Books, 2006), xiii; P. Akhavan, 'The Lord's Resistance Army case: Uganda's submission of the first state referral to the International Criminal Court', *American Journal of International Law*, 2:99 (2005), 405.

5. S. Finnstrom, 'Living with bad surroundings: War and existential uncertainty in Acholiland, northern Uganda', *Uppsala Studies in Cultural Anthropology*, 35, (2003).

6. International Criminal Court (ICC), 'President of Uganda refers situation concerning the Lord's Resistance Army (LRA) to the ICC', press release, 29 January 2004, www.icc-cpi.int; idem, 'Statement by the chief prosecutor on the Uganda arrest warrant', 14 October 2005.

7. ICC, 'President of Uganda refers situation concerning the Lord's Resistance Army', 48.

8. W. A. Schabas, *Genocide in International Law: The Crimes of Crimes* (Cambridge, Cambridge University Press, 2002).

9. Allen, *Trial Justice*.

10. Ibid.

11. Liu Institute for Global Issues, Gulu District NGO Forum, and Ker Kwaro Acholi, 'Roco Wat I Acoli: Restoring relations in Acholi-land traditional approaches to reintegration and justice', September 2005, www.ligi.ubc.ca/sites/liu/files/Publications/JRP/15Sept2005_Roco_Wat_I_Acoli.pdf; Interview, Adel Ojara, Kitgum, 16 May 2008.

doubted the ability of the ICC to successfully carry out the arrests. As the court lacks an enforcement arm, the people assumed that the court would have to rely on government forces, the Uganda People's Defence Force (UPDF), for this purpose.¹² The government had been unable, however, to defend its citizens from attacks and abductions by the LRA.¹³ In 1996 the Ugandan government had moved almost the entire Acholi population into internally displaced persons camps to protect them from the LRA, but even then, its soldiers could not manage to adequately secure the camps against LRA assaults.¹⁴

Another objection to the ICC intervention concerned the issue of abducted children, which raised not only legal but moral questions because of the likelihood that apprehending LRA members would likely involve military operations. The situation in northern Uganda remains an ongoing conflict, so pursuing the culprits militarily would likely involve loved ones being killed. The chances of this occurring was higher than it might be under other circumstances because the majority of the combatants or perpetrators in the LRA had been forcibly abducted and indoctrinated, making them victims as well.

Some Acholi questioned the objectivity of the ICC. This concern revolved around the manner of referral to the ICC and the fact that the ICC did not target the UPDF, which like the LRA was believed to have committed atrocities against the Acholi population.¹⁵ Among these sceptics is Charles Abok, who said, 'The conflict in northern Uganda is complex and it is difficult to state who was really fighting for the people and who was against the people. Both the government and the LRA claimed to have been fighting for the Acholi, yet both have committed very serious and vengeful crimes against the Acholi people.'¹⁶ Government forces have been accused of looting property and raping women and torturing whomever they suspect of being rebel collaborators.¹⁷ Caroline Auma agreed, stating, 'The LRA abducted children, but the UPDF also committed very grave human rights abuses [against] our people, like raping, torturing and killing.'¹⁸

In this regard, it did not escape the attention of the Acholi population that one of the conflict's protagonists—President Museveni—had made the referral to the ICC.¹⁹ Moreover, when the ICC prosecutor announced the referral, it was at a joint press conference with Museveni.²⁰ These events led to suspicions about the primary intent of issuing the referral. Some believed that the Ugandan government might be using the court as a weapon against the LRA; further, some felt that the ICC's failure to target the UPDF was due to the force's association with the government.²¹ This explains the local population's misgivings that any judgment in the case would be unjust unless

12. Interview, group of elders, Lacor internally displaced persons (IDP) camp, Gulu, 11 May 2008.

13. Interview, Abel Ojara, Kitgum, 16 May 2008.

14. Interview, Caroline Auma, Lapuje IDP camp, Kitgum, 31 May 2008.

15. Allen, *Trial Justice*, 175.

16. Interview, Charles Abok, Pabo IDP camp, Amor district, 23 April 2008.

17. Interview, Christine Achar, Kitgum, 19 May 2008.

18. Interview, Caroline Auma, Lapuje IDP camp, 31 May 2008.

19. Interview, Crispin Opiyo, Kitgum, 29 May 2008.

20. Human Rights Watch, 'Courting history: Landmark international court's first years: II. Office of the prosecutor', 2008, www.hrw.org/reports/2008/icc0708/5.htm.

21. Allen, *Trial Justice*, 97.

government forces were also held accountable for their actions.²² A man living in the Pabo IDP camp in Amor district painfully recalled how the government had allegedly killed more than thirty people in Pabo. He reasoned that justice demands that all parties to a dispute be treated according to how much responsibility they bear. All those responsible should be held answerable, including government soldiers.²³ Against this backdrop, in October 2004 the Acholi Religious Leaders' Peace Initiative (ARLPI) and the Acholi paramount chief, Rwot Onen David Acana II, wrote to the ICC, 'While we recognise your need to investigate the crimes committed by the LRA against humanity, we would strongly suggest that the investigation encompasses the whole of the situation of the war in northern Uganda in order for true justice to be done.'²⁴

Yet another objection concerned whether the ICC's possible punitive measures would make a positive impression among the Acholi people. The ICC is an international instrument with international standards of punishment. Pursuant to Article 77 of the ICC statute, the LRA leaders, if convicted, would be subjected to life imprisonment. This, in the minds of the local population, would not be a punishment befitting the atrocities committed by LRA members. According to Jacinta Apola, a social worker who had worked with IDPs since 2002, 'Kony caused a lot of pain to the population and it would be important that he came out to see the pain he caused the people. If Kony is arrested and taken to The Hague, he will probably be jailed for life, and in this case he will live in comfort not comparable to the pain he has caused the people. Even if he were to hang, he would not have had [the] personal experience of his atrocities.'²⁵

This last objection hinges on the concept of punishment in transitional situations. Victims in most cases wish to be directly involved in some way in the pursuit of justice, as they truly want to see justice done. This has been a feature of several transitional justice processes in Africa, for instance in post-genocide Rwanda. During the proceedings of the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania, Rwandans expressed the desire to have been allowed to attend the court cases and judgments of some of the masterminds behind the 1994 genocide. They remained far removed from the proceedings, however, and were never actively involved in the tribunal's activities. The ICTR was also seen, in terms of procedure, as foreign to Rwandese society.²⁶ It is against this background that the *gacaca* court system is viewed as being useful in filling the divide between the ICTR and the Rwandan population. Ugandans who had suffered at the hands of Kony and the LRA would feel even more distance if Kony were prosecuted and jailed in The Hague. In this and other cases, the form of punishment for the perpetrator under international law can be interpreted as a form of alienation that further severs relationships and harmony in communities already suffering the effects of broken relationships.

This sampling of views about the ICC do not represent a coherent system of objections. The first two agree on one thing: the ICC's approach will bring about more suf-

22. Interview, Joseph Okidi, Kitgum, 16 May 2008.

23. Interview, anonymous man, Pabo IDP camp, Amor district, 15 April 2008.

24. Acholi Religious Leaders' Peace Initiative and Rwot Onen David Acana II, 'Suggestions by the Acholi religious and cultural leaders in response to the request by the international criminal court', Gulu, 12 November 2004.

25. Interview, Jacinta Apola, Gula, 6 March 2008.

26. Human Rights Watch, 'Leave no one to tell the story: Genocide in Rwanda', 1999, www.hrw.org/reports/1999/rwanda/Geno15-8-05.htm#TopOfPage.

fering. The third objection focuses on a perceived lack of impartiality on the part of the ICC. The last objection highlights the local sentiment that Kony feel the pain that he has caused, which the local population feels is a more severe punishment than the ICC is likely to issue.²⁷ It appears therefore that those who wish forgiveness for the LRA at the same time do not advocate what they consider to be too lenient a punishment.²⁸ This raises questions concerning what people really mean when they talk of forgiveness and punishment.

Conceptualising what constitutes ‘punishment’ in the context of the northern Uganda conflict is a difficult task. In westerners’ understanding, punishment is generally equated with criminal justice and in accordance with the rule of law. According to advocates of traditional mechanisms, however, the Acholi community interprets punishment more broadly. In traditional Acholi society, shame, mockery, jeering, social rejection, and compensation are adequate forms of punishment.²⁹ According to one elderly woman, punishment consists of a feeling of remorse that compels the wrongdoer to ask for reconciliation and repentance.³⁰

The protracted nature of the conflict in the north and the suffering to which people have been subjected makes for a compelling and urgent need for peace. According to Barney Afako, the unacceptably high costs and bitter experiences of the war have caused Ugandans to reassess approaches to resolving conflict.³¹ This is premised on the view that criminal prosecutions might undermine peace processes and that situations of an ongoing conflict, involving mass atrocities and thousands of perpetrators, require restorative measures of a less rigid nature.³² *Mato oput*, the Acholi traditional peace and justice mechanism, was proposed as part of local peace initiatives.

MATO OPUT

The nature and practice of *mato oput* as an instrument for conflict resolution and reconciliation among the traditional Acholi are based on the Acholis’ understanding of conflict as a life-threatening phenomenon.³³ Life is to be valued and celebrated. Life, among the Acholi, means a network of relationships. Life without community and relationships is meaningless. Thus, an individual exists in and for the community. No one stands independently and survives.³⁴ Apart from the living members of the community, the spirits of the dead play an important role in the life of the ongoing community. Moral order is measured in terms of the maintenance of communal harmony, which requires being in accord with the living and deceased members of the community. Evil, immorality, crime, or violence, therefore, is understood as an act of break-

27. Interview, Margaret Ajayo, Lapuje IDP camp, Kitgum, 22 May 2008.

28. Interview, Samuel Ojwaka, Amor district, 10 April 2008.

29. Interview, elderly man, Labuje IDP camp, Kitgum, 12 March 2008.

30. Interview, elderly woman, Gulu, 4 March 2008.

31. B. Afako, ‘Reconciliation and justice: “Mato oput” and the amnesty act’, Reconciliation Resources, www.c-r.org/our-work/accord/northern-uganda/reconciliation-justice.php.

32. N. Roht-Ariaza, ‘Amnesty and the International Criminal Court’ in D. Shelton (ed.), *International Crimes, Peace, and Human Rights: The Role of the International Criminal Court* (Ardsley, New York, Transnational Publishers, 2002), 79.

33. Interview, Samuel Odong, Gula, 18 March 2008.

34. Interview, Matthew Odida, Amor district, 12 April 2008.

ing societal harmony not only with the members of one's community but also with the ancestral or spiritual world.³⁵

According to Okot Okumu, a former soldier, the centrality of communal harmony in Acholi life makes postconflict peace-building an integral part of the healing process in the Acholi community.³⁶ The Acholi people believe in Jok, the divine spirit of ancestors who guide the Acholi moral order. When a wrong is committed, the ancestors send *cen*, the spirit of the dead person in the form of misfortune, unless the elders and the offender take appropriate action to restore the broken relations.³⁷ This 'phenomenon of *cen* illustrates the centrality of relationships between the natural and the supernatural worlds in Acholi, the living and the dead, [and] the normative continuity between an individual and the community'.³⁸ The 'living dead' have a great deal of influence in the world of the living. The challenges of life thus extend beyond the world of the living, requiring consultation and reconciliation with the spiritual world.³⁹

The crime of murder is an act that can lead to the breaking of community relationships. Callisto Otim points out that murder breaks the social fabric of the community because the entire clan of the person who committed the crime bears the guilt for the act.⁴⁰ Samuel Odong echoes similar sentiments, noting that when one murders a member of another clan, the killing automatically severs the relationship between the clans. The killer's clan can no longer participate in such community activities as hunting, marrying, trading, worshipping, or even shaking hands. The killer also is not allowed to share meals or take part in any other activities with the members of his own family or the clan, otherwise *cen* will bestow calamities upon the entire community.⁴¹

Conflict among the Acholi, thus, involves relational and moral dimensions. The collective responsibility and guilt that weighs heavily upon each and every member of an offender's community requires collective repentance and remorse for the murder committed. Traditional Acholi society has no courts of law, so judgment depends upon the truth and a readiness to accept responsibility for one's actions. Speaking the truth evolved as a societal and moral obligation that everyone was bound to fulfil.⁴² After committing murder, the offender must undergo a ritual cleansing before being allowed to enter the village; otherwise, it is believed, the vengeful spirit of the dead person will haunt the killer and his entire family. Accordingly, the rituals performed to cleanse the killer are also meant to cleanse the entire community.⁴³ Under such a circumstance, the community keeps close watch over those possibly exhibiting signs of being possessed by *cen* or disturbed by the spirit. Manifestations of the *cen* include talking to oneself, having bad dreams, and calling the name of the deceased, beseeching him not to harm anyone.⁴⁴

35. Ibid.

36. Interview, Okot Okumu, Gula, 10 January 2008.

37. Liu Institute for Global Issues, Gulu District NGO Forum, Ker Kwaro Acholi, '*Roco Wati Acoli*'.

38. Ibid.

39. Interview, Okot Okumu, Gula, 10 January 2008.

40. Interview, Callisto Otim, Gula, 10 January 2008.

41. Interview, Samuel Odong, Gula, 18 March 2008.

42. Interview, Callisto Otim, Gula, 10 January 2008.

43. Interview, Okot Okumu, Gula, 10 January 2008.

44. Interview, Samuel Odong, Gula, 18 March 2008.

Cleansing ceremonies serve to reconcile two families or clans that have been separated by an act of killing and to appease the spirit of the dead in order to prevent being haunted by the dead person's spirit.⁴⁵ In addition, the traditional healing process is performed so the bereaved can see or feel that justice has been done. The Acholi based this cleansing process on certain fundamental values that hold together the fabric of their society. These include reconciliation and acceptance of responsibility, repentance, forgiveness, and compensation for the restoration of the social fabric.⁴⁶

These Acholi principles are embodied in the practice of *mato oput*.⁴⁷ In the Acholi language, the word *mato* means 'drinking', and *oput* is a type of tree with bitter herbs. Hence, *mato oput* literally means 'drinking of bitter herb', made from the leaves of the *oput* tree. The drinking of the bitter herbs symbolically means that the two conflicting parties accept the bitterness of the past and promise never to taste such bitterness again. In conflict resolution, *mato oput* is a traditional approach to justice and the reintegration of offenders involving mediation of truth, accountability, and reconciliation through symbolic acts and spiritual appeasement.⁴⁸ Most of these principles emphasise the need to live in harmony with others and restore social relations. As a practice, *mato oput* is a process requiring the participation not only of the victims and the perpetrators, but also the victim's and the perpetrator's communities, in restoring a broken relationship caused by an intentional murder or accidental killing.⁴⁹

The ritual of *mato oput* is normally only carried out after a typically long process of mediation between the two parties and only when the offender is willing to take responsibility. Charles Villa-Vicencio sees such processes as a form of co-operation to discern the best way to achieve peace.⁵⁰ From a psychological perspective, the ritual is a practical exercise in building friendly relationships through mock fights and the symbolic and actual sharing of food and drink inside the home, thereby making each of the formerly hostile parties hosts of each other. These procedures skillfully exploit cultural symbolism to illustrate that relationships between two parties can effectively improve by involving them in joined rituals. Symbolism is a serious element in the Acholi community that punctuates various social activities in Acholi life.⁵¹

The actual undertaking of *mato oput* follows particular steps aimed at reconciliation. The first step is acceptance of responsibility. Since there continue to be no law courts, truth and acceptance of responsibility for one's actions remain highly important. Elders play a vital role as mediators in this process. Initially, the elders engage both sides of the conflict to ascertain the relevant facts of the crime. This sets the stage for the administration of justice. Confession must be of an individual's own volition; the commitment to do so is not merely a legal necessity, but a binding moral impera-

45. Ibid.

46. Interview, Callisto Otim, Gula, 10 January 2008.

47. Afako, 'Reconciliation and justice'.

48. Ibid.

49. Liu Institute for Global Issues, Gulu District NGO Forum, and Ker Kwaro Acholi, '*Roco Wati Acoli*'. Interview, Abel Ojara, Kitgum, 16 May 2008.

50. C. Villa-Vicencio, 'Restorative justice', in C. Villa-Vicencio and E. Doxtader (eds.), *Pieces of the Puzzle: Keywords on Reconciliation and Transitional Justice* (Cape Town, Institute for Justice and Reconciliation, 2004), 35.

51. Interview, seven community workers, Gula, 12 January 2008.

tive. 'Cheating' is unacceptable because it offends even the ancestors.⁵² Thus, the accused or the perpetrator must first bear witness against himself or herself. After the confession and the offender's community's acceptance of collective responsibility, the elders perform the rituals.⁵³ If it is not clear who bears the guilt, then a process of investigation is carried out to determine the guilty party. This could be through testimony before community elders.⁵⁴ Acknowledgment and acceptance of responsibility by the individual and his or her community allows the people to begin to come to terms with the past and to look forward and to avoid possible revenge.⁵⁵

Acknowledgment is essential but alone is an insufficient basis for social rebuilding. Forgiveness also plays an integral role in the process of reconciliation. Thus, once genuine repentance is expressed by the offender's community, the victim's community must forgive in good faith. The act of forgiveness gives the offender's community hope for peace and provides some assurance that the victim's community is on a course towards reconciliation despite their bereavement.⁵⁶

Once the victim's community agrees to forgive, a settlement and a form of compensation must be agreed upon. The members of the perpetrator's community share responsibility for collecting the item of just compensation and giving it to the victim's community. The genuineness of repentance, says Otim, is measured by the willingness to pay compensation as required in traditional Acholi culture. Compensation depends on the circumstance and nature of the crime committed.⁵⁷ Traditionally, the offender's community was required to pay ten heads of cattle for unintentional murder. Compensation could also be in the form of a human, if it was proved that the murder had been a deliberate act. In this case, the offender's community would be required to give one of their young daughters to the victim's community. Compensation opens the gateway of reconciliation because the two sides begin to interact.⁵⁸

In the case of human compensation, the girl, between six and ten years old, becomes, by adoption, a daughter to the victim's community and in effect replaces the 'lost one' that was murdered. The role of a girl in compensation, especially for intentional murder, is understood as redemption. The willingness of the offender's community to sacrifice one of its daughters to the victim's community signifies the genuineness of its commitment to peace and coexistence through the process of reconciliation.⁵⁹ The presence of the girl as a new member of the victim's community also becomes a channel for communication between the formerly aggrieved communities cut off from each other. Her presence and life represent a re-creation of both communities and thus a guarantee of life and peace in transforming both sides.⁶⁰ From a human rights perspective, this role of the female child in compensation would be considered oppressive and a viola-

52. Interview, Okot Okumu, Gula, 10 January 2008.

53. B. Ochola, 'The Acholi traditional justice enough for Kony', *Sunday Vision*, 27 August 2006.

54. Interview, Okot Okumu, Gula, 10 January 2008.

55. *Ibid.*

56. Interview, Callisto Otim, Gula, 10 January 2008.

57. *Ibid.*

58. *Ibid.*

59. *Ibid.*

60. *Ibid.*

tion of the girl's rights; in essence, she is being 'ransomed' on behalf of the entire offender's community, bearing the burden of collective responsibility. To the Acholi, however, such compensation is not a punitive measure, but a process for healing and re-enhancement of life within the community.⁶¹

After compensation, a third party invites the offending and the offended parties to partake in the actual ceremony of *mato oput*. This cleansing ceremony represents the culmination of the peace process and takes place somewhere along the border between the conflicting communities. Goats and rams are exchanged, and then the victim's and the perpetrator's communities drink the bitter *oput* from the same calabash. The process of drinking the bitter herb from the same vessel is highly symbolic. The herb symbolises the bitterness in conflicts that end in bloodshed and the sacred blood of a human being. Two people at a time, one each from the offending and offended camps, drink the *oput* with hands behind their backs and then they sip the bitter juice simultaneously with their heads touching during the process. This goes on in pairs until every member from each community has taken the herb.⁶² The second part of the ceremony is the sharing of meals. It is believed that this takes place in the presence of the ancestral living dead and the creator as witnesses to the covenant of peace. Sharing meals in Acholi culture has always been a profound fellowship that makes someone part of the family. The taint that had soiled relationships between the two communities has been removed through cleansing, so normal social life between the two communities can resume.⁶³

HEALING NORTHERN UGANDA

Many advocates of *mato oput* believe that this process has the potential to deliver true healing, reconciliation, and reconstruction to northern Uganda in a manner that the international justice system cannot.⁶⁴ According to a woman who identified herself as Jennifer, 'Ultimately both the victims and perpetrators will have to stay in the same community. The case of northern Uganda is too complex to imagine that the problem can only be resolved by merely arresting the top leaders and jailing them in Europe. Most of these perpetrators are members of the same families where the victims belong.'⁶⁵

According to advocates of *mato oput*, the process's basis in trust—a pillar of interpersonal peace-building—makes it appropriate for postconflict peace-building. According to Lucy Hovil and Joanna Quinn, trust is important because it allows people in war-affected communities to engage in activities outside their primary social groups; such participation is essential in building and sustaining social cohesion.⁶⁶ Here social cohesion refers to interrelated features of society—namely, the absence of

61. Group interview, Gulu, 23 March 2008.

62. Interview, Matthew Odida, Amor district, 12 April 2008.

63. *Ibid.*

64. Liu Institute for Global Issues, Gulu District NGO Forum, and Ker Kwaro Acholi, '*Roco Wati Acoli*'.

65. Interview, Jennifer, Lacor IDP camp, 8 March 2008.

66. L. Hovil and J. R. Quinn, 'Peace first, justice later: Traditional justice in northern Uganda', Refugee Law Project Working Paper no. 7, 2005, 5.

latent conflict and the presence of strong social bonds manifested in terms of levels of trust, norms of reciprocity, and abundance of association—that bridge division.⁶⁷

For the case of northern Uganda, social bonds have been broken, so the appropriate peace-building processes must be undertaken in a situation of broken social trust.⁶⁸ The local population does not trust the government or the LRA because each has caused them much harm. They do not even trust members of the communities in which they live. An elderly woman who sought anonymity put it thus: ‘Really, the war has spoilt everything that is human. Today you do not have a friend. Kony’s soldiers have done very bad things to us; Museveni’s soldiers have done equally bad things to us. You cannot say that even your closest neighbour is your friend; he may be a government spy or an LRA spy. How can you think of having a friend when our own sons come and loot from us?’ According to Father Charles Odwara, the war has destroyed basic social values emphasised in traditional Acholi society. He asserts that the value of life and life as such has become meaningless. Life in the bush and in IDP camps has destroyed social order, social cohesion, and values—such as forgiveness, the sanctity of human life, respect for elders, and social responsibility—that reinforced a harmonious social order.⁶⁹

Against the backdrop of this social disruption, proper peace and reconciliation, according to Odwara, can only be realised by restoring the community’s values.⁷⁰ This state of affairs, according to its advocates, and the emphasis of *mato oput* on forgiveness and trust building make this mechanism appropriate for healing wounds in northern Uganda. Claire Putzeys argues that without forgiveness, there can be no peace and justice in northern Uganda. A favourable outcome can only be achieved through the restoration of the basic building blocks of relationships, including trust, forgiveness, and respect, among others.⁷¹

The ‘rediscovery’ of *mato oput* as a form of restorative justice springs from the recognition of the complexities that characterise the current conflict in northern Uganda. The term ‘rediscovery’ is used here in line with the nature of the Acholi community. As the Acholis reconstruct the *mato oput* ritual, they are in a way constructing a new community that did not exist before the war. The transfer of the Acholi population to IDP camps destroyed their traditional social existence, with its particular lineages and values. In the camps, the theme that Acholi society has lost its basic values is often heard. Thus, underlying calls for restorative justice is the appeal of re-educating and rehabilitating an offender, not simply incarcerating him and forgetting about the entire community.⁷²

Despite the apparent popularity of *mato oput*, there are sceptics and critical voices uncertain of the mechanism’s usefulness to the northern Uganda situation and its capacity to generate sustainable peace. Some question how *mato oput* can be effective given the magnitude of the conflict, in which thousands of civilians, Acholi and non-

67. L. F. Berkman and I. Kawachi (eds.), *Social Epistemology* (New York, Oxford University Press, 2000), 175.

68. Hovil and Quinn, ‘Peace first, justice later’, 8.

69. Interview, Charles Odwara, Gula, 16 March 2008.

70. Interview, Charles Odwara, Gula, 16 March 2008.

71. C. Putzeys, ‘Respect Uganda’s brand of justice’, *Christian Science Monitor*, 24 September 2007.

72. Interview, Charles Odwara, Gula, 16 March 2008.

Acholi, have been killed and maimed. In the view of Odong Thomas, *mato oput* has been made to appear more powerful than it really is.⁷³ The war has negatively affected or destroyed the Acholis' systems and structures of education, morality, and religion; all of them need reconstruction.⁷⁴ Moreover, the cultural identity of the Acholi people has become quite dynamic and is being reshaped by such factors as Christianity and modernity. Younger people, who had grown up in wartime, had not experienced traditional practices. Some Acholi had grown up in towns or in diasporas.⁷⁵

Other questions regarding the ability of *mato oput* focus on the compensation aspect of the practice. Some think that compensation, as traditionally understood, would be impossible to fulfil for a number of reasons. First, in many instances, people do not know the identities of the victims and the perpetrators. Thus, even if compensation were possible, it would not be easy to determine who would compensate whom. Second, certain cases are particularly complicated. For example, a perpetrator may have been forced to kill his or her parent or to slay ten people. In such instances, compensation would be difficult to apply.⁷⁶

Another concern regards the nature of the parties to the conflict. The mediation process must include all the relevant actors. In terms of traditional *mato oput*, it appears that reconciliation would be between the LRA and its victim, the broader Acholi society. According to Acholi perceptions, however, the conflict has also pitted the government against the Acholi population; some accuse the Museveni government of targeting them for annihilation.⁷⁷ There is no clear framework on how *mato oput* can be constructed to include the government as a party to the conflict. It appears that any peace and justice process that focuses only on certain dimensions of the conflict or that ignores certain parties risks being inadequate. According to an old man in the Lapuje camp, reconciliation, like justice, needs to take into account all the parties.⁷⁸ For *mato oput* to be fully applicable, would require the participation of Museveni and Kony in the ceremony as antagonising parties in the conflict. Only then would the process be effective.

CONCLUSION

Applying international standards of justice to the protracted conflict in northern Uganda may not result in postconflict peace-building. Rather transitional justice in this case may require a localised approach to peace-building. Critical challenges to intervention by the International Criminal Court highlight this questioning of the value of international instruments and standards of transitional justice. They also question the paradigm that peace and justice are necessary complements of each other. Reconciliation and reintegration through the traditional Acholi practice of *mato oput* is perhaps what the Acholi need though some doubt its relevance, especially given the devastating and complex nature of the conflict in northern Uganda.

73. Interview, Thomas Odong, Gula, 18 March 2008.

74. Interview, Charles Odwara, Gula, 16 March 2008.

75. Interview, Quirine Ongom, Gula, 11 January 2008.

76. Interview, anonymous woman, Lacor IDP camp, 9 March 2008.

77. Interview, lecturer, Gulu University, 10 March 2008.

78. Interview, Labuje IDP camp, Kitgum, 25 May 2008.

As a restorative justice mechanism, *mato oput* falls short of dissecting the many dimensions of the northern Uganda conflict. In particular, it de-centers the root causes of the conflict. The situation thus calls for rethinking some of claims that continue to frame transitional justice policy, appreciating tension between long-term and short-term transitional goals, and addressing the relationship between the various actors in a conflict. Transitional justice debates should not be limited to restorative or retributive aspects. In this respect, transitional justice processes in northern Uganda need to address the conflict in light of the social conditions of the Acholi as an issue of political relevance.



The Role of Taboos in the Management of Natural Resources and Peace-building: A Case Study of the Kakamega Forest in Western Kenya

S. M. Kilonzo, S. G. Kurgat, and S. G. Omare

The Kakamega forest is an area partly conserved and managed through taboos, informal institutions in which norms, rather than governmental juridical laws and rules, determine human behaviour. The Isukhas of western Kenya have for years used the forest as a source of peace-building. Many taboos have functions similar to those of formal institutions for nature conservation in contemporary society but have not sufficiently been recognized in this capacity. They have also not been used efficiently as a unifying factor. There thus exists a need to reconsider the use of taboos as sources of indigenous knowledge in peace-building.

MANAGEMENT OF THE ENVIRONMENT has to a great extent determined societal stability in terms of peace. For example, forests have been used not only as a source of livelihood, but also as an arena for unity and peace-building in various African communities. Besides being natural conservators for rainwater, forests have ensured economic gain as well as social cohesiveness in some African societies. Many governments, non-governmental organizations (NGOs), as well as private bodies and individuals have already come to realize that irresponsible environmental resource utilization can lead to heightened competition for available but limited natural resources. This in turn often leads to conflicts. Kenya provides a wide range of such examples.

The 1992, 1995, 2002, and 2007 election crises underscored the extreme consequences of competition for scarce resources in Kenya. The resulting conflicts led to deaths, evictions, and the displacement of people in various parts of the country.¹ This situation was exacerbated by debates surrounding feudal systems of leadership (*majimbo*)

1. J. Miano, 'The proposed truth, justice and reconciliation commission: Myths and reality' in J. Muteshi (ed.), *Perspectives on Gender Discourse: Transitional Justice in Kenya. The Gender Question* (Nairobi, Heinrich Boll Foundation, 2004).

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propagated by various opposition leaders to create administrative boundaries that dictate how resources should be shared.² Take for example the case of the Maasai and Kikuyu communities, two groups in the central and Rift Valley provinces that have been at loggerheads over access to water and pasture since the 1960s. Tensions grew in 2005, when armed youths from the nomadic Maasai attacked Kikuyu farmers in the Mai Mahiu region, about 60 kilometers northwest of Nairobi. More than 2,000 Kikuyu were displaced. The fighting had begun when Maasai herders invaded a farm owned by a local Kikuyu leader accused of diverting water from the Ewaso Kedong River to irrigate his crops. The Maasai claimed that the diversion had caused a shortage of water downstream that affected their animals' well-being. These issues can also be traced to the earlier mismanagement of forests that led to the destruction of water catchment areas and thus to water shortages. For instance, Lake Nakuru was severely affected from 2002 to 2006 by the destruction of the Mau forest by the Maasai and Kikuyu. In 2008 chaos erupted again, with members of the two ethnic groupings claiming ownership of land in the Mau forest. Some presented titles, which some members of parliament believed to be false.

In western Kenya, the Mt. Elgon crisis over land ownership has claimed thousands of innocent lives and has displaced many from the fertile, well-vegetated land. The Kakamega forest extends to parts of this region and is a source of rain for the people of the area. In March 2008, the Kenyan government deemed it important to use the military to maintain peace and stability in Mt. Elgon, after the loss of numerous lives. In August 2008, mass graves with more than ten bodies had been discovered there.³ The deaths were directly linked to the ethnic conflicts over land ownership in the area. These represent but a few examples of how peace in Kenya has been disrupted by squabbles over limited resources, especially fertile land and water.

Such situations point to how imperative it is for scholars and practitioners to devise better methods and proposals for peace-building and conflict management in order to safeguard natural resources and aid warring communities. One approach is to examine how indigenous knowledge systems (IKSs) can be used as a vehicle for transmitting peace and building new ways of maintaining conflict-free communities through the use of natural resources. Lessons from the Kakamega forest provide viable ways in which African communities can utilize natural resources and IKSs as foundations for building just and peaceful co-existence in diverse ethnic and tribal areas.

SETTING AND SAMPLES

This article is informed by data from the Kakamega forest and the surrounding populace. Most of the respondents are from the Shinyalu division, where the Isukha dialect of the Luhya tribe—the second largest of the forty-two tribes of Kenya—is primarily spoken. Shinyalu is one of seven divisions that constitute the Kakamega district. The area is relatively densely populated with an average of 600 persons per square kilometer. An abundant annual rainfall averaging 1,737 millimeters supports the for-

2. J. Klopp, 'Can moral ethnicity trump political tribalism? The struggle for land and nation in Kenya', *Journal of African Studies*, 61:2 (2002), 269–94.

3. *Daily Nation*, 18 August 2008.

est's more than 300 species of birds, 32 species of snakes, 7 species of primates, and 400 species of butterflies on less than 22,000 hectares of land.

Purposive sampling was used to survey elders, medicine men, religious leaders, Isukha religious specialists, local government administration officials, environmental conservation groups, and forest guards. Most of the sampling procedures were snow-balls, in which one person or group points the way to others who might be able to provide information. This method led to the sampling of six Isukha elders, four religious leaders, three Isukha religious specialists, seven local government administration officials, five environmental conservation groups, and six forest guards or waders. In total, the respondents numbered thirty-one.

THEORETICAL FRAMEWORK

The research here falls under the structural-functional theory associated with Emile Durkheim, and more recently Talcott Parsons, that society consists of parts, which have their own functions and work together to promote social stability.⁴ All aspects of a society serve a purpose and are indispensable for the long-term survival of the society. These parts usually work together in an orderly manner, without conflict, somewhat like the heart, lungs, kidney, and the alimentary canal of the human body. If one part fails, the body ceases to function normally.⁵

The theory examined here presumes that society is a system composed of various social elements, or units, taboos being one of them. If taboos are disrespected, society's functioning will be disrupted, forcing it to readjust to seek equilibrium. Conflicts stimulate adjustment of various units of the society in order to evolve towards a new equilibrium. Taboos in this case are vital tools within the structure of society. The theory also asserts that if society's needs are to be met, social structures must be shaped. Taboos are therefore assumed to help society operate smoothly. In terms of peace-building, Parsons notes that according to structural functionalism theory, values and norms provide for a strong measure of agreement among people.⁶ The wants and desires of people are not randomly distributed but are socially derived through values and norms, which, in this case, includes taboos.⁷ The theory therefore affirms that taboos have a functional role in society. One of these roles is peace-building.

FINDINGS AND DISCUSSIONS

A taboo system is a cultural or religious custom that forbids people to touch, use, mention, or do certain things or words. Aylward Shorter opines that the taboo is a larger concept than the sacred versus the secular or the clean versus the unclean.⁸ The word *taboo* derives from the Polynesian word *tapu*, meaning 'tied' or 'forbidden.' It

4. G. Mashall, *The Concise Oxford Dictionary of Sociology* (London, Routledge, 1994), 190–191.

5. D. Mitchell, *A Dictionary of Sociology* (London, Routledge, 1968).

6. See P. Knapp, *One World—Many Worlds: Contemporary Sociological Theory* (New York, Harper-Collins, 1994), 191–2.

7. E. C. Cuff et al., *Perspectives in Sociology*, 3d edn (London, Routledge, 1984), 40.

8. A. Shorter, *African Culture: An Overview. Socio-Cultural Anthropology* (Nairobi, Paulines Publications Africa, 1998), 42–43.

refers to any ritual prohibition to which an automatic sanction—religious or magical—is attached. According to Shorter, taboos exploit an innate, irrational fear in the human psyche. Culturally, they are used to inculcate practical attitudes. Taboos are often associated with totems, which are emblems of clans or ethnic groupings. They vary from one cultural and regional grouping to the next.

Joseph Osei explains that taboo, within its historical context, was a sacred term for a set of cultic or religious prohibitions instituted by traditional religious authorities as instruments of moral motivation, guidance, and objectivity for protecting the sanctity of shrines and the well-being of their worshipping communities.⁹ The term is also applicable to any sort of social prohibition imposed by the leadership of a community regarding certain times, places, events, actions, and people, especially but not exclusively for religious reasons, for the well-being of the society. Taboo may therefore be considered in two senses. The narrower sense represents the cultic or purely religious usage, while the broader sense represents its usage in socioeconomic and political contexts. The latter is the sense that this study adopts. Taboos are perceived to contain within them certain assumed dangers with repercussions for anyone who transgresses them; they exist to ensure that the moral structure of the universe remains undisturbed for the good of humanity.¹⁰

TABOO AS AN IDEOLOGICAL KNOWLEDGE AND BELIEF OF THE ISUKHAS

Before the imposition of colonialism, secular forms of western civilization, and new religions, taboos embedded in traditional religion regulated the Isukha community. The sense of the sacredness of taboos permeated every act of Isukha life. From childhood to adulthood, the Isukha learned the basic beliefs and values of their tribe. This not only involved the use of taboos, but also the teaching of legends and proverbs and participation in sacred rituals. The ideological knowledge acquired was transformed almost automatically into belief because the adults acted within a complex of social structures that conformed to these beliefs, thereby reinforcing them among the youths. Religion was interwoven with traditions and social customs. All members of the community were automatically considered to have acquired the knowledge they needed about religion and custom during their childhood.¹¹ It is quite evident that societal activities were never alienated from people's religious beliefs. All taboos were attributed to divine regulation. Either God or the evil spirits would punish or haunt the violators of the taboo system.

The Isukhas' traditional religious knowledge and belief systems were based on a belief in God (*Were/Nasaye*), ancestors, spirits in the world of the living, the unborn, and the inanimate world. The Isukha believed in mystical powers, which were thought to

9. J. Osei, 'The value of African taboos for biodiversity and sustainable development', *Journal of Sustainable Development in Africa* (Fall 2006), www.jsd-africa.com/Jsd/Fall2006/PDF/Arc_the%20Value%20of%20African%20Taboos.pdf.

10. G. Parrinder, *Africa's Three Religions* (London, Sheldon Press Limited, 1969), 117; L. Magesa, *African Religion: The Moral Traditions of Abundant Life* (Maryknoll, New York, Orbis Books, 1997), 76.

11. S. Bottingnole, *Kikuyu Traditional Culture and Christianity* (Nairobi, Heinemann Educational Books, 1984), 34.

be in charge of the universe.¹² Religious knowledge guided the relationship between humans, man and animals, man and the spiritual world, and man's role as steward of social cohesion. This kind of relationship guided societal activities. Misconduct and social upheaval were handled through reference to customary laws. It can be argued that although this system of regulation has changed due to a myriad of factors, such as western civilization, education, and western religiosity among other things, the Isukha community remains among the few Kenyan communities that continue to uphold aspects of taboo systems that have maintained peace in the region.

The Isukhas' supernatural being is called Were. As an object of worship, Were is manifested in fauna, flora, and celestial bodies. He is the grain, or distributor, of life, wealth, wisdom, and blessings.¹³ The Isukha transmit knowledge about Were through proverbs, short statements, songs, prayers, invocations, names, myths, taboos, stories, and religious ceremonies.¹⁴ They only approach Were through intermediaries—the living dead—because he is too powerful to interact with otherwise.¹⁵ There is an established hierarchy of beings through which to contact him, including ancestors (*abafwe*), spirits (*ebihieno*), and divinities. Certain belief systems express the experience of religious emotions through sanctions and perceptions that may cause, for instance, peace or tension, joy or suffering. These feelings are the clearest sign that God and the ancestors are at peace with the community.

The Isukha pass traditional religious knowledge on formally and informally from birth until death. Even though their religion has suffered setbacks from the influence of foreign religions, modern education, westernization, technological advancement, overpopulation, urbanization, environmental change, and industrialization, it survives.¹⁶ It has sustained and rejuvenated itself through dynamism, acculturation, and ecumenism. This is evident in the continuing use of taboos to enhance peace, Isukha religious festivals, Isukha religious specialists, and rites of passage. Of interest here is understanding how the taboo system has through environmental conservation indirectly contributed to peace-building in the Kakamega forest, especially among the Isukhas.

THE ISUKHA'S ENVIRONMENTAL CONSERVATION TABOO SYSTEM

Among the many functions of taboos in the Isukha community is natural environment resource conservation. By use of taboos, natural resources are to some extent well utilized and controlled. A variety of taboos protect plants, animals, snakes, sacred sites, and birds (see Table 1). From a contemporary functional analysis, however, all of them have scientific explanations. The simple, contemporary explanation is that they

12. G. Omare, 'Role of Isukha religious beliefs and practices in the conservation of Kakamega forest' (M.A. thesis, Maseno University, 2006), 41; D. A. Zimmerman et al., *Birds of Kenya and Northern Tanzania* (London, A & C Black Publishers, 2001).

13. M. Shiralo, 'Kabbass culture under colonial rule: A study on the impact of Christianity and western education on the Luhya culture' (M.A. thesis, UON, 1991), 57.

14. J. Mugambi, *The African Religious Heritage* (Nairobi, Oxford University Press, 1982), 116.

15. S. Were, *Western Kenya Historical Texts: Abaluhya, Teso, and Elgon Kalenjii* (Nairobi, East African Literature Bureau, 1967), 22.

16. J. Mbiti, *African Religions and Philosophy* (Nairobi, Heinemann, 1969), 216–88.

Table 1

Taboos to Conserve Flora in Kakamega Forest

Plant Name (in Isukha)	Scientific Name	Taboo	Belief
<i>Mukumu</i>	<i>Ficus thoningii</i>	Not to be cut	Hail stones will fall or lightning will strike
<i>Likhono</i>	<i>Chaetame aristat</i>	Not to be cut	The victim's body will develop a rough skin
<i>Mutsulio</i>	<i>Spadodea canopanulala</i>	Not to be cut	The victim's skin roughens
<i>Omuseno</i>	<i>Ficus exasperate</i>	Not to be used as firewood	The smoke will lead to blindness
<i>Isambakhalu</i>	<i>Boehmeria marc</i>	Women not allowed to cut it	Will lead to miscarriage during pregnancy
<i>Murembe</i>	<i>Erithrina abyssinica</i>	Not to be cut	Evil spirits will punish the perpetrator
<i>Murave</i>	<i>Kigelia moosa</i>	Not to be cut	The perpetrator's body will swell
<i>Mulundu</i>	<i>Antaris toxicana</i>	Not to be cut	Demons will attack the reaper
<i>Musire</i>	<i>Crotons megalocapu</i>	Not to be used as firewood	The smoke will cause blindness
<i>Mutere</i>	<i>Maesopsi eminii</i>	Not to be cut	Will lead to the extinction of other trees
<i>Kukomosi</i>	<i>Maytenas hete</i>	Not to be cut	Men and women in the family of the perpetrator will become infertile
<i>Omutoto</i>	<i>Ficus aribela</i>	Not to be cut	Will lead to a curse from ancestors
<i>Lusiola</i>	<i>Markhamia lulea</i>	Not to be cut	Ancestors will be annoyed
<i>Mukhomoli</i>	<i>Markhamia platyal</i>	Not to be cut	Evil spirits will attack the reaper

Sources: G. Omare, 'Role of Isukha religious beliefs and practices in the conservation of Kakamega forest' (M.A. thesis, Maseno University, 2006); interviews with Mchiri, Injehu, Luseno, Mjinji, and Ngazi, Lubere village, Shinyalu division, 19 May 2007.

are designed to deter the misuse of natural resources because in the long run abuse leads to community conflicts.¹⁷

In addition to the above prohibitions as dictated by the taboos, the Isukhas do not cut trees found at *khuluhya* sites, sacred areas where elders sit to resolve conflicts and communal issues. If anyone breaks this taboo, it is believed that he or she is bound to

17. Osei, 'Value of African taboos'.

Table 2

Taboos That Protect Birds in the Kakamega Forest

Birds Name	Isukha Equivalent	Taboo	Belief
Owl	<i>Likhule</i>	Not killed	Evil spirits will take revenge through the death of the killer
Night jar	<i>Lihududu</i>	Not killed	Evil birds kept by witches will bewitch the killer
Wag tail	<i>Vijonjonjio</i>	Not killed	The killer's house will catch fire
Ibis	<i>Shinamaha</i>	Not killed	Will lead to bad luck
Doves	<i>Liluma</i>	Not killed	Will cause a decrease of harvests
Cuckoo	<i>Tsinamandu</i>	Not killed	Death will come to the clan
Pied crows	<i>Likhokho</i>	Not killed	The killer's life will be shortened
Sun birds	<i>Mitsuni</i>	Not killed	Demons will attack the killer
Swifts	<i>Tsiminji</i>	Not killed	Drought will strike
Grey backed fiscal	<i>Inamande</i>	Not killed	All chickens will die
Hammer kop	<i>Shishindavoli</i>	Not killed	Will bring others to help revenge
Fly catcher	<i>Liroleli</i>	Not killed	The killer will get a bad disease

Sources: G. Omare, 'Role of Isukha religious beliefs and practices in the conservation of Kakamega forest' (M.A. thesis, Maseno University, 2006); D. A. Zimmerman et al., *Birds of Kenya and Northern Tanzania* (London, A & C Black Publishers, 2001); interviews with Atukha, Shunza, and Luseno, Lubere village, Shinyalu division, 17 May 2007.

go mad as punishment from the ancestors. The community also forbids the harvesting of medicinal herbs during daylight. Harvesting is done at midnight while naked. If the harvesting takes place during the day, the medicine will lose its curing or healing power. It is also taboo for women to harvest trees. Only men, with authority from the ancestors, are allowed to cut certain trees from the forest. Women are only allowed to collect dead logs.¹⁸ There are also taboos associated with the protection of fauna and especially the wide range of bird species found in the forest. These taboos are summarized in Table 2.

As seen above, the protected birds are either likely to cause bad luck or death to violators. Some of the birds appear to be conserved for their usefulness. Storks, cranes, and francoli help the community predict the approach of planting seasons. It is believed that kingfishers protect homesteads from evil. Some taboos are used to protect land animals. Baboons are thought to be reincarnated ancestors and are therefore respected. Bushbucks (*ingavi*) are also protected. The taboos concerning wild animals are few. This can be explained by the fact that the relationship between these animals and human beings is not very good because wild animals, such as pigs, mongoose, and

18. Interview with Christopher Amutabi at Mukango village, Shinyalu division, 12 April 2007.

squirrels, among others, damage crops and attack domestic animals. The households adjacent to the forest suffer from their actions the most.¹⁹ This has led to the extinction and extermination of some animals, including elephants, cape buffalos, hippopotamuses, and leopards.²⁰

Certain natural phenomena are also held sacred in the forest, an important place for traditional ceremonies and worship. These include the Lukisitsi, Isiukhu, Ikuywa, and Yala Rivers, some of which are used to cleanse murderers and widows, for initiation rites, sacrifices, and baptism. The forest has two hills, Lirhanda and Mahiakalo, that the Isukha of Shinyalu regard as sacred. Sacrifices are made on them in case of communal disaster, such as hunger, drought, or an outbreak of peculiar diseases. These two areas are kept as natural as possible to satisfy the spiritual world. Currently Lirhanda is used as a place of worship by a range of new religious movements, including Legio Maria and the African Church of the Holy Spirit. Every August, members of the two groups assemble at the hill for fasting and prayers.²¹

THE ROLE OF TOTEMS AMONG THE COMMUNITIES SURROUNDING THE KAKAMEGA FOREST

Shorter explains that taboos are often associated with totems—natural objects, animals, or plants regarded as symbols of a given tribe or clan.²² Totems can be equated to flags that represent a given nation or religious organization. Though the objects may not be worshiped, their representations in the community are important. They bind people who believe they are of blood relation or are descended from one ancestor and bound together by a common responsibility to each other.²³

In African ethics, totems and taboos converge to provide direction for moral codes to foster harmony and order the universe. They are part of daily life and are passed from one generation to another to be safeguarded by society, to guide the behaviour of its individual members. Their origin may be obscure or unknown. Totems play a unifying role among members of the same clan and influence their relationships with natural resources. They are hedged with taboos for avoidance or to allow only strict ritualized contact. Totems not only govern blood kinship and rules about marriage, but also protect ecological biodiversity. To those under the same totemic object, marriage is exogamous, that is, one is not allowed to marry from inside his or her totem. To the Isukha, it is sacrilegious for a clan member to eat the flesh of an animal of their clan or cut a totem plant.

The survival of the clan depends on its totems, which are revered.²⁴ John Osogo notes that the palm tree (*olukhindu*) is the totemic plant of the Isukha.²⁵ Clan members do

19. Z. Ogutu, *Kakamega Forest*, SIDA Technical Report, Nairobi, 1997, 33.

20. J. Kokwaro, 'Conservation status of the Kakamega forest in Kenya: The easternmost relic of the equatorial rain forests of Africa', *Missouri Botanical Garden*, 25 (1988), 471–89.

21. Interview with Liyayi, Anami, and Lukoye at Lusomo village, 9 June 2007.

22. Shorter, *African Culture*, 43; J. Crowther, *Oxford Advanced Learner's Dictionary* (New York, Collins, 1998), 1263; S. Kurgat, 'The Catholic Church and social change in Busia district, Kenya, 1925–1995' (Ph.D. thesis, Maseno University, 1994), 38.

23. E. Durkheim, *The Elementary Forms of Religious Life* (New York, Free Press, 1961), 236.

24. Omare, 'Role of Isukha religious beliefs and practices in the conservation of Kakamega forest', 71.

25. J. Osogo, *The Baluhya* (London, Oxford University Press, 1965), 15.

not cut it. Asking for atonement of one's sins and determining whether one is guilty or not is done under the *olukhindu*. If one is found to be guilty or a liar, the totem will bring bad luck or death upon the victim. The respect for totemic objects, animals, and sites among the Isukha has led to the preservation and increase of fauna and flora.²⁶

As noted above, taboos are used to safeguard the existence of fauna and flora in the forest and thus has helped ensure ecological biodiversity. More often than not, the community adheres to the traditional norms and regulations governing the management of the forest, as well as local norms and beliefs concerning protected fauna and flora. Some groves in the forest are believed to house the 'earth gods,' who promote peace and prosperity. Major conservation efforts and control of resource use in the forest is 'spiritually' and 'traditionally' achieved through totems and taboos. In a nutshell, the taboo system and totemic and religious beliefs are the center of societal rules and regulations among the Isukhas. Their spiritual worldview requires respect for nature, reverence for hills, forests, animals, and rivers. From this reverence is born environmental resource conservation and from that sustainable resource utilization.²⁷

Taboos and Peace-building

'Peace' has often been described as a state of freedom, rest, quietness, and calmness, and especially respite from war and civil disorders. In peace and conflict studies, *negative peace* and *positive peace* are common terms, describing, respectively, the mere absence of war or violent conflict and a more inclusive comprehension of a variety of factors related to the creation and institutionalization of justice and freedom.²⁸ The complexity of these factors not only contribute to the absence of war, but also augment the totality of peace in society. This means that positive peace reflects on the need to satisfy human needs as well as contributes towards the achievement of human rights. To ensure this totality of peace, various interacting mechanisms must be employed. For instance, societal institutions should act towards benefiting the whole of society, not just a few parties; the community also has a role to play by enhancing positive contributions to sociopolitical and socioeconomic structures. These processes, among others, ensure peace-building within any given community. Of interest here, in addition to the environmental benefits of the Isukha taboo system, is the Kakamega forest's positive contribution towards the sustenance of peace among the people and communities living around it.

The communities around the forest, unlike many African communities, have not abandoned their indigenous beliefs and practices, but instead have passed them along, from one generation to the next. The most obvious example is the taboo system that governs various aspects of Isukha life. In a survey, 70 percent of respondents said that the old and the young can spell out the taboo rules of the community. This assists

26. R. Morris, *Fauna and Flora in Kakamega Forest* (Nairobi, East African Educational Publishers, 1987), 117–118.

27. B. Sibanda, *Environmental Policy: Governance, Religious Traditional Practices and Natural Resource Management in Zimbabwe* (Harare, Southern Africa Political and Economic Series Trust, 1997).

28. A. Bangura, 'The study of peace and conflict studies: Reflections on a scientific approach' in A. Bangura et al. (eds.), *Peace Research for Africa: Critical Essays on Methodology* (Addis Ababa, University for Peace, 2007), 34.

in the maintenance of and conservation of different plants and animals in the forest. To the respondents, the taboo system governing the forest is one way of keeping the Isukha “a team.” It is a source of peace to the community.

Totemic beliefs have enhanced peaceful clan life, as well as family relations. Each group respects the others’ totemic plant or animal. Knowledge about totems is therefore passed from one generation to the next. In the Isukha community, this is a form of peace-building. In as much as totems help in the conservation of ecological biodiversity, they have also ensured peaceful livelihoods. Most totems are linked and related to ancestral kinship. Because of this, the communities around the Kakamega forest revere the totems as a way of respecting their ancestors. Any disrespect, as already noted, is thought to cause bad luck, disease, or even death. The observation of totemic norms and regulations is one way of maintaining peace within and among the communities.

Moreover, the coming together of elders to perform certain rituals and sacrifices using totemic plants, animals, or sacred sites is a sign of a communal desire for peace. Community elders as well as religious specialists use totems for ritual observances and sacrifices to bring peace to the community. They have also been used to deliver and cleanse lawbreakers and the “unclean” so that they can be accepted back into their communities. Such people have included murderers and other perpetrators. (Death is believed to be caused by evil spirits, and widowed women must be cleansed, if they are to be recognized in the family lineage.)

As mentioned above, totems are in most instances governed by the taboo system, and in the case of marriage, dictate that Isukhas marry outside their clan. These intermarriages are in themselves a path for peace-building not just among the Isukhas, but also between the communities with which they intermarry. The taboo systems governing marriages have indirectly led to peaceful relationships among the Isukhas and speakers of Luhya dialects.

The earth gods found in certain parts of the forest act as a source of peaceful coexistence among the different Isukha clans. These gods unite all the clans and subclans as a family, for it is believed that if they are disrespected or their dwelling habitats are interfered with, calamity is likely to befall the entire community. The Isukha therefore respect these gods, and through their community elders and religious specialists offer sacrifices at their dwelling sites to placate them so that they grant peaceful living.

Assorted religious figures, including herbalists (*vashilishi*), diviners, priests, and elders, have formulated rules pertaining to their areas of specialization in relation to the environment. For instance, the *vashilishi* dictate how herbs should be harvested. The diviners determine which objects and sites should be maintained as sacred. The religious leaders, or priests, set the rules governing sacred sites. The rules and regulations regarding the use of the forest enhance order and peaceful use of the area.

The causal relationship between human life and the natural world can be seen in the connection between totems and taboos. This relationship contains codes that distinguish the moral from the immoral for individuals and the community. Creation suffers as a consequence of a breach of taboos, causing changes unfavorable to human life, and especially individual and community peace.²⁹ It is clear from the tabulated data that people have used the taboo system to ensure that natural resources are maintained to

29. Magesa, *African Religion*, 153.

further peaceful living. They refer to the looming dangers if forest taboos are broken. This indicates that the rhythms of the life force of nature and of humanity are always in communion, influencing each other for good or evil. Thus, the delicate balance between them must be carefully preserved, which depends on ethical human behaviour, including the observation of taboos and other prohibitions.³⁰ Good behaviour on the part of human beings assumes success and abundance in the sphere of nature. Abundance in nature affirms satisfaction. Conversely, peaceful coexistence is enhanced.

Erick Ayisi observes that arbitration is the most common method of settling conflicts between two parties.³¹ Arbitration requires the consent of the persons involved in the conflict, for it is only then that settlement can be achieved. Among the Isukha, elders constitute a geotactic core of the political structure. The elders ensure that the taboo system acts as a control on all conflicts and tension, which if not resolved can cause disequilibrium. In addition, the elders possess, it is believed, certain innate qualities that give them the necessary political and legal competence to settle disputes. They ensure the appropriate application of the environmental taboo system that augments sustainability.

The influence of the communal factor in Isukha religion is particularly evident in the fundamental ethic that governs everyday life. Communing with all living beings and with creation enables the Isukha to live in accordance with taboo stipulations and also with God and fellow humans.³² As Laurenti Magesa rightly observes, the concept of a universal brotherhood provides African peoples noble motives for community life.³³ People of the same ethnic group think of each other as brothers and sisters. Each person shares a familial 'roof' with all others who are living, with those soon to be born, with the living dead, with the spirits and deities, as well as with God. This interconnectedness is sealed by the taboo system. The erosion of the taboo system in most African communities, however, has meant the disruption of societal brotherhood, leading to conflicts. This has effected a myriad of obstacles and the need to rethink indigenous knowledge systems of peace-building.

Obstacles Facing the Taboo System as an Indigenous Knowledge System

Various factors contributing to environmental destruction can be attributed to lapses in observing the taboo system.

Dense Population

The population growth rate in the Kakamega district is estimated to be 2.4 percent, which surpasses the national population growth rate of 2.2 percent.³⁴ The population density of the areas around the forest is 600 persons per square kilometer, with higher figures to the south and west of the forest and areas adjoining the Kakamega municipality.

30. *Ibid.*, 154.

31. E. Ayisi, *The Study of African Culture* (Nairobi, East African Educational Publishers, 1988), 69.

32. J. Mugambi and N. Kirima, *The African Religious Heritage* (Nairobi, Oxford University Press, 1991).

33. Magesa, *African Religion*.

34. Kakamega DDP, government printers, Nairobi, 2002–2008.

As a result, despite the Isukha taboo system, pressure on land in the areas surrounding the forest is extremely high. The population depends on the forest for survival—that is, for fuel, pasture for livestock, mining, fishing, papyrus reeds, herbs, and fruits.³⁵ They therefore more often than not find themselves breaking taboos in order to overcome daily deficiencies.

Secularization, Modernization, and Urbanization

The trends of secularization, modernization, and urbanization are interrelated. Secularization is the growing tendency of humans to live without religious beliefs. It leads to a decline in the relevance of the values institutionalized in religion for the integration and legitimization of everyday life in modern society. It thus alters the role of societal beliefs and belief systems in society.³⁶ Modernization often refers to changing something in order to make it conform to contemporary tastes, attitudes, or standards. The term has also been used to describe the far-reaching process by which peripheral nations move ‘forward’ from traditional or less-developed societies.³⁷ Urbanization simply refers to the migration of people from rural areas to urban areas. These three interrelated factors have exposed the Isukha taboo system to change and transformation, detaching part of the community from its ‘traditional environment’. Consequently, there has been a notable erosion of the Isukha taboo system.

These three phenomena have in one way or the other led to the propagation of individuality and a type of liberalism, thus enhancing theodicy debates that negatively affect the Isukhas’ sense of communalism. This in turn disrupts the community’s sense of oneness. Once this is lost, conflicts are likely to arise, and the maintenance of a peaceful community weakens. Globalization, which is related to combinations of these three trends, has negatively affected the contribution of indigenous belief systems to natural resource conservation and peace-building and has led to imposition of a new culture of adjoining societal traditional cultures with modern culture, politics, economics, and spiritualities. This has shaken once stable indigenous knowledge systems.

Formal Education and Foreign Religiosities

Formal education that stresses the 8-4-4 system has affected the Isukha socialization processes that subject recipients to cultural ethics. Few traditional beliefs have been integrated into the formal education system; some have even clashed with it and were therefore abandoned or shelved, only to be referred to by the older generations. In the same vein, the missionary churches condemned traditional beliefs and practices, including belief in taboos and totems. Both have influenced the Isukhas perspective on environmental conservation as well as the socialization process in religious spaces. It is commendable, therefore, that they still manage to sustain their culture, especially their religious belief system. Their steadfastness has consequently led to the revitalization of religious movements and a proliferation of new ones. Some of these practices are

35. F. Haupt, *Traditional Use of and Reliance on the Forest among the Luhya People with Special Regard to the Traditional Medicine System and the Use of Medicinal Plants in Kakamega Forest* (London, Retch Publishers, 2000), 23.

36. M. N. Nyaundi, *Introduction to the Study of Religion* (Kendu Bay, Herald Publishing House, 2003), 269.

37. R. T. Schaefer, *Sociology Matters* (New York, McGraw Hill, 2004), 135.

solely African, but others have combined African beliefs and missionary teachings. Among these are Dini ya Msambwa, African Holy Spirit, African Believers, Roho Israel, African Divine Church, and African Israel Nineve Church, as well as others. Though these groups are attempting to revive lost African beliefs and practices, one cannot underestimate the extent to which missionary Christianity has negatively interfered with African indigenous knowledge systems that could contribute towards peace-building.

Government Sanctions and Political Interference

Government policies tend to bar the involvement of local people in the conservation of environmental resources. This applies in the case of the Kakamega forest as well as to other natural resources in the country, including game reserves and water catchment areas. Excision of natural environment spaces by the government and the enactment of laws that hinder the Isukha from tending to natural resources has led to conflict between the locals and government authorities. This in turn has caused rebellion, the breaking of sanctioned laws, and thus destruction of the forest. Ever-changing government rules about forest use contrast with the Isukhas' longstanding religious and taboo systems that have protected it by dictating procedures on the use of natural resources.

Political instabilities have also affected the biodiversity in the forest. The traditional leadership culture entrusted decision-making to the *omwami*, an Isukha hereditary clan leader, who ruled with the help of a council of elders.³⁸ These leaders ensured the protection of natural resources and led the community in maintaining peace and order. The colonial government introduced new systems that entrusted the community's prosperity to chiefs, district commissioners, and members of parliament. The leaders typically became sources of conflict in the community. Besides dictating what rules and directions the community should take, they or their actions incited political upheaval. Hope is not, however, lost. Members of the community can use these obstacles as lessons to help them recognize the importance of their IKSs, which not only enhance biodiversity preservation but indirectly encourage positive peace in the community. Thus the need arises to re-examine how the taboo systems can be redeveloped for sustainable peace and conflict resolution.

REVIVING AND REDEVELOPING THE TABOO SYSTEM

As noted, keen adherence to taboos can enhance peace within, between, and among communities, especially in traditional societies. Although with the advent of secularization and modernity taboos have sometimes been regarded as irrational and a hindrance towards development, there is proof from Kakamega that the existing Isukha taboo system can be used not only to conserve natural environments, but also as a mechanism for peace-building within and among African communities. Proof of this can be seen in a simple exercise in which undergraduate students taking religion courses in Maseno and Moi Universities were asked to identify taboos from their communities. An impressive 83 percent and 78 percent from Maseno and Moi, respectively, identified a wide range of

38. Were, *Western Kenya Historical Texts*.

them. At the same time, however, only 34 percent and 29 percent, respectively, were able to explain the meaning and appropriate uses of the taboos. This information gap will need to be filled if taboos are to be of relevance in peace-building.

It is proposed here that a 're-traditionalization' of the education system be undertaken, though not while disregarding the existing "western" curriculum. It is evident that African belief systems remain relevant. This explains why courses such as African religion and philosophy are still taught not only in African universities and colleges, but also overseas. A number of African scholars are employed abroad to teach these courses. It is, however, a concern that only a relatively small number of students take these classes. The number of instructors, also a useful mechanism in reviving the taboo systems, is also limited. This area of study must therefore be revisited and courses developed that are related to African belief systems, with an emphasis on the role these can play in peace-building processes.

There is also a need for capacity building at the grassroots level to spread knowledge about the relevance of taboo systems to peace-building. There exist, though scarce, community elders who are sources of indigenous knowledge and are well versed in the role of taboos, especially as a mode of ensuring conflict resolution in their communities. These 'sources' of wisdom can not only be used to educate people at the grassroots, but also as resources for curriculum development that informs the younger generations about the role of traditional mechanisms of peace-building. African teachers who embrace and use African traditional beliefs and practices in examples for lessons, either in class or in informal forums, realize how their introduction draws the attention and the interest of listeners. The African taboo system is quite expectant with modalities that can be used for peace-building if they are well incorporated into formal and informal education systems.

This study of the Isukha community and the listing of taboos by the university students is evidence that taboos are still considered to be symbolic expressions in African communities. Explanations of ideas and values in these communities have more often than not been from a scientific perspective, especially through legal frameworks, that barely or rarely focus on IKSs. There is therefore a need for a re-examination of these systems in order to identify their role and significance, as they were before, and appropriately integrate them into the mechanisms for environmental conservation and peace-building. An example that suffices here is the effort made by Kikuyu and Luo elders to unite their two communities after the post-election violence that rocked Kenya during 2007–2008. Peace-building entailed revisiting the cultural modes of reuniting the two groups. They ritually slaughtered sheep and shared in the symbolic meal of reconciliation. Their efforts indicate that African culture is still a rich source of peace-building, and the taboo system is an important mechanism for maintaining law and order in African societies.

Another area in which the taboo system could be re-developed is African traditional religion and African Christianity. It is evident that the latter has asserted itself in an irrefutable way throughout the continent. This is obvious from the wide range of African independent, initiated, and indigenous Christian churches. Most of these denominations call for African culture, or enculturation of African indigenous ways of worship, to be integrated with European Christianity. As noted, there are examples of these groups visiting sacred sites to perform various rituals. This is one way of pre-

serving these sites. These groups could therefore be used as a conduit for community education to alleviate environmental conflicts that have lately characterized Kenyan natural resources, especially the Mau forest, Burnt forest, Mt. Kenya (forest), and Karura forest, as people fight over ownership of these valuable resources. The association of taboos with African religiosity and the use of these religious systems to educate the public about the importance of preserving natural environment may be imperative in maintaining peace in these communities.

Modern technologies can also be used in providing traditional education, and in this way harmonize cultures that have for a long time been thought of as conflicting. Re-traditionalization of modernity may therefore entail the use of advanced technologies to teach African belief systems, including the use of modern mapping systems to locate 'traditionally' preserved sites, use of LCD projectors to offer traditional education in formal and informal settings, and visits to preserved sites, among other possible ways of integrating the two cultures. An effort towards reviving the almost choked off taboo systems in the African context may be a step towards alleviating conflicts in African communities.

RECOMMENDATIONS FROM LESSONS LEARNED

The following recommendations are based on the observations of the strengths and obstacles associated with the Isukha taboo system:

- In most communities, taboo sanctions are believed to be 'instantaneous' or 'automatic', unlike sanctions of other religions that have to wait for future 'implications'. Most people out of prudence will not deliberately violate them, even if they are sceptical about their metaphysical presuppositions. This is therefore an avenue that can be used to enact rules that in the long run will contribute greatly to peace-building in current societies.
- Whereas globalization resulting from current patterns of urbanization, socialization, and modernization should not be totally condemned, these secular points of change should not on their part condemn African culture. Positive aspects of African cultures, such as taboo systems, should be maintained and respected by western worldviews.
- Educational curricula that shut out IKSs should be revised. This will encourage the integration of positive traditional beliefs that in the long run could contribute towards building community's peacekeeping capacities.
- The proliferation of African independent churches that propagate the return of traditional African culture should not be condemned but supported as a way of renewing cultural elements that encourage communal living and revival of IKSs.
- Every society must have regularized procedures that can be used to deal with alleged breaches of societal rules and the injuries they cause. In Africa, the principal means to this end are contained in the complex of political authorities, police courts, judges, lawyers, and codes of law. In many African nations, most of these laws are manipulated or misused by those in power, the reason the taboo system promises instant punishment to the perpetrator, and this can be applied to deter people and enhance peace in the community.

- Governments should be ready to learn from the local populace's belief systems. This aids in joint efforts towards biodiversity conservation and consequently reduces conflicts that disrupt peaceful relations in communities.

Taboos have functions similar to those of formal institutions for nature conservation in contemporary society but have not sufficiently been recognized in many African societies in this capacity. They have also not been used efficiently as a unifying force among warring communities. It is suggested therefore that designs for conservation of biological diversity and its sustainable use in developing countries focus more on informal institutions, such as taboo systems. Formal education systems should also attempt to find a place in the curriculum for traditional African culture and religion that have implications for peace-building. This would represent a milestone in challenging political systems that in most instances fail in peace-building processes.



The ECOWAS Council of the Wise: An Indigenous Framework for Conflict Resolution

Onyinye Onwuka

In 1999 the Economic Community of West African States acceded to the creation of the Council of the Wise, a contemporary manifestation of the councils of elders found in traditional African societies. Composed of members charged with mediating and preventing conflict, its establishment challenges the assumption that contemporary Africa lacks the indigenous knowledge to manage its conflicts and political challenges. The work of the council thus far, which includes monitoring elections and making itself available to mediate disputes between political parties, suggests instead that there are lessons to be drawn from indigenous processes in helping to prevent and to resolve African conflicts. In the meantime, the council must, however, address some of its weaknesses, such as being more reactive than proactive, in order to further its ability to stanch conflicts before they escalate.

AFRICA IS A CONTINENT BURDENED BY CONFLICT. In the 1990s, it accounted for more than 40 percent of the conflicts around the world, the most on any continent. Much of Africa's contemporary conflict is intrastate, exacerbated by ethnic and religious tensions but with generic economic and political underpinnings. The growing interconnectivity of the global arena also means that conflicts in Africa can have international as well as domestic dimensions.

Violent conflict in Africa has adversely affected the political and economic institutions, cultural traditions, values, customs, and norms that have historically sustained the cohesiveness, harmony, and stability of local communities. It has become increasingly critical that conflict response strategies and preventive mechanisms for continental stability be developed or fine tuned. A big part of the challenge that the continent faces, however, is how to incorporate indigenous processes, institutions, and attitudes to promote proactive responses, manage tensions, and positively transform disputes.

N. D. Danjibo, discussing what he calls 'the trauma of identity crisis', argues that conflict in Africa is related to the problem of imposing the modern state system on traditional societies, creating hybrid social identities that are neither modern nor

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traditional.¹ Francis Deng observes that a major constraint to nation building in post-colonial Africa is that externally generated and directed processes of state formation tend to undermine indigenous values, institutions, and patterns of problem solving. His observation raises questions about whether contemporary African states and institutions are endogenous or whether they are a legacy imposed by former colonial powers.² The global arena is dominated similarly by the misguided conviction that Africans require foreign guidance in the socioeconomic and political management of their societies. William Zartman asserts, however, that conflict management cannot be forced on troubled regions and that African conflicts are not the responsibility of outside powers.³ African societies have their own norms, principles, and mechanisms for addressing their myriad challenges.

Despite the legacy of colonially imposed states and institutions, African societies still possess indigenous traditions that preserve harmony and social tranquility. For instance, the place of elders in a significant number of African communities still remains relatively intact. Institutions such as councils of elders are often the custodians of local traditions and the fora for communal decision-making, particularly concerning the resolution of disputes. Elders usually play leading roles in overseeing dialogue and mediation between warring members of a community.

Regional and subregional organizations like the African Union (AU) and the Economic Community of West African States (ECOWAS) have recognized the need to integrate an element of indigenous tradition into their peace and security architectures. As a result, the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security of 1999 established the ECOWAS Council of the Wise (previously the Council of Elders) as an institution to work with the Mediation and Security Council. The AU, borrowing from ECOWAS, established the Panel of the Wise to work with its Peace and Security Council. The Council of the Wise and the Panel of the Wise were designed in line with the role of councils of elders in indigenous African communities.

ECOWAS PEACE AND SECURITY FRAMEWORKS

Ann-Sofi Rönnbäck describes West Africa as a region historically characterized by security challenges, including coup d'états, protracted civil wars, proliferation of arms, mercenaries, poverty, and corrupt exploitation of natural resources.⁴ It is possible to identify conflicts associated with the arbitrary colonial political structures that were imposed on the region. In the contemporary politico-economic context, one can also

1. N. Danjibo, 'Traditional mechanism of managing conflict in Africa: The role of M'gilo institution among Lelna of Zuruland in northwestern Nigeria,' *Journal of the Society of Peace Studies and Practice*, 1:1 (2006), 12.

2. F. Deng, 'Foreword' in J. Malan, *Conflict Resolution Wisdom from Africa* (Durban, ACCORD, 1997), www.accord.org.za/publications/books/369-conflict-resolution-wisdom-from-africa.

3. I. W. Zartman, 'Guidelines for preserving peace in Africa' in David Smock and Chester Crocker (eds.), *African Conflict Resolution: The U.S. Role in Peacemaking* (Washington, United States Institute of Peace Press, 1995), 95.

4. A. Rönnbäck, 'ECOWAS and West Africa's future—Problems or possibilities,' *Umeå Working Papers in Political Science* 3, 2008, 8, www.pol.umu.se/papers/ISSN1654-238X_no3_Ronnback.pdf.

identify conflicts driven by globalization processes, which fuel the corrupt and illicit trade in natural resources, small arms, transnational organized crime, insurgency, militancy, and terrorism, among other trends. Globalization produces these conflict-forming processes by facilitating transnational financial flows that externalize the financial resources used to fuel conflicts on the African continent. Such processes include advances in information technology and the growing capabilities of transnational actors who operate outside the state system.⁵ All these take place within the context of the intense globalization processes that no one entity controls. Ensuring that West Africa and other regions on the continent have the necessary institutions to resolve these problems is a challenging undertaking.⁶

ECOWAS was established in 1975 as a regional economic community. Its leadership, realising that economic development and progress could only be achieved within the context of peace and stability, agreed on the need to address interstate and intrastate conflicts—both of which often transcend national boundaries to affect neighbouring states—in order to ensure a peaceful landscape for the implementation of ECOWAS's economic programmes. Indeed, over the years, ECOWAS has made significant progress in security cooperation. It was the first regional economic community to intervene in the affairs of a member state, Liberia, in an attempt to prevent internal armed conflict. In this regard, ECOWAS is often examined as a model for other regional organizations concerned with security mechanisms.

The first ECOWAS security initiative was the Protocol Relating to Non-Aggression (PNA), signed in April 1978. The agreement committed member states to refrain from the threat or use of force against one another. Article 5(2) states that any 'dispute which cannot be settled peacefully among Member States shall be referred to a Committee of the Authority of Heads of State and Government'. The protocol did not, however, address the challenge of internal conflicts as it basically dealt with interstate conflicts. Consequently, in May 1981 members signed the Protocol Relating to Mutual Assistance on Defence (PMAD), which provides for a non-standing military force to be used to deliver military aid and assistance to a member state in danger of falling victim to aggression. Article 4(b) provides for a collective response when a member state is a victim of internal armed conflict engineered and supported actively from outside. These two security protocols and defence agreements proved ultimately to be inadequate, failing to insulate the subregion from the new threats to regional security generated by intrastate conflicts at the end of the cold war, particularly, the Liberian civil war. When intervention became necessary in Liberia's internal conflict (1990) and subsequently in Sierra Leone (1991), and Guinea Bissau (1999), ECOWAS had to rely on and adopt ad-hoc measures.⁷

5. B. Michael, 'New global dangers' in Chester Crocker, F. Hampson, and P. Aall (eds.), *Leashing the Dogs of War: Conflict in a Divided World* (Washington, United States Institute of Peace Press, 2007), 40.

6. On the multiple historical, political, and economic dimensions of conflict and security dynamics in West Africa, see G. Yoroms, 'Survey of regional security and security sector reform in West Africa' in Julie Sanda (ed.), *Democratic Governance and Regional Security in West Africa* (Abuja, Friedrich Ebert Stiftung, 2004), 12.

7. A. Frempong, 'Trajectories of sub-regional conflict management: An assessment of ECOWAS', CODESRIA, 2006, www.codesria.org/Links/conferences/anniversary-dakar/frempong.pdf.

In July 1991 ECOWAS adopted the Declaration of Political Principle to Promote Mutual Collaboration in Defence and Security Issues, and in 1993 it revised its treaty in order to strengthen its capacity to forge an even more robust economic and monetary union as well as reinforce the political synergy between its member states. Henrietta Didigu observes that the revised treaty revitalized ECOWAS's founding principles by further linking security and economic development.⁸

It was during the first phase of the Liberian civil war (1989–1996) that some West African leaders, prompted by a Nigerian initiative, agreed for the first time to intervene directly in an internal crisis of a member nation. The Economic Community of West African States Monitoring Group (ECOMOG) was established in 1990 to intervene in this conflict, marking the first real African attempt towards structured regional security intervention. Yet the ad-hoc nature of ECOMOG operations in Liberia and its lack of an institutionalised intervention mechanism resulted in structural and logistical difficulties. Regardless, this situation illustrates ECOWAS's desire to undertake conflict resolution operations and develop frameworks for promoting internal peace and security. The lessons learned from ECOMOG's operations in Liberia, Sierra Leone, and Guinea Bissau encouraged the body's leadership to rethink its peace and security architecture, leading to the creation of organs such as the Council of the Wise and more generally the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.

The 1999 Security Protocol and Its Institutions

ECOWAS has been undergoing rapid institutional developments in terms of its peace and security architecture since its first attempt with the PMAD in May 1981. The Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security came into force in 1999 with a strong emphasis on preventive peacemaking and institutionalised peacekeeping operations. The objectives of the protocol as stated in Article 3 include the strengthening of cooperation in the areas of conflict prevention, early warning, and peacekeeping operations as well as control of cross-border crime, international terrorism, and proliferation of small arms and anti-personnel mines. The growing shift in emphasis from purely conflict resolution efforts to preventive action became necessary in light of the heavy human, material, and financial costs that conflicts inflicted on member states and the lessons drawn from peacekeeping interventions.

The Summit of Heads of State and Government is the highest decision-making body of the mechanism, but it delegates to the Mediation and Security Council much of its power to act on matters concerning conflict prevention, management and resolution, peacekeeping, and security. The council consists of nine representatives from member states, seven of whom are elected by the summit in addition to the current chairman and the preceding chairman of the summit. The Mediation and Security Council oversees the activities of the Commission on Defence and Security, whose role is to examine technical and administrative issues and assess logistical requirements for

8. H. Didigu, 'Developing a common agenda for subregional organizations for peace, security and conflict prevention in Africa: A view from ECOWAS', 2001, www.iss.co.za/Pubs/Books/Unesco/Didigu.html.

peacekeeping operations. The protocol also empowers the ECOWAS president to initiate fact-finding missions as well as negotiate, mediate, and facilitate peacemaking and reconciliation initiatives.

The Mediation and Security Council can mandate the Council of the Wise to utilize preventive diplomacy to mediate disputes and facilitate peacemaking. The Council of the Wise can also be called upon to undertake fact-finding, political, and mediation missions. The responsibility for determining an appropriate intervention strategy resides with the ECOWAS president and the Mediation and Security Council. The Early Warning Observation and Monitoring Center is the hub of the ECOWAS Early Warning and Response Network (ECOWARN).

EMERGENCE OF THE COUNCIL OF THE WISE

Prior to the establishment of the Council of the Wise, African mediation efforts in conflict situations historically involved the 'lone ranger approach'—an intervention by a head of state or eminent person, sometimes independent of regional organizations.⁹ This ad-hoc approach was necessarily arbitrary, and its success depended on the character and influence of the personalities tasked with the mediation effort. Within the policy development community, there thus evolved the realisation that it would be necessary to institutionalise regional mediation efforts. The evolving policy idea in ECOWAS for a 'council of elders' to mediate member conflicts gained currency prior to the 1999 Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security. The African Leadership Forum, a Nigeria-based civil society group, proposed the creation of a council of the wise with the vision that such an institution would consist of a pool of statesmen-mediators.¹⁰

Critics rejected the idea of staffing such a body with statesmen who had governed badly, leaving behind bitter legacies. The major concern was whether any former leader with dubious democratic credentials possessed the moral authority required to mediate among warring parties. This legitimate concern did not, however, negate the merit of having senior statesmen as mediators, because in Africa, elders in indigenous communal environments are respected as trustworthy mediators in disputes over access to land, water, grazing land rights, marital problems, inheritance, theft, and murder. They are expected to possess high moral status, seniority, and impartiality.

Critics of the Council of the Wise noted the issue of the moral standing of retired statesmen and also questioned whether its composition would ensure equity in gender representation given that most elders forums tended to exclude women. Perhaps to the surprise of the sceptics, the ECOWAS council has included women, representing a progressive shift in thought and action. The Council of the Wise illustrates how indigenous institutions can be revitalised to address contemporary challenges and that they need not be beholden to all historical traditions, especially if doing so perpetuates exclusion.

9. H. Cohen, 'African capabilities for managing conflict: The role of the U.S.' in Smock and Crocker, *African Conflict Resolution*, 82.

10. T. Sisk, 'Institutional capacity-building for African conflict management' in Smock and Crocker, *African Conflict Resolution*, 107.

Membership, Mandate, and Initiatives

To address the issue of states putting forward council member candidates with questionable leadership credentials, Article 20 of the 1999 ECOWAS protocol mandates the ECOWAS president to compile a list of contenders from among political, traditional, and religious leaders, including women. The Summit of Heads of State and Government formally ratifies the appointment of the sixteen members of the Council of the Wise, one from each member state.

Article 20 of the ECOWAS protocol does not mandate an explicit scope of engagement for the Council of the Wise. The nature of the council's responsibilities is 'as may be requested by the President or the Mediation and Security Council . . . whenever the need arises'. In 2003 members of the Council of the Wise requested more robust programmes in terms of concrete conflict prevention and resolution activities. They recommended that before an intervention by the heads of states, their council should conduct exploratory or preliminary fact-finding missions in conflict areas. To accommodate this demand, the tenure of council members was extended from one to three years to provide for more training and professional capacity building. This was important because the council and its support staff need individual as well as group capacities and skills premised on understanding the cultural contexts of conflicts being addressed. Accordingly, the indigenous origins of the Council of the Wise should ultimately enable it to be deployed to achieve tangible results in mitigating conflicts in West Africa.¹¹

The 1999 protocol was invoked to monitor and mediate during the 2003 internal unrest in Liberia and Côte d'Ivoire in 2002. To complement the activities of the ECOWAS Mission in Liberia (ECOMIL) and the ECOWAS Peacekeeping Mission in Côte d'Ivoire (ECOMICI), the Council of the Wise became involved in overseeing mediation activities. On 18 August 2003 in Accra, Ghana, eminent personalities from the council contributed towards encouraging the parties to reach a political agreement as part of a broader process supported by the United Nations. Abdulsalami Abubakar, a former head of state of Nigeria and a member of the Council of the Wise, was actively involved in mediation and facilitation of the process, which culminated in a peace agreement between the government of Liberia, the Liberians United For Reconciliation and Democracy, and the Movement for Democracy in Liberia.

Also, the council took part in observing elections in Gambia, Sierra Leone, Togo, and Ghana. Even more important, it was on standby to mediate disagreements between contesting political parties. Such actions have confirmed the Council of the Wise as a critical addition to ECOWAS's peace and security architecture, particularly in terms of strengthening and bolstering early warning and prevention institutions within its protocol. As noted by Herman Cohen, Africa's internal conflicts will not be solved through short-term military intervention, but political agreements that promote stability in the long term.¹² The Liberian experience and efforts to monitor and guide democratic transitions in war-affected countries demonstrate the vital and integral role that the ECOWAS Council of the Wise can play in fulfilling this objective.

11. Danjibo, 'Traditional mechanism of managing conflict in Africa', 13.

12. Cohen, 'African capabilities for managing conflict', 77.

Prospective Strategies

Given the loosely defined scope of the duties of the Council of the Wise, an argument can be made for this body to oversee transitional justice processes in postconflict societies. Mediated peace agreements generally tend to include provisions for transitional justice, which is necessary for the future stability of countries emerging from conflict. Transitional justice is integral towards ensuring that the underlying sources of conflict are addressed and that the potential for a relapse of violence is prevented. Mediated peace agreements need moral guarantors who can ensure that their provisions are upheld. Regional organizations like ECOWAS and their representatives can be such guarantors of peace agreements, undertaking a role that allows for ongoing engagement in the implementation of the agreements.

The engagement of the Council of the Wise in transitional justice processes could take place on two complementary and mutually supportive levels. The first is collaborative engagement with national transitional and reconciliation commissions, through which the council can carry out oversight functions involving proceedings and output. These nationally driven initiatives suggest an innovative approach to reconciliation that could be encouraged and supervised by an intergovernmental organization, in this case ECOWAS, and in particular the Council of the Wise. The second is as an institution with indigenous origins that can draw attention to and highlight the role that traditional institutions and initiatives, such as the *gacaca* system in Rwanda, can play in promoting and sustaining peace after conflict.¹³

The Council of the Wise can promote and encourage traditional institutions and initiatives within West Africa, in effect becoming an advocate for the revitalization and utilization of indigenous dispute resolution and justice systems. Its membership is, after all, drawn from a pool of respected indigenous leaders. Their role in this regard would be the tacit facilitation of such processes through the use of their status. The aim would be to strengthen and further legitimize African indigenous approaches to justice and reconciliation, particularly ensuring the protection of human rights. Regionally accepted and supervised indigenous approaches to peacemaking and peace-building can contribute towards enhancing intercommunal relations and creating environments in which people can live together in peace by drawing on their culture-specific values and norms. Indeed, most conflicts in Africa have links to the primordial domain, and as Danjibo insists, unless a traditional mode is applied, can remain incurable.¹⁴

CONCLUSION

Ultimately, there is a case for establishing institutions to manage issues in Africa that incorporate indigenous values and strategies. Since ECOWAS's creation in 1975, however,

13. Gacaca is a traditional justice and reconciliation mechanism. After the Rwanda genocide of 1994 its application came into international purview. Its contemporary adaptation and adoption in post-genocide Rwanda is regarded as a success primarily because it has processed a far greater number of cases than could be achieved through the conventional justice system. Another example of a similar local initiative is the *mmayi orie* used by the Ikeduru community in eastern Nigeria.

14. Danjibo, 'Traditional mechanism of managing conflict in Africa', 13.

the scope of its initiatives to maintain and sustain peace has been commendable but in some instances has proven to be limited. Efforts to mediate peace in West Africa have been reactive, rather than proactive, and often after an escalation of conflict. This makes achieving a peace agreement all the more difficult. The ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security was implemented to nurture a preventive approach to peace efforts. The ECOWAS Council of the Wise, modelled after the concept and the role of elders in African traditional settings, stands out as one of the innovations of this protocol.

The indigenous origin of the Council of the Wise demonstrates that it is possible to revitalize aspects of African culture and modify them to address contemporary challenges. Supporting the many components of traditional and national institutions is central to such efforts. Indeed, Africa's capacity for containing conflict could be greatly boosted by taking advantage of the mechanisms and legitimacy offered by traditional institutions. The peace-promoting capabilities of various community-based organizations—including grassroots, faith-based, youth, and women's movements—could also be harnessed and channeled towards mitigating the harvest of conflicts in Africa. In addition, external actors, intergovernmental organizations, governments, and non-governmental organizations must strive to improve their understanding of the role of indigenous structures, cultural processes, norms, principles, institutions, and mechanisms for making peace and solving conflicts in African societies.

It is important to improve the operational effectiveness of the Council of the Wise so it can effectively engage in preventive diplomacy, using its influence and experience to play the role of mediator, conciliator, and arbiter. Accordingly, the creation of a mediation unit and mediation-training programmes is necessary for furthering the council's work. It is also important that the selection process of council members remains free of potentially adverse influence by dominant political structures in the region. The president of ECOWAS must set strict moral and leadership criteria for the selection of members. This would ensure that the council is not reduced to a mere social gathering or retirement club for former political bigwigs and their cronies.



Gender Inequality and the Igbo Indigenous Systems of Peacemaking and Governance

Jonathan Chukwuemeka Madu

The heterogeneous nature of a community can give rise to conflicts of interest. When disagreements arise, so does the need for an institution to help reconcile the divergent interests of opposing groups or individuals. The Igbos have a system of peacemaking and governance with limitations in respect to gender equality and sensitivity. Gender equity would, however, assist efforts to consolidate democratic governance, establish foundations for socioeconomic development in contemporary Nigeria and Africa, and create more inclusive and socially just communities.

AFRICA HAS ALWAYS POSSESSED indigenous mechanisms and institutions for managing and resolving disputes in ways that preserve societal structures and encourage peaceful coexistence. At the same time, Africa's traditional societies have historically been patriarchal. In Nigeria, for example, the Igbo indigenous system for making peace and ensuring governance has for the most part excluded women in decision-making and governing. There exists a range of cultural practices among Igbos (Ndigbo) for managing their affairs, but there are also commonalities that distinguish them from others and make them a recognisable ethnic group in Nigeria.¹ Indeed, patriarchy and the dominance of men in decision-making and governance are common across all the Igbo groupings. In order to improve efforts to consolidate democratic governance and establish the foundations for socioeconomic development in contemporary Nigeria it is necessary to redress this gender inequality.

1. The Igbo populate eight of the thirty-six states of the Federal Republic of Nigeria in the south and southeastern regions. The word *Igbo* designates their language, which includes a number of dialects, and speakers of it. The Europeans who had difficulty properly pronouncing and spelling *Igbo* modified it to *Ibo*. G. T. Basden, *Among the Ibos of Nigeria* (London, Frank Cass and Co., 1966); N. I. Ndiokwere, *Search for Greener Pastures: Igbo and African Experience* (Kearney, Nebraska, Morris Publishing, 1998); R. Uchem, *Overcoming Women's Subordination: An Igbo African and Christian Perspective. Envisioning an Inclusive Theology with Reference to Women* (Enugu, SNAAP Press, 2001); M. M. Green, *Ibo Village Affairs* (London, Frank Cass and Co., 1964); C. Achebe, 'Igbo civilisation and *Things Fall Apart*', paper delivered at the Ahajioku Lecture, Owerri, Nigeria, 23 January 2009.

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PRINCIPLES AND MODALITIES OF IGBO PEACEMAKING

In the 1990s in *An Agenda for Peace*, UN secretary-general Boutros Boutros-Ghali highlighted contemporary notions of peacemaking, noting that as preventive diplomacy aims to avoid the outbreak of a conflict, peacemaking seeks to resolve disputes once they have emerged.² His report also notes that peace-building seeks to prevent the recurrence of conflict. Geoff Harris and Neryl Lewis observe that peace-building strategies also include laying foundations for development, human rights, freedom, and justice—the bases upon which positive peace can be achieved.³ The Igbos' system of maintaining social harmony and coexistence incorporates elements of contemporary notions of preventive diplomacy, peacemaking, and peace-building.

Igbo traditional society is governed by a system in which members of the community can present their views on a particular issue with a council of elders acting as moderators. The decision-making authority resides ultimately with the council members.⁴ Igbo societies are communal in nature, and individuals are subject to and beholden to collective values, norms, and practices.⁵ The Igbo community effectively owns the decision-making process as a whole. In the past, however, although women might be part of the communal gatherings and could comment on issues, except land matters, they were normally excluded from the central decision-making institution, the council of elders. A place on such councils has been the preserve of adult males until recently, when a few women (without active roles or any real influence) were admitted in some communities.

In the past, community centres—such as the village square, market, or community shrines—served as venues for Igbo dispute-resolution processes. More recently, modern systems of governance inherited from British colonialism, namely, the state and national governments, introduced the notion of 'palace courts' in some states in Igboland, especially in Anambra and Enugu.⁶ Other Igbo states subsequently adopted this modern creation, so in the contemporary setting, palace courts are more regularly utilised as venues for decision-making and dispute resolution.

The palace court and the community are both headed by an *eze*, *igwe*, or *obi*, traditional rulers who are also the custodians of the culture of the community.⁷ The *igwe*

2. Boutros Boutros-Ghali, *An Agenda for Peace*, 2d edn (New York, United Nations Publications, 1995).

3. G. Harris and N. Lewis, 'Structural violence, positive peace and peacebuilding' in G. Harris (ed.), *Recovery from Armed Conflict in Developing Countries: An Economic and Political Analysis* (London, Routledge, 1999), 29–36.

4. R. O. Madu, *Principal Elements of Traditional Igbo Life in African Symbols, Proverbs and Myth* (New York, Lang Publishing, 1992), 149; Uchem, *Overcoming Women's Subordination*, 48.

5. E. E. Uwazie, 'Modes of indigenous disputing and legal interactions among the Ibos of eastern Nigeria', *Journal of Legal Pluralism*, 34 (1994), 87–103; S. G. Best, *Introduction to Peace and Conflict Studies in West Africa* (Abuja, National Universities Commission, 2006), 98.

6. See the Anambra State Traditional Rulers' Law of 1981, no. 141, and the Enugu State Council of Traditional Rulers' Law of 2003. The so-called palace court was traditionally the place, office, or compound used by the traditional ruler for official functions.

7. *Eze*, *igwe*, and *obi* are the titles designated exclusively to describe the office of recognised chiefs or leaders by the government and the people. Most such traditional rulers go by *eze*, but in Imo, Enugu, and Anambra, they are often called *igwe*. Onitsha's is called *obi*. See Enugu State Justice Reform Team, *The Royal Change Agents: An Insight into the Roles of Traditional Rulers in Security, Justice, Government and Development of Rural Communities in Enugu State* (Enugu, SNAAP Press, 2007), 5.

or *obi* is the highest authority in a town or community and receives his appointment according to the wishes and customs of the community.⁸ The *igwe* heads a council of elders, the equivalent of a cabinet, consisting of eminent persons and representatives of various clans or kindreds in an autonomous community. The council and *igwe* hold meetings, *igwe-in-council*, to decide crucial matters that affect the community and its citizens. The traditional ruler of an Igbo community is today supported by an informal police sector or a vigilante outfit, so-called Neighbourhood Watch Groups, to prevent crimes in the area. This is a popular practice in Enugu state.

The modalities of the Igbo system of peacemaking incorporate elements of negotiation, mediation, arbitration, and adjudication. Igbo peacemaking is closely affiliated with communities' religious belief systems. A peace effort begins with a prayer and is accompanied by the breaking of cola nuts, which are indigenous to the region, and the pouring of a libation to the ancestors. These symbolic acts set the tone for the peacemaking process and focus the minds of the members of the community on the sacredness of the undertaking on which they are about to embark. This process also compels disputants to respect the mediation process and uphold the agreement reached. In the absence of the disputants reaching an agreement voluntarily, the parties are bound by the decision of the council of elders. In such a situation, the council would invoke the spirit of the ancestors, which all members of the community are taught to respect. Members of the Igbo community generally tend to accept the decisions made, particularly when they are accompanied by an invocation of the spirit of the ancestors.

Following the innovation of the gods and the spirits of the ancestors and the breaking of the cola nuts, the disputants present their cases to the community with the council of elders as moderator. Next, members of the community comment on the dispute and give testimony in support of one of the parties or suggest how the dispute might be resolved. The communal conflict resolution process is open to every adult male; the presence of women is often allowed, unless it concerns a land issue, but is not always assured.

The dispute resolution process does not necessarily strive to determine the party at fault or overtly declare one, because finding a resolution and reintegrating the disputants into the community is considered more important. In such a situation, proverbs and words of wisdom are commonly used to highlight and emphasise the value of reaching a mutually acceptable solution to enable the members of the community to coexist. This involves negotiations between the parties, and when necessary, mediation by the council of elders. When guilt must be assigned, and in particular if the party happens to be a woman, the offender is made to pay a fine or offer a material good to appease the offended party. If the fine is to provide locally brewed (tapped) wine, it is consumed by the elders, who also offer libation to appease the gods and pray for unity and peace for the community.

Traditionally, there was no signing of a peace agreement. The verdicts handed down by the council of elders were reinforced by the authority and sanctity of the Igbo religious belief system. The spirits of the ancestors were called on, or oaths could be taken to make the agreement binding on all parties. Members of the Igbo community

8. Anambra State Traditional Rulers' Law, section 3, subsection 2.

risked being sanctioned or ostracized for failing to comply with an agreement after a dispute resolution process. Recently, however, many Igbo councils of elders have begun to require that the parties to a dispute sign an agreement, particularly when contentious issues, such as land disputes, are involved. In this regard, the dispute resolution resembles an adjudication or arbitration process. This practice is gradually being transformed, however, and in some parts of Igboland disputants who disagree or reject the adjudication of the Igbo council have sought recourse in the formal state court system.

Igbo tradition also emphasises building and reinforcing ties within and between communities through birth ceremonies, marriages, intervillage meetings, death and mourning rites, and village festivals. Notable among the festivals that have survived and revived the sense of Igbo community are the masquerade and annual new yam festivals. In essence, the Igbo indigenous system of peacemaking focuses on preventing disputes before they escalate as well as continuously encouraging peaceful coexistence among community members. The process also involves peace-building, that is, strategies that promote a secure and stable lasting peace.⁹

The Igbos employ different strategies and processes to ensure and make peace as well as to control violence. These include taboos, sanctions, ostracism, curses, and demonstrations by women. In a situation in which the council of elders cannot agree on a case, the parties can be made to take an oath at a shrine or to a fearsome god regarded as potent in punishing offenders. Placing a curse on someone or his community also deters individuals from breaking peace accords. Women demonstrate against their detractors or violations by ridiculing and announcing curses on the perpetrators of injustice or violence, as they did against colonial rule in 1929.¹⁰

Other strategies for peacemaking in Igboland are women's accords and intermediary roles they play, which are effective in crises. These were used by intermarried daughters (*umuada*) from Neke and Ikem during boundary conflicts in 2007 that devolved into war. Remarkably, the women from the warring communities united and stood at the boundary between the two camps, that is, the war zone, chanting 'No war'. They defied their fighting men and asked that they—their women—be killed first if their men insisted on fighting. The women's strategy frustrated the efforts of their husbands and other men to continue the war, as none of them proved willing to kill their own wives (originally from the other side) or their sisters (married to the other side). This paved the way for a lasting solution mediated by the state government, which was invited to participate by traditional rulers through the office of the local government chairman.

THE IGBO COMMUNITIES OF NEKE AND IKEM

The indigenous leadership structures of the Neke and Ikem, communities of the Isi-Uzo local government area, are constantly engaged in settling disputes between individuals and between communities and resolving issues pertaining to traditional marriage

9. W. Lambourne, 'Post-conflict peacebuilding: Meeting human needs for justice and reconciliation', *Peace, Conflict and Development*, 4 (2004).

10. See P. Uchendu, *Education and the Changing Economic Role of Nigerian Women* (Enugu, Fourth Dimensions Publishers, 1995); Uchem, *Overcoming Women's Subordination*.

problems. In effect, these structures oversee the stability, security, and well-being of members of their communities.¹¹ The Centre for Promotion of Peace and Development (CPPD), a non-governmental organization, monitors and documents peace processes in the region. It had a prior association with traditional rulers involved in resolving a land dispute between the Emeora-Neke and Umuezeogbu-Umualor communities. Using the Igbo approach to peacemaking, the traditional leaders succeeded in encouraging the parties to sign a peace agreement on 13 November 2008. During this process, monitored by CPPD, women played an important role, especially behind the scenes. No woman, however, sat on the council of elders or was a signatory to the agreement. Regrettably, this left the overall impression that women were not part of the peace process, whereas in fact the opposite was true.

The inequitable representation of women in the governing bodies of these communities do not reflect their contributions to peacemaking and peace-building in their communities or in intercommunity relations. What it does reveal, according to the Women's Aid Collective, is the patriarchal bias inherent in the Igbo traditional system of peace and governance.¹² In addition to being excluded from decision-making processes in Igboland, women are also denied the right to inherit land in the traditional context.

Though excluded from the elders' councils in the Igbo indigenous system, women continue to take orders from men. At the same time, however, they take advantage of women's councils and meetings to contribute to making and building peace, warding off wars in their communities and promoting community development projects. They also enforce rules made by community elders and ensure the functioning of village markets and environmental sanitation. There have been some recent changes in regard to a few women being admitted to councils of elders, but the number remains extremely small. Some influential women acknowledge that their roles and wealth have been handpicked for them as have their honorary titles, such as *lolo* or chief.¹³ Two women of Omuaram Ikem became members of the *igwe's* cabinet through appointment by the traditional ruler of the community in recognition of their roles and ability to influence other women (see Table 1). In contrast, the men were elected by their kindreds (or clans) to be on the council.

Women have had and continue to play important roles in resolving disputes among the Igbo. For example, in a case involving a dispute over land and boundaries between the Omuaram Ikem and Ihenyi Eha-Amufu communities, women from one community married into the other (making them *umuadas*) to aid in negotiating the peace. The territory of Ugwu Agbatu of Mburu-Olu was claimed briefly by both the communities. The *umuadas*, coming from the opposing community, naturally assumed the role of intermediaries in the conflict. Resolution of the dispute included establishing a market on the territory under contention. Today, the territory continues

11. Enugu State Justice Reform Team, *Royal Change Agents*.

12. Women's Aid Collective, *Status of CEDAW Implementation in Nigeria: A Shadow Report*, compiled for the thirtieth session of the UN Committee on the Elimination of All Forms of Discrimination Against Women, 2004, 13, 33.

13. "Lolo" is the honorific conferred on the wife of a titled man who is officially recognised by the community. "Chief" is conferred on a person by a community or the traditional ruler of a community, but the government does not recognise it as it does *eze*, *igwe*, or *obi*.

Table 1

Gender Representation in Traditional Councils of Elders in Two IGBO Communities, 2008

Community	Traditional Ruler	Men on the Council	Women on the Council	Percentage of Women
Akpani Neke	Igwe Boniface Odo	15	0	0
Omuaram Ikem	Igwe Francis Okwor	20	2	10

Source: Jonathan Chukwuemeka Madu.

Note: Initially there were no women. Many years after the election of men began, two women were handpicked by the traditional ruler himself.

to be used as a venue for local trade and meetings. Women and men from both communities gather regularly on this formerly disputed territory, contributing to the diffusion of tensions and strengthening relationships between the two peoples.

In 1981 a boundary dispute between the Umu-Ugwu and Akpani of the Neke community and the Omuaram Ikem over Ugwu-Okwu-na-Nne/Ojome territory was resolved with the establishment of a secondary school on the disputed site. The school became the accepted boundary between the two communities. In 2007, however, tensions escalated between the two communities over the same boundary. In this instance, the umuadas acted as intermediaries and laid the foundation for a peaceful resolution of the dispute before it reached adjudication by the Enugu state boundary committee by invitation of the head of the traditional leaders' council and the local government chairman. These cases illustrate the roles Igbo women can play in making and building peace despite the entrenched patriarchal attitudes and norms that consign them to the status of second-class citizens.

Given the gender discrimination in Igboland, one can fairly question the validity of *egbe belu*, *ugo belu* (live and let live)—the popular Igbo concept of justice that offers a strong traditional argument for peace and equity. In a traditional dispute settlement, this concept is applied in dispensing justice so that no one feels cheated or victimized. Bias exists, however, when the dispute involves different genders, especially if a man's reputation is in question. In other words, the equal respect demanded of a woman towards a man is not demanded of a man towards a woman.

A. I. Umoren notes that 'on the basis of gender inequality, Nigerian cultures, with few isolated exceptions, generally deny women the right to participate in decision making and leadership; . . . the right to hold an opinion; the right to a higher promotion'.¹⁴ Nigerian feminists claim that gender discrimination is not simply confined to traditional institutions, but is widespread: 'As in most nations, Nigeria has a body of

14. A. I. Umoren, 'Theological Basis of Gender Equality', paper presented at a gender awareness workshop for women, Ifendu for Women's Development, Enugu, Nigeria, 28–30 January 2005.

laws, which regulate and govern various aspects of both public and private life. . . . However, the manner in which such laws are interpreted and applied is often inconsistent and varies based on subjective considerations, particularly in cases when women seek redress for violations committed by their spouses or when inheritance issues arise.¹⁵

The 2009 Ahajiaoku Lecture produced raucous debate between female Igbo scholars and their male counterparts when the women asserted that Igbos should recognise the change going on around them in respect to the treatment and perception of women.¹⁶ In the featured lecture, Chinua Achebe took the Igbo people to task about their treatment of women and urged them to reassess their thinking. In admonishing them, he pointed to his novel *Things Fall Apart* and *Nneka* (Mother is supreme).¹⁷

TOWARDS WOMEN'S FORMAL ENGAGEMENT IN PEACEMAKING AND GOVERNANCE

Good governance lies at the heart of the process of conflict prevention and resolution. Shedrack G. Best enumerates the characteristics of good governance as democratization, maintenance of law and order, accountability and transparency, responsiveness on the part of government, due process, the rule of law, and respect for minority rights, among others.¹⁸ A purposive democratic leadership ensures that development planning is fundamentally anchored at the lowest tiers of governance through decentralisation and community-driven participation that ensure grassroots development. Recognising and working with traditional rulers who govern communities through local state councils is therefore important. This strategy ensures that community perspectives and priorities are incorporated into development projects to further sustainable grassroots development planning, effective service delivery, and peacemaking.

Women's participation and corrective influence in governance are beneficial to indigenous systems of peacemaking and the socioeconomic stability of the formal state system. Because of ongoing bias in traditional Igbo communities when men and women contest elections, a strategy must be developed to ensure that more women formally engage in governance. The Centre for Promotion of Peace and Development carried out a focus-group study with seven women from the Akwuke community in Enugu state in early 2009. The exercise suggested that a fair quota of women elected from Igbo communities would ensure better participation of women in governance.

The consolidation of democratic governance and the establishment of the foundations for socioeconomic development in contemporary Nigeria would appear to require a campaign of enlightenment concerning equality of opportunity for both sexes to develop themselves and participate in affairs of their communities and country, including in political contests. If customary practices need to be changed, then women need all the help they can get in achieving this; revisions to statutory law may also be re-

15. National Gender Policy, 2007, 6.

16. The Ahajiaoku Lecture is a gathering for presenting and debating ideas about Igbo culture. It began in 1979.

17. Achebe, 'Igbo Civilisation and *Things Fall Apart*'.

18. Best, *Introduction to Peace and Conflict Studies in West Africa*, 102.2.

quired. Traditional institutions remain relevant in African states, but each state should have laws that are gender sensitive and help to harmonize activities in rural communities with those of formal state institutions. Sustainable peace can only be possible when men and women work together at every stage of conflict resolution.

LESSONS FROM THE USE OF INDIGENOUS APPROACHES TO PEACEMAKING

There is no doubt that indigenous leadership structures among the Igbo are necessary and vital for promoting peace and ensuring communal coexistence. Indigenous rulers' councils in Igboland have adjudicated and mediated disputes at the local level as well as monitor the implementation of peace agreements. Indigenous councils across the country have provided state and federal governments with useful advice and helped to resolve some of the more debilitating religious and ethnic conflicts in Nigeria. Igbo indigenous systems of governance, however, deny an equal place for women although it is evident from ongoing initiatives that women can play roles as important as their male counterparts'. By circumscribing participation through gender inequality, these systems undermine the genuine communal ownership of governance processes vital for development.

Given the dominance of patriarchal tradition among the Igbos, transforming attitudes to bring about greater gender parity in decision-making and problem-solving will not be an easy or straightforward task. Although it may be necessary for state or federal statutory laws to be enacted to ensure gender parity at local levels of governance and development processes, the ideal would be for councils of elders to address the situation themselves by nominating women to join their ranks; such action would be more legitimate and therefore more effective.

Gender inequality is not a characteristic unique to the Igbo people of Nigeria. It is found in other indigenous traditions across the African continent. There is, however, a case to be made for the adoption of hybrid structures of governance that combine indigenous values and contemporary norms of human and gender rights. This would contribute greatly towards revitalising indigenous practices today.



Globalization and Africa's Endogenous Knowledge Systems

Chris M. A. Kwaja

AFRICA'S ENDOGENOUS KNOWLEDGE is increasingly being recognised as a complex and dynamic system developed over centuries by indigenous and local communities through application, research, investigation, modification, and innovation. These indigenous knowledge systems, however, are under threat from contemporary forces, in particular the current wave of globalization.¹ An incursion of foreign religions as well as western styles of conflict resolution and peace-building, among other forces, has led to the displacement of aspects of traditional methods for the production and transfer of knowledge in Africa. Other key factors associated with this trend are a decline in the use of endogenous African languages and shifts in culture and in identity. These changes have inspired global concern and movement towards the protection and promotion of indigenous peoples' rights and their knowledge systems. Undermining the saliency of local cultures and traditional authority structures endangers social cohesion and local conflict resolution mechanisms. The challenge is for Africa to protect and promote its endogenous knowledge systems.

ENDOGENOUS KNOWLEDGE

Endogenous knowledge refers to wisdom that grows from within communities, rooted in and emerging from local contexts and practices. It is also based on local strategies, knowledge, institutions, and resources. Endogenous knowledge is a complex and holistic system that permeates political, social, and economic aspects of people's lives. It can encompass comprehensive systems of law and practice that regulate the manner of production and application of knowledge. The relevance of endogenous knowledge is linked to its ability to enhance the capacity of communities to solve

1. N. Brahy and B. Tobin, 'Protecting and strengthening traditional knowledge innovation systems', *Work in Progress*, 17:2 (2005), www.unu.edu/hq/ginfo/wip/wip17-2-summer2005.pdf.

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their own problems. Steve Biko, commenting on the problem-solving approach found in a number of African communities, noted that 'whereas the Westerner is geared towards using a problem solving approach following very trenchant analyses, our approach is that of situation–experience'.² Such a situation is influenced largely by the experience of an individual as a member of a community. Nelson Mandela observes that 'in African culture, the sons and daughters of one's aunts or uncles are considered brothers and sisters, not cousins. . . . We have no half-brothers or half-sisters'. He further notes that 'my mother's sister is my mother; my uncle's son is my brother; my brother's child is my son, my daughter. . . . [A]nyone who claims descent from a common ancestor is deemed part of the same family'.³

Mandela's statements highlight why endogenous knowledge in African tradition tends to emphasise the community rather than the individual. This recognition informs all other processes within traditional communities. The family in the African context is the basic unit of socialization as well as the primary agent of education. Within the family, the parents, siblings, and other relations are critical vehicles for the socialization and education of the individual in the society. Endogenous knowledge about conflict resolution and peace-building in African societies is premised on the role of elders in the community. The principles of transparency and community participation and ownership play roles as well. A prevalence of beliefs invokes ancestral spirits to reinforce the link that people maintain with deceased relatives and indirectly to the rest of the society. Regularly performed rituals and ceremonies re-connect members of a community with their spiritual beliefs and the broader society. All these endogenous practices are not the product of external influence or importation, but have evolved over time from local experiences. Other endogenous customs include oath swearing, forms of marriage, clan ties, and traditional courts composed of a council of elders.⁴

EFFECTS OF GLOBALIZATION

Malcolm Waters defines globalization as a social process in which the constraints of geography on social and cultural beliefs and practices are transcended.⁵ It has increased and accelerated the rate of transnational interconnectivity and has made it easier for people around the world to engage with the ideas and cultures of others living elsewhere.⁶ Globalization has compressed the international economy to the extent that the effects of a financial crisis in one part of the world can greatly affect other areas far and wide. Political globalization has made principles, norms, and practices that have gained international currency influential in local settings. In various parts of Africa, western-style governance has replaced indigenous systems of knowledge.

2. A. Stubbs (ed.), *Steve Biko: I Write What I Like. Selection of His Writings* (London, Bowerdean Press, 1978).

3. N. Mandela, *Long Walk to Freedom* (Randburg, South Africa, Macdonald Purnell, 1994).

4. K. E. Kouassi, 'West coast diplomacy among the Akan and their neighbours' in I. W. Zartman (ed.), *Traditional Cures for Modern Conflicts: African Conflict Medicine* (Boulder, Colorado, Lynne Rienner Publishers, 2000).

5. M. Waters, *Globalization* (London, Routledge, 1995).

6. See U. O. Okoye, 'Globalisation and the care of the elderly in Nigeria' in M. O. Maduagwu and V. C. Onu (eds.), *Globalisation and National Development in Nigeria* (Fulbright Alumni Association of Nigeria, 2006); S. T. Akindele, T. O. Gidado, and O. R. Olaopo, 'Globalisation: Its implications and consequences for Africa', *Globalization*, 2:1 (2002), http://globalization.icaap.org/content/v2.1/01_akindele_etal.html.

According to John Ohiorhenuan, globalization primarily stands to impose the universal homogenisation of western ideas in a synchronisation of cultures, values, and lifestyles.⁷ Cees Hamelink asserts that this synchronisation of culture is quite evident in the sense that 'a particular type of cultural development from the western countries is persuasively communicated to African countries. Cultural synchronisation implies that the traffic of cultural products goes massively in one direction and has basically a synchronic mode'.⁸ Furthermore, 'western countries offer the model with which African countries synchronise. The whole process of local inventiveness and cultural creativity is thrown into confusion or is definitely destroyed'.⁹ Theophilus Okere, Chukwudi Njoku, and René Devisch rightly observe,

African societies have since colonisation and till today been marked by 'othering' from the North. Its great civilisational traditions, political, medical, biological, commercial, and religious ones, have been inferiorised and subdued in particular during the 19th and 20th centuries' colonial and missionary enterprise. That jaundiced civilising mission assumed that all traditional knowledge in Africa, where their very presence was acknowledged at all, was obsolete. In the colonial era, western enlightened knowledge and expertise was a priori proclaimed superior. . . . [I]n this othering, rather than genuinely being an enriching centre for the dialogue of civilizations, the colonial school turned out to be a rigid institutional setting for entrenching western civilization and knowledge against African endogenous knowledge.¹⁰

The notion of community in traditional Africa is manifest in what Claude Ake refers to as 'the organic character of society'.¹¹ Traditional Africans' sense of freedom is not framed by autonomy, tension between the individual and the collective, or the prospect of securing protection against the will of the collective. Rather, it is defined in terms of cooperation and in the embeddedness of the individual in an organic whole. The non-individualistic nature of traditional African society can be seen in the view of property as collectively owned, cultivated, and protected in a communal setting. The introduction of global capitalism through the tenets of liberal democracy has had grave implications for the value that Africans place on communalism and togetherness. Individualism in the context of private capital accumulation sows the seeds of social disintegration, particularly when individuals seek personal gain and advantage at the expense of the community. This is today a reality across the African continent. If endogenous African principles of communal coexistence had been adopted as policies influencing the continents' political economy and democratic governance processes, would African societies today be experiencing less of the corruption that has so undermined numerous countries? There is no simple answer to this question, but the fact that these endogenous principles did not inform

7. J. F. E. Ohiorhenuan, 'The South in an era of globalisation', *Cooperation South*, no. 2 (1998).

8. C. J. Hamelink, 'Cultural hegemony in global communication', in L. U. Uche (ed.), *North-South Information Culture: Trends in Global Communications and Research Paradigms* (Lagos, Longman, 1983), 25.

9. *Ibid.*

10. T. Okere, C. A. Njoku, and R. Devisch, 'All knowledge is first of all local knowledge: An introduction', *Africa Development*, 30:3 (2005), www.codesria.org/Links/Publications/ad3_05/njoku_devisch.pdf.

11. C. Ake, 'Democratisation of disempowerment in Africa' in J. Hippler (ed.), *The Democratisation of Disempowerment* (London, TNI/Pluto Press, 1996).

policy development in the past, does not mean that they should not be incorporated into policies of the future.

Bertus Haverkort, Katrien van 't Hooft, and Wim Hiemstra attribute the degradation and decline of Africa's knowledge systems to the fact that the dominance of western knowledge in science and technology has fostered the deliberate neglect of Africa's traditional cultures and institutions.¹² Under the guise of the transfer of knowledge, African endogenous knowledge has either been assimilated or marginalized entirely in a process that Ake equates with a form of epistemological imperialism.¹³ Globalization is therefore in a sense picking up where colonialism left off. The effects of globalization have undermined the production and sharing of cultural African knowledge of science, sociology, conflict resolution, and peace-building.¹⁴

AN AGENDA FOR THE FUTURE

In light of the challenges facing Africa's endogenous knowledge, Africans must agitate for a different form of globalization than the one that currently dominates. It should not be one based on a centre dictating its laws and mores to the diverse peripheries, but one that respects the innovative capacity of African and other peoples. Protecting and promoting endogenous knowledge systems in Africa also requires an understanding of the nature of indigenous and local community knowledge systems, respect for their methods of knowledge generation and sharing, as well as support for customary laws and practices. This necessitates mainstreaming a policy of nurturing traditional knowledge systems as well as identifying opportunities for increasing the production and use of endogenous knowledge.

In this era of globalization, Africa is in effect a continent under siege. It is witnessing the obliteration of its endogenous knowledge systems and the preponderance of a eurocentric view stemming from the legacy of colonialism. Although it is not possible for Africans to opt out of the globalization process, efforts should be undertaken to maintain and revive Africa's endogenous knowledge systems without romanticising their views and practices. The fact remains that Africans should maintain their distinct identity, which will enhance their sense of self-worth and self-sovereignty amid an avalanche of negative opinions and policies that sustain the continent's subservient posture towards the West. African tradition is not the functional equivalent of backwardness. Africans must continue to systematize their endogenous knowledge to demonstrate its conceptual value.

12. B. Haverkort, K. van 't Hooft, and W. Hiemstra (eds.), *Ancient Roots, New Shoots: Endogenous Development in Practice* (London, Zed Books, 2003).

13. C. Ake, *Social Science as Imperialism: The Theory of Political Development* (Ibadan, Ibadan University Press, 2003).

14. Okere, Njoku, and Devisch, 'All Knowledge is first of all local knowledge'.



Judiyya: A Test of Traditional Conflict Resolution Mechanisms in Complex Conflicts in Darfur

Kwesi Sansculotte-Greenidge

Judiyya is not like a court of law and it is not exactly *sharia* or religious law. It is a means of solving conflicts by the middle ground. It is the middle road system.

— *Salih Muhammad Shumu of Adar, Kεpkabia, Mile refugee camp, Chad*

THERE EXIST NUMEROUS POTENTIAL CAUSES OF CONFLICT between and among ethnic groups that coexist in the same area or that interact frequently. In the face of such conflict, however, various ethnic and communal groups the world over have developed mechanisms to mitigate their disputes. Some of these processes are specifically designed to ensure peaceful coexistence despite resource competition and fragmentary alliances, such as those that characterize the Sahel and the Sahara. These traditional mechanisms sometimes rely on a common cultural heritage but can also be based on subscription to a particular set of norms. Acceptance of these norms will vary over time and from place to place, and some aspects may be contested, but it is adherence to the core principles that makes mediation and conflict resolution possible. Third-party mediation becomes necessary, and indeed possible, when a conflict has deadlocked or when one of the parties feels secure enough to seek external mediation. More important, direct negotiations must either have run their course unsuccessfully or been proven to be ineffective or useless for some other reason.

JUDIYYA AND AJAWID IN PREWAR DARFUR

In Darfur, the customary system of mediation, *judiyya*, involves third-party mediators, or *ajawid* (elders; sing. *ajwadi*), who are selected based upon their reputation for being wise and knowledgeable of traditions. The Arabic root *jwd* translates as 'good', and also forms the root of such words as *magnanimous* and *generous*. For *judiyya* to take place, the *ajawid* must be accepted by all the involved parties. Traditionally, *judiyya* ends when a settlement is reached. The settlement need not be all encompass-

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ing, but must at the least re-establish some sort of harmony through the payment of compensation. To achieve this, the rhetorical skills of the ajawid are paramount, appealing to the wisdom of the parties and to their honour. The process is also political, as pressure is brought to bear on the parties to agree.

The ajawid are, by traditional practice, elderly people well versed in communal customs and customary laws. They are not, however, neutral in the western sense of the term. Their role is to exert pressure on the party or parties resisting a settlement until they accept the recommendations the ajawid think appropriate.¹ In this way, ajawid act as facilitators, mediators, and arbitrators, depending on what is needed. Ali Ali-Dinar, a scholar from the lineage of the sultans of the Fur, describes the ajawid as forming part of a traditional system for the regulation of group land rights and ethnic boundaries that went unquestioned until recent times.² He notes, 'Disputes were resolved in traditional reconciliation conferences, Mutamarat al Sulh, whose rulings were always respected and honored. Even at times when the government was involved, it served as a facilitator and not as an enforcer. Government neutrality contained ethnic conflicts not only in Darfur but also in Kordofan and in the south.'³

RECENT ATTEMPTS AT TRADITIONAL MEDIATION

During the current armed insurrection in Darfur, there have been numerous government and communally sponsored initiatives aimed at bringing about a peaceful settlement.⁴ These have taken place recently in parallel with internationally sponsored peace talks between the government and the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM). Some of these processes draw on judiyya as well as the norms of international mediation. Most of these initiatives, however, have, in the final analysis, been co-opted or hindered by the central government.⁵ It is doubtful whether the government's commitment to and sponsorship of judiyya meetings are any more genuine than in the run-up to the war in the 1990s.

In February 2003, for example, the government presented the Mechanism for Extending the Authority of the State, a policy initiative that called on traditional leaders and government appointees for suggestions about restoring peace in the region. Hundreds of leaders were invited to a consultative forum on security in Darfur that took place in al-Fashir, 24–25 February 2003. They emerged with a consensus that the government should open a dialogue with the rebels. The committee then went about setting up four subcommittees on an ethnic basis—Fur, BeRà, Arab, and non-specific—to meet with rebel leaders and civilian populations.⁶ The Fur and BeRà committees reported back with the grievances and demands of the rebels. The rebels' only condition for attending

1. A. A. Mohamed and Y. B. Balghis, *Inter-Communal Conflict in Sudan: Causes, Resolution Mechanisms and Transformation. A Case Study of the Darfur Region* (Omdurman and The Hague, Afhad University for Women and Novib, 2005).

2. A. B. Ali-Dinar, 'Between Naivasha & Abéché: The systematic destruction of Darfur', paper delivered at the conference 'Sudan's Lost Peace and the Crisis in Darfur', Amsterdam, 27 March 2004, 4.

3. Ibid.

4. International Crisis Group (ICG), *Darfur Rising: Sudan's New Crisis*, Brussels, March 2004, 13, www.crisisgroup.org/home/index.cfm?id=2550&l=1.

5. Ibid.

6. Ibid.

possible talks was that *ajawid* not be chosen on the basis of ethnicity. At this point, the Sudanese army went on the offensive, and the proposed talks never took place.

In another attempt, in June and July 2003, Minister of Education Ahmed Babiker Nahar, a BeRà, and the governor of the Nile state, Abdalla Ali Masar, a Rizeigat, launched their own initiative to negotiate a settlement with the rebels in Darfur.⁷ With President Omar Bashir's approval, a delegation of thirty traditional leaders and government officials entered an SLA stronghold.⁸ The SLA set three preconditions for entering talks: that they address the political root causes of the rebellion; that the government not refer to them as bandits; and that the Janjaweed, the Arab militia, be disarmed. On this occasion, the minister of education went as far as to say that the rebels' cause was 'just and rational in some of its aspects, and was amenable to give and take'.⁹ The two officials recommended that the government open negotiations with the rebels, but once again, no talks took place.¹⁰

Another initiative got under way in January 2004 in Nairobi headed by Vice President Ali Osman Taha and Ahmed Ibrahim Diraiqe, the former governor of Darfur and now an opposition leader living in exile. Diraiqe used his influence to persuade the SLA and JEM to take part in talks to open the region to humanitarian assistance. The talks collapsed when the government abruptly pulled out.¹¹ Around the same time, Hassan Bargo, a BeRà government minister, launched a competing initiative. Discussions between Bargo and the Consultative Council of the BeRà resulted in a statement promising an increased number of government positions to BeRà. Peace talks resulting from this were scheduled to take place in Chad, but they never materialised.¹²

Various groups in Darfur have tried to initiate peace processes without government participation. Among these are the leaders of the Midob and Zeyadiya ethnic groups.¹³ In Dar Masaalit, the sultan of the Masaalit and recently appointed Arab leaders reached an agreement specifying that the Arab groups could retain their leaders, but under the nominal authority of an elected sultan.¹⁴ This ensured that the numerically superior Masaalit would always be able to elect one of their own as sultan.

Even the groups from which the Janjaweed are recruited have, on occasion, sought to negotiate with their victims. The leaders of the Awlad Zeyd of West Darfur approached the Masaalit sultan and made an agreement under which they would vacate Masaalit land that they occupied in exchange for access to pastures.¹⁵ The Awlad Zeyd, it has been suggested, are the victims of their own success as raiders, much as the Rizeigat were in northern Bahr al-Ghazal during the late 1990s. Their looted herds need to move more frequently and farther for pastures and water, so they have come to value security guarantees from their neighbours and erstwhile victims. When sustaining livestock becomes more important than raiding, and the search for safe pas-

7. Both men are senior officials in a faction of the splintered Umma Party.

8. ICG, *Darfur Rising*, 14.

9. *Ibid.*, 13.

10. *Ibid.*, 14.

11. *Ibid.*, 13.

12. *Ibid.*

13. J. Flint and A. de Waal, *Darfur: A Short History of a Long War* (London, Zed Books, 2005), 122–6.

14. *Ibid.*

15. International Crisis Group, *Darfur: The Failure to Protect*, Brussels, March 2005, 11, www.crisisgroup.org/library/documents/africa/horn_of_africa/089_darfur_the_failure_to_protect.pdf.

tures becomes a higher priority than further predation or rivalry for power, traditional reconciliation mechanisms may reassert themselves, as they have in some cases between the Baggara tribes and the Dinka of northern Bahr al-Ghazal.

The Sudanese government has done its best to derail these communally sponsored initiatives by trying to play one group against the other. When the Ma'ali Arabs were given their own administrative unit, this served the function of maintaining tension between them and the Rizeigat. Neither of the two groups has been drawn into the war in Darfur. The government has also replaced certain uncooperative leaders, such as the *maqdam* of Nyala, an action that may be understood as a warning to others who aspire to make peace independently.¹⁶

Another noteworthy local peace initiative is the one launched in 2005 by Saeed Mahmoud Ibrahim Musa Madibu, the leader of the Rizeigat, that has the distinction of being the least talked about, the most problematic for the Sudanese regime, and also the most promising. The Madibu initiative is designed to extend peace in South Darfur. The southern Rizeigat have made agreements with the Birgid and Daju and Begio, groups that have already been disarmed by the government. There has also been a recent rapprochement to the north with the Ma'ali, a group with which the Rizeigat have had feuding relations.¹⁷ In 2004 the Rizeigat *nazir* took a leading role, along with other traditional leaders, in a Libyan-sponsored peace conference in Tripoli, with representatives of the JEM and SLA. This produced the so-called Darfur Tribes Initiative, which advocated the reestablishment of effective native administration in Darfur.

The current head of the Rizeigat might be thought of as an unlikely prospect for the role of peacemaker. His predecessor had been responsible for the mobilization of the Rizeigat, as government allies, in the war in the South. In the 1980s and 1990s, Rizeigat militias, with government support, repeatedly raided areas in northern Bahr al-Ghazal controlled by the Sudan People's Liberation Movement/Army. Although the raiding profited militia members, it also restricted the access of Rizeigat herds to the dry-season grazing in the Dinka area. Despite pressure from the central government to become similarly involved in the war in Darfur, the present leader has stated that he will not raise a militia unless Dar Rizeigat itself is attacked.¹⁸ The interests of the southern Rizeigat in Darfur are also rather different from their interest in the Dinka grazing grounds to the south. They have little to gain there. As a result, the Rizeigat and their leader stand as an unexpected force for peace.

Both government-sponsored and communal mediation continue in Darfur, and recorded instances of engagement have increased strikingly in number. It is interesting to note, however, that only one major government-sponsored mediation conference was held in Darfur under the Condominium (between 1916 and 1956), whereas between 1957 and 1997, twenty-nine such conferences were held in Darfur; six took place in 1991 alone.¹⁹ This does not mean that *judiyya* is becoming more effective, but

16. Flint and de Waal, *Darfur*, 122–6.

17. *Ibid.*

18. V. Tanner, 'Rule of lawlessness: Roots and repercussions of the Darfur crisis,' Sudan Advocacy Coalition, Interagency Paper, London, January 2005, 23 (PDF available online).

19. E. A. Mukhtar, 'About tribal conflicts in Darfur: Causes, reconciliation conferences and mechanisms of implementing agreements' in A. A. Mohamed and E. I. Wadi (eds.), *Perspectives on Tribal Conflicts in the Sudan* (Khartoum, University of Khartoum Institute of Afro-Asian Studies, 1998).

rather the opposite, as many of the meetings had to be repeated in subsequent years. Of these conferences, five were between the same groups—the Kababish and the camel-herding Berti, Midob, and Zeyadiya of North Darfur. Conflict in Darfur is repetitive, recurring along the same social fault lines. As a result, peace conferences seldom bring lasting peace. *Judiyya* is still the institution turned to in a crisis.

It is becoming increasingly apparent that the broader problem of Darfur can only be resolved through international mediation, but the many local conflicts that are exacerbated by it and wrapped up in it can only be solved by a local process of mediation. The conditions for this do not currently exist, as the government has shown itself unwilling to sponsor such proceedings in good faith or to enforce their recommendations. For *judiyya* to be effective, there needs to be clarity in relations among the central government, local authority, and indigenous leadership. This requires integrity among administrative officials and an understanding on their part of the history of indigenous political institutions—an understanding beyond that required by a policy of divide and rule.



Ubuntu: Life-Coping Skills from Africa, by Johann Broodryk

Randburg, South Africa: Knowres Publishing, 2006. ix + 168. Bibliographical references to p. 174. Index to p. 177. Glossary of South African and Xhosa/Zulu terms to p. 181. Training Programme to p. 185. ISBN 978-1869221430. Rand 189.00

Reviewed by Bonnie Berkowitz

AS AFRICA CONTINUES TO CONFRONT A MYRIAD OF CHALLENGES, including poverty, social tensions, and violent conflict, it is necessary to question whether more of the continent can redeem and revitalize such values as caring, sharing, and respect that prevails in parts of it. For thousands of years, Africans have used the indigenous philosophy of *ubuntu* in everyday life. Ubuntu is more effectively understood through its lengthier proverb: 'Ubuntu ungamunutu ngabanye abantu' (p. 22), which literally proclaims that a person is a human being through other human beings. According to this indigenous worldview, individuals cannot live without affecting the lives of others.

The ubuntu perspective holds that peoples' lives intertwine in reciprocal relationships. Realisation of this fact should inform how members of society interact and how they make decisions and solve common problems. In effect, proceeding from an ubuntu-informed point of view makes it necessary to try to constantly promote good relations between and among people predicated on a culture of caring, sharing, and respect—the only way to ensure the well-being of the collective whole. According to Johann Broodryk, 'the ultimate aim of implementing Ubuntu globally may be the creation of a new, moral world order, which manifests in the establishment of more humanised societies, and more caring, happy and yet disciplined individuals' (p. 3).

With *Ubuntu: Life-Coping Skills from Africa*, Broodryk has written a pioneering book on how to use ubuntu principles as part and parcel of everyday living in contemporary society. He offers that the book can be useful to researchers, but can also serve as a manual for practitioners—including social workers, counsellors, managers, politicians, and leaders—who want to externalize the ubuntu philosophy in and through their work.

The book is well researched and easy to follow irrespective of one's level of expertise or knowledge of ubuntu or other forms of indigenous African wisdom. Broodryk opens with an exploration of the term *ubuntu* and by describing the ubuntu world-

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view. He then discusses the values linked to ubuntu, among them humanness, caring, compassion, sharing, and respect. Using case studies, Broodryk goes on to explain how individuals can practically live by employing ubuntu principles and how ubuntu can be deployed in the workplace and in society.

The most interesting aspects of this book are the practical tools for living and reflections on the differences between 'I' and 'we'. In indigenous African tradition and culture, the group spirit is regarded as more valuable than individuals' personal ambition (p. 88). Broodryk notes that based on the ubuntu communal spirit, everyone is part of an extended family, and social classes based exclusively on material assets are frowned upon. Thus, emphasis is placed on the equitable distribution of social goods; such assets as food and drink are to be shared (p. 88). Broodryk legitimately notes that some African societies have emphasised the well-being of the community above the personal desires of the individual, but here one detects a slight romanticism of idealised African societies in his writing.

History teaches that not all African communities were in effect ubuntu societies. Indeed, there were conflicts and violent campaigns between African nations. It is important not to gloss over this fact, which provides a basis upon which to argue for the need to redeem and revitalise the indigenous ubuntu perspective in order to build more humane communities in Africa. Broodryk also makes quite generalised comments on the differences between western and African civilizations in which he describes westerners as being less inclined to share with underprivileged people and not recognising all civilizations as being equal. Although these characteristics can be attributed to some sectors of western society, it cannot be said of it in its entirety.

This book captures the essence of ubuntu and how one can use it each day. Broodryk helpfully provides a list of ethical skills that can be put into practice in the quest to maintain an ubuntu approach to life. Broodryk, a South African of European descent, suggests that ubuntu indigenous wisdom can be used in a secular and universal context, in the same way that the philosophies of Socrates, Aristotle, Kant, and Rousseau informed worldviews and defined how many people lived their lives.



Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences, edited by Luc Huyse and Mark Salter

Stockholm: International Institute for Democracy and Electoral Assistance, 2008. xiii + 204 pages. Bibliographical references. ISBN 978-91-85724-28-4. Downloadable PDF available at www.idea.int/publications/traditional_justice/index.cfm.

Reviewed by Tumaini A. Minja

THE POST-COLD WAR ERA has witnessed an increase in intrastate conflict and authoritarian regimes in Africa. One emerging view holds that in postconflict African societies, justice should aim at promoting reconciliation and averting cycles of impunity and violence. The types of interventions and the manner of implementing them to achieve such objectives are, however, subject to political, social, economic, and cultural constraints. In this context, the International Institute for Democracy and Electoral Assistance has assembled case studies on the use of traditional justice systems in Burundi, Mozambique, Rwanda, Sierra Leone, and Uganda. The case studies in *Traditional Justice and Reconciliation after Violent Conflict* discuss the utility of indigenous justice or reconciliation mechanisms in repairing social fabrics destroyed by war and offer policy recommendations on how to enhance their efficacy. The editors, Luc Huyse and Mark Salter, also provide comparative analysis based on individual countries' experiences.

Practices involving traditional justice aim at promoting 'reconciliation and restoring social harmony' (p. 14). The use of these mechanisms in periods of transition from intrastate conflict or genocide sometimes results from the absence of other avenues for dealing with problems caused by wars. In the case of northern Uganda, James Ojera Latigo argues that the failure of the government to provide solutions to address the effects of conflict led communities to revert to cultural and spiritual traditions 'to explain events, provide a moral basis for new forms of action' (p. 91). This was also the case in Mozambique, where a blanket amnesty was issued following the thirteen-year conflict there. The sense of a lack of transitional justice and redress for past atrocities created the conditions in which individuals in Mozambique reported that 'new

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spirits' had emerged to possess perpetrators and victims alike with a view toward seeking justice for war crimes that had been committed (pp. 68, 69).

The chapter by Victor Igreja and Beatrice Dias-Lambranca describes a case involving a woman who was apparently possessed by the spirit of a former Renamo soldier who died in the war but sought redress through her for the atrocities committed by the woman's uncle (p. 70). The woman was compelled to conduct traditional healing and reconciliation ceremonies and pay reparations to the dead soldier, after which the woman claimed that she no longer experienced the mysterious misfortunes that she had suffered and had attributed to the spirit (pp. 74, 75). Irrespective of whether one concurs with the possibility of such a spiritual possession, the significance of this case is not only its outcome but the fact that the traditional ceremonies created a space in which injustices caused by the war could be confronted, debated, and addressed.

Assumpta Naniwe-Kaburahe writes that in Burundi the traditional institution of *bashingantahe*, a council of elders, had been effective in saving lives during the massacre of 1993 and that 'in areas where a strong and operational body of *bashingantahe* existed, the damage in terms of loss of human lives was limited and the *Bahutu* and *Batutsi* remained united' (p. 154).

Bert Ingelaere provides a critical analysis of the *gacaca* courts in Rwanda. He asserts that in contrast to the restorative nature of the 'ancient' *gacaca* practices, which essentially promoted reconciliation, the 'modern' *gacaca* is basically retributive in nature. Ingelaere argues further that the incorporation of the 'modern' *gacaca* into the formal judicial system is in contradiction with its traditional basis (pp. 53, 57). Ingelaere does not, however, make specific recommendations on what has to be done apart from a generalised statement to promote 'locally owned' and 'socio-culturally inspired practices' in the country (p. 57).

Luc Huyse holds that traditional justice mechanisms are useful in promoting a culture of truth telling. Huyse identifies Burundi, Rwanda, and Sierra Leone as examples of societies that have placed an emphasis on truth telling as part of their cultural approach to transitional justice and reconciliation. Since traditional mechanisms are rooted in local values and traditions acceptable to communities, they can be more appropriately utilised in those communities to create the conditions in which people are willing to engage in truth telling (p. 187).

The case studies also expose the weaknesses of indigenous justice and reconciliation mechanisms in terms of their effectiveness and legitimacy. A common limitation regarding effectiveness is that the mechanisms were not designed to deal with mass atrocities, war crimes, and crimes against humanity (p. 106). Other factors limiting the effectiveness of the traditional mechanisms include the ethnicity of the participants, religion, gender, and age (p. 183). In the case study on Sierra Leone, Joe Alie points out that male dominance in traditional justice processes has led to the exclusion of women and youths (p. 133). The impact of colonialism, the cultural displacement of communities, and influence of the state have all had a bearing on the legitimacy of traditional justice and reconciliation processes (p. 145).

In their policy recommendations based on lessons from the five countries, Huyse and Salter illustrate the potential challenges of combining traditional reconciliation mechanisms with other processes of promoting transitional justice (p. 194). The Sierra Leone case, in which the state-sanctioned truth commission incorporated as-

pects of traditional justice, is a positive example in this regard (p. 141). It is necessary, however, to have clarity on how state institutions for promoting transitional justice can complement traditional mechanisms. Ultimately, this is a timely and valuable book that discusses the issue of indigenous reconciliation processes in a manner informative to researchers, practitioners, and policy makers.

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'Bi Nka Bi'—Bite Not One Another

African symbols known as *adinkra*, named after a legendary king and widespread in Ghana, are used on fabrics, walls, ceramics, and logos. 'Bi Nka Bi', the adinkra symbol for harmony, means 'bite not one another'. Based on two fish biting each other's tail, it is representative of peace, visually cautioning against backbiting, provocation, and strife, and instead urging a community spirit of sharing, group cooperation, justice, equity, fair play, and forgiveness.