Introduction

Martha Mutisi

Contemporary Africa is faced with the reality of numerous evolving states that have to grapple with the inevitability of conflict. On their own, the fledgling institutions in these states cannot cope with the huge demands unleashed by everyday conflict. It is within this context that the complementarity between traditional institutions and the modern state becomes not only observable but also imperative.

The continuing role and influence of traditional leadership in modern Africa is hard to miss. Nonetheless, the relationship between the state and traditional institutions should not be taken for granted for it is a contested terrain fraught with complexities. While traditional institutions are rooted in the culture and history of African societies, the modern state exerts a large amount of influence on these institutions. In some cases the traditional institutions are politicised and have become instruments of propagating state ideology. In other cases, especially where they express dissent with the state, these traditional institutions have often been undermined or usurped by the state.

However, the uniqueness of traditional institutions, by virtue of their endogeneity and use of local actors, cumulatively enables them to either resist or even sometimes subvert the state. These traditional institutions, also known as endogenous conflict resolution systems continue to demonstrate their relevance in post-conflict states. This is especially true in the context of weak states that are overwhelmed with ongoing state-building processes. There is no clear-cut formula regarding the interactions between the state and traditional institutions. A relationship definitely exists between the two and understanding this could be central in the promotion of sustainable peace in post-conflict Africa. A key objective of this monograph is to examine the influence and impact of traditional systems on modern structures of governance and conflict resolution.

It is natural for scholars, practitioners and policy makers to ponder the relevance of this endeavour. The analysis of traditional methods of conflict resolution is not a new phenomenon. However, the extant literature on these institutions and processes is inward-looking, presenting them as if they existed in a political and structural vacuum. The present monograph seeks to transcend this approach. It focuses on the hybrid nature of the relationships between state structures and traditional institutions of governance, justice and conflict resolution. Its focus is on analysing the intricate patterns of interactions between state and local institutions of conflict resolution. Particular attention is given to the relevance of this interface in post-colonial states in the post-conflict phase.

ACCORD is proud to be publishing these case studies during this second decade of the millennium where the role of traditional institutions continues to be highlighted. Comprising five chapters all focused on Eastern and the Horn of Africa, the contributions follow a case study approach to highlight the modern-traditional connection. These case studies are: Afar in Ethiopia, Darfur, Rwanda, the Baganda community in Uganda and Sudan. Cumulatively, the monograph confirms that traditional institutions can play varied roles in preventing and resolving conflicts. The case studies vary in length, methodological approaches and schools of thought, reflecting the styles of the various authors. Despite their diversity, some common themes, perspectives and observations can be discerned.

Chapter 1 throws the spotlight on conflict resolution among the Baganda in Uganda by analysing practices under the *Ekika* System. It highlights the discord precipitated by the state's struggle to become more viable and democratic, and the resilience of traditional institutions of governance together with the latter's role as outposts of the state. The chapter employs an evolutionary approach by examining how Baganda practices have shifted in ritualism and character over time. The authors attribute some of these changes to 'the introduction and institutionalisation of western-type legal systems and judicial processes'.

Chapter 2 analyses a uniquely Rwandan approach to local justice known as *abunzi* mediation. It employs a peacebuilding paradigm infused with the developmental lens to explain the re-engineering of the *abunzi* mediation by the Rwandan government in 2006. The author discusses the synergy between

the *abunzi* and the modern, formal court system and how the state, through its Ministry of Justice and Ministry of Local Government, supports the operations of the *abunzi*. The chapter makes the case that although *abunzi* mediation existed in the pre-colonial era in traditional form, i.e. 'those who reconcile', the Government of Rwanda deliberately re-instituted *abunzi* mediation through statutory instruments. This gave the institution a double edged effect. The chapter discusses the complexities that are associated with combining a cultural and ritualised conflict resolution process with elements of state-mandated mediation. While paying attention to the benefits of the *abunzi* in localising justice, the author is wary of too much state oversight in local level processes.

Chapter 3 discusses the case of Afar in Ethiopia. It presents a gamut of actors in traditional conflict resolution and their complementary roles. The chapter argues that traditional institutions in the Afar region, especially elders, play a critical role in resolving conflicts between clans and sub-clans. The authors underline the cultural fusions between the state and local traditional structures by discussing how the Ethiopian state administration relies upon the peace committees composed of elders from the Afar to monitor conflict and promote peacebuilding. The chapter further discusses the inherent contradictions and paradoxes that define the interactions between the state at the national, and the Afar traditional leaders at the local level. These challenges include the issue of overlap between the formal state apparatus and traditional institutions, especially when the same individuals play dual role and occupy different offices.

Chapter 4 focuses on Darfur. It pays attention to the role of the traditional legal system known as the *judiyya* in addressing lower level offences that were committed during the war in Darfur. The *judiyya* is a grassroots system of arbitration that focuses on reconciliation and the restoration of social relationships in the community. The chapter argues that its use in Darfur would enable populations to find justice instead of relying solely on international tribunals for addressing war crimes. It emphasises the responsiveness of the *judiyya* to the context in Darfur, positing that this system is restorative, conciliatory and community-based thereby positioning it towards building the larger peace agenda in Sudan. The author also underlines the relevance of the *judiyya*, especially its emphasis on restitution and compensation for loss

or damage incurred during or as a result of conflict. Drawing on the use of the traditional *Gacaca* system of justice, the author concludes by making suggestions that may improve delivery of peace and justice by the *judiyya* in post-war trials in Darfur.

Chapter 5 also explores the role of indigenous processes but from an environmental management dimension. Basing the analysis on the climate change adaptation framework and resource scarcity thesis, the chapter investigates the role of traditional mechanisms of conflict transformation in dealing with farmer-pastoralist disputes. Focusing on the *judiyya, a* citizen-based form of third-party mediation, the chapter examines how this uniquely traditional process can be employed to address environmental issues and resource-related conflicts. The analysis draws attention to the intricate nature of *judiyya* as the concept and practise can be applied to conflict transformation at various levels, including by community leaders, elders and government officials, depending on the nature of the dispute. For this reason, the author proposes the need to consider using *judiyya* to resolve larger-scale and tribal conflicts in Sudan. Lastly, the chapter considers the challenges of this form of customary mediation and how these conundrums can be addressed.

From Afar to Darfur, Rwanda, Sudan and ultimately to Uganda, traditional institutions of conflict resolution have demonstrated their resilience and utility in twenty-first century post-colonial and post-conflict Africa. Despite some identifiable gaps, these institutions are likely to remain a key defining feature of the face of conflict resolution in Africa. The chapters which follow will enable readers to join in the debate over the nexus between traditional and modern structures of governance and conflict resolution. Readers will also emerge with questions and perhaps ideas for further research on how to close these gaps.