Local conflict resolution in Rwanda: The case of *abunzi* mediators

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Introduction

When it comes to endogenous mechanisms of conflict resolution in Rwanda, the *gacaca* courts dominate extant literature and policy analyses. However, *gacaca* courts concluded their hearing of genocide cases in 2010 and what is left now is the finalisation of the reports of the *gacaca* process.[1] As Rwanda continues with its post-conflict reconstruction and quest for sustainable peace, the country has to grapple with the reality that conflict is an inevitable and permanent feature of social reality. Carrying the agenda of local ownership of conflict resolution, the Rwandan government passed Organic Law No. 31/2006 which recognises the role of *abunzi*[2] or local mediators in conflict resolution of disputes and crimes.[3] The *abunzi* deal with civil and penal cases that occur in present-day Rwanda, hence genocide cases are outside their jurisdiction. Like *gacaca*, the *abunzi* is inspired by Rwandan traditional dispute resolution systems which encourage local capacity in the resolution of conflicts.

1 *Gacaca* courts officially ended their genocide trials in 2010. However, in selected communities, some gacaca hearings continue especially when new evidence and new witnesses are identified. The government is developing mechanisms to handle outstanding genocide cases and to adjudicate alleged miscarriages of justice by *gacaca* jurisdictions.

2 Literally translated *abunzi* means 'those who reconcile'. The *abunzi* are local mediators in Rwanda who are mandated by the state to use mediation as an approach to resolve disputes with the aim to find a mutually acceptable solution to both parties to the conflict.

3 For details see Republic of Rwanda (2006) Organic Law No.31/2006 on the organisation, competence and function of the Committee of Mediators.

Historically in Rwanda the community and particularly the family have played a central role in resolving conflicts, hence institutions such as the *inama y'umuryango*[4] and *nyumba kumi*.[5] However, there is a great deal of state involvement and control in the operation of *abunzi* as evidenced by the laws and government committees that oversee *abunzi* operations. In a way, *abunzi* can be seen as a hybrid between state-sponsored justice and traditional methods of conflict resolution. The popularisation of the *abunzi* system by the Government of Rwanda in the post-2000 era was based on the objective to decentralise justice, making it affordable and accessible. This chapter analyses how the *abunzi* mediators are part of the Rwandan local governance and conflict resolution system. It further conceives of this institution as a restorative mechanism that helps Rwandese people to address their conflicts without resorting to litigation and other retributive approaches. The chapter also demonstrates a synergy between the *abunzi* and the modern formal court system given that *abunzi* have helped reduce the backlog of cases. Despite these benefits from the *abunzi* system, this chapter is wary of excessive state oversight in the *abunzi* processes. There is always the possibility of *abunzi* becoming just another state-mandated mediation where local Rwandans participate not out of will or choice, but out of need. The ultimate result could be a dramaturgical representation of reconciliation and community building while deep seated reservations, divisions and frustrations remain latent.

4 *Inama y'umuryango* is a term in the Kinyarwanda language which literally translates as 'family meetings' or 'family gatherings'.

5 *Nyumba kumi* literally means 'ten households'. In the political administrative realm, *nyumba kumi* is another arm of governance which refers to non-salaried community leaders who were mandated to represent a group of ten households. These individuals were trusted and respected by their fellow community members. If the family cannot resolve a dispute, in most cases the next step would be to consult *nyumba kumi*. *Nyumba kumi* leaders have the mandate to impose fines on disputants who are found guilty of the charges against them.

Rwanda: A contextual background

Located in East Africa, Rwanda has a population of some 10 million people and comprises of three ethnic groups: the Hutu (84%), the Tutsi (15%) and the Twa (1%) (Sheehan, 2009:2; CIA World Factbook, 2012). Formerly part of the Belgian trusteeship territory of Ruanda-Urundi, Rwanda gained its independence in July 1962. In terms of administration and governance, Rwanda follows the decentralisation model of development which allows local governance structures to implement development, conflict resolution and justice processes. The country is divided into villages or *umudugudu*,[6] cells, sectors, districts and provinces. There are approximately 2 150 cells across the country which exist within 416 sectors, 30 districts and five provinces (USAID, 2012).

Rwanda gained independence from the Belgians in 1962. Post-independence Rwanda was governed by the Hutu majority and Gregoire Kayibanda, Rwanda's first democratically elected leader who replaced the Tutsi monarchy. Kayibanda founded the Party for the Emancipation of Hutus (Parmehutu), which carried an emancipatory agenda for the Hutus. During his reign from 1962-1975, President Kayibanda introduced quotas for Tutsis, limiting their numbers in education, employment and other opportunities. Subsequently, the Kayibanda regime was characterised by the emergence of the Hutu hegemony, a situation which reflected a reversal of roles. Previously, the Tutsi minority had long been considered the aristocracy of Rwanda during the period of Belgian colonial rule. However, Kayibanda's tenure was interrupted when in 1975, General Juvenal Habyarimana, who was then serving as an Chief of Staff in the national army, seized power from Kayibanda and the Parmehutu party, ultimately placing Kayibanda under house arrest (Peter and Kibalama, 2006). To relinquish branding as a military rule, in 1975, Habiyarimana formed the Revolutionary Movement for Development (MRND), and immediately decreed that it would be the only legal political party in Rwanda. Rwanda essentially became a *de facto* one-party state under Habiyarimana, who ruled from 1974-1993. Initially, President Habiyarimana restrained himself and catered for both Hutus and

6 *Umudugudu* is the village level institution of governance and conflict resolution in Rwanda.

Tutsis. However, eventually Habiyarimana's regime began to mirror the same policies adopted by President Kayibanda, as evidenced by the continuance with quota systems which limited educational and employment opportunities for Tutsis.

Growing dissent from the Tutsis who were disadvantaged by the Habiyarimana regime led to burgeoning emigration of Tutsis into neighbouring Uganda. The Tutsi refugees formed the bulk of the Rwanda Patriotic Front (RPF), which in 1990 invaded Rwanda from Uganda, thus beginning a three year long civil war between RPF and the Government of Rwanda's armed forces. Following the civil war a number of ceasefire agreements were reached including the Arusha Accord which was signed on 22 July 1992 (United Nations, 1999). The Arusha Accord provided for the presence in Rwanda of a 50-member Neutral Military Observer Group I (NMOG I) which was supported by the Organisation of African Unity (OAU). In June 1993, the United Nations (UN) began its active involvement in Rwanda. Based on a request from Rwanda and the UN, it deployed the United Nations Observer Mission in Uganda-Rwanda (UNOMUR) along the Rwanda-Uganda border to prevent the military use of the area by the RPF (United Nations, 1999).

The Arusha Accord called for a democratically elected government, establishment of an inclusive transitional government as well as for the repatriation of refugees and the integration of the armed forces of the RPF and the Rwanda government. The Arusha Accord lasted for a brief period until the assassination of the Hutu leader, President Habyarimana, in a plane crash on 6 April 1994. The assassination of President Habyarimana is often described as a trigger or catalyst to the 1994 genocide. Immediately after the plane was shot down Hutu extremists began an extraordinary orgy of killings of Tutsi and moderate Hutus, including Prime Minister Uwilingimana (Peter and Kibalama, 2006).

The Rwanda genocide was sadly accompanied by a lack of significant and concerted international reaction, especially from the UN. Although there was already a United Nations presence in Rwanda prior to the massacres, namely the United Nations Assistance Mission to Rwanda (UNAMIR), the UN evidently could not stop the massacres. UNAMIR was established in October 1993 to

assist the parties implement the Arusha agreement, monitor its implementation and support the transitional government (United Nations, 1999). However, the massacres continued despite the UN presence largely because most of the UN troops had been withdrawn from Rwanda following the shooting of ten Belgian peacekeepers in April 1994 (Sheenan, 2009:4). Using Security Council Resolution 912 of 21 April 1994, the United Nations reduced UNAMIR's strength from 2 548 to 270 personnel (United Nations, 1999). According to the "Report of an independent inquiry into the acts of the United Nations during the genocide in Rwanda" (United Nations, 1999), the UN had increased UNAMIR's strength to up to 5 500 troops through a resolution passed on 17 May 1994, but it took six months for the UN to get these troops from member states.

The same report also mentions that as a result the UN had to rely on a very weak UNAMIR force and a multi-national humanitarian operation and concludes that, '[t]he overriding failure in the response of the United Nations before and during the genocide in Rwanda can be summarized as a lack of resources and a lack of will to take on the commitment which would have been necessary to prevent or to stop the genocide' (United Nations, 1999:1). This view is similarly expressed in a report by the African Union's International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and Surrounding Events, which is entitled 'Rwanda: The Preventable Genocide' (African Union, 2003). Subsequently the UN has often been blamed for the genocide which resulted in the death of the almost 800 000 Rwandans. The genocide ended in July 1994 with the RPF taking over, creating a government of national unity and subsequently declaring commitment to the 1993 Arusha Agreement. The genocide left many scars on Rwandan society, including displacement as many Rwandans were forced to live as refugees in neighbouring countries and outside the African continent (Forges, 1999).

Post-conflict reconstruction and peacebuilding in Rwanda

In the 18 years since the genocide in 1994, Rwanda can be considered as having embarked on a largely grandiose post-conflict reconstruction and healing process. In 2003, a new constitution was adopted, while development plans were

further laid out. The efforts have paid off as Rwanda's economy is said to be growing[7] and the rule of law has been restored while efforts towards healing and reconciliation are ongoing. Rwanda is a much highlighted case study of post-conflict reconstruction in the scholarly, policy and practice community (Dunne, 2006; Clark and Kaufman, 2009). Efforts towards rebuilding peace in Rwanda have been geared to addressing the deep-seated origins of the conflict, reconciling communities and building trust among Rwandans. The *gacaca* courts were set up to pave way for accountability by trying approximately 1.5 million cases of genocide (Article of the Organic Law, 2010). The *gacaca* courts tried cases of crimes of genocide and crimes against humanity which were committed from October 1990 to 31 December 1994. With the conclusion of the *gacaca* court hearings in 2010, and the positive review of this mechanism, the Rwandan government has had to institutionalise traditional methods of conflict resolution in its legal system. The rationale provided by the government in institutionalising traditional methods of conflict resolution was that this would ensure that communities remain empowered to address their problems before resorting to the formal court system. This has been made possible through the promotion of various endogenous systems including the *abunzi*, which is a mechanism for mediation.

Anatomy of the *abunzi*

Literally translated, *abunzi* means 'those who reconcile'. In Rwanda, the *abunzi* are not necessarily either the first or the last institution to attempt to resolve disputes between parties. In some cases, parties go to the *abunzi* when resolution at the family level through the *inama y'umuryango* or at the village level, namely the *umudugudu*, has failed to adequately resolve the dispute. However, of the institutions that resolve disputes locally, the *abunzi* is the only one whose formal statutory mandate is dispute resolution through mediation.

7 However, according to the Human Development Report (2011), Rwanda still ranks lowly on the Human Development Index compared to other countries (166 out of 187 countries) with 76% of the population living below the poverty line. For details, see United Nations Development Programme. (2011) Human Development Report 2011: Sustainability and Equity: A Better Future for All. New York: United Nations Development Programme.

Mandated by Article 159 of the Constitution, and the Organic Law No. 31/2006 and further by Organic Law No. 02/2010/OL on the Jurisdiction, Functioning and Competence of Abunzi Mediation Committees, the *abunzi* is defined as 'an organ meant for providing a framework of obligatory mediation prior to submission of a case before the first degree courts'. In essence, the provisions of the Organic Law are such that the formal courts act as an appellate court and will not consider a dispute unless the *abunzi* has first considered and ruled on the dispute, especially if the disputed property value is below 3 million Rwandese francs.

The *abunzi* mediators exist mainly at cell level although the mediation appellate is found at sector level. Article 2 of the Organic Law (2010) spells out two types of *abunzi* Mediation Committees, namely the Mediation Committee whose jurisdiction is at the cell level and the *abunzi* Appeal Mediation Committee whose jurisdiction is the sector level. Formally situated under the Ministry of Justice (MINIJUST) with the Ministry of Local Government (MINALOC) providing administrative oversight, the *abunzi* comprises 12 volunteers (plus three substitutes), all of whom must be residents of the cell. The Organic Laws (2006, 2008 and 2010) spell out that *abunzi* mediation committee members must not hold any other government administrative position in the community at the time they serve as mediators. The *abunzi* committee is headed by a 'bureau' comprising a president, vice-president and secretary. The president and vice-president are elected by the *abunzi* committees and the secretary of the *abunzi* is also the secretary of the cell.

In addition, the Rwandan constitution underscores that any institution of governance, including the *abunzi* must comprise at least 30% women. *Abunzi* mediation committee members, like their counterparts the *inyangamugayo*[8] in the *gacaca* courts, are expected to be persons of integrity who are acknowledged for their mediation skills. This expectation emerges from the laws governing abunzi operations, but it was also revealed during interviews with *abunzi* mediators and community members. The cell council elects the *abunzi* whose members serve a two-year term which is renewable. The system of re-election

8 *Inyangamugayo* is the Kinyarwanda word for *gacaca* court judges.

is designed to give all qualifying members of the community an opportunity to serve on the *abunzi* as well as prevent complacence, bias and corruption. When it comes to the process of conducting the actual mediation, three *abunzi* mediators hear and resolve the dispute. At the beginning of the first session each party is requested to choose one mediator from the twelve available at the cell level. The third mediator is mutually chosen by the two selected *abunzi* and thus the panel is established.

Before assuming their responsibilities, each *abunzi* mediator must take an oath of office in front of the local population and the cell coordinator. This includes swearing to 'observe the constitution and other laws' and to 'consciously fulfil my duties of representing the Rwandan people without any discrimination whatsoever,' and 'promote respect for the freedoms and fundamental rights of the human being and safeguard the interests of the Rwandan people'. In the oath, the mediator acknowledges that for failure to honour the oath 'may I face the rigors of the law' (Organic Law 02/20/2010/0l).[9]

The 2010 Organic Law mandates that the *abunzi* makes decisions consistent with the law and also underscores the need for abunzi mediators to settle disputes using conciliation and mediation as the mandated approaches. Chapter 4 of Organic Law (2010), Article 21, states that:

> To settle the conflict submitted to them, Mediators shall seek first to conciliate the two parties. In case of non-conciliation, they take decision consciousness in all honesty and in accordance with the laws and place's customs, provided it is not contrary to the written law. In criminal matters, Mediators shall not pronounce penalties provided by penal law.

9 Those being sworn in promise to 'diligently fulfil the responsibilities entrusted to me; remain loyal to the Republic of Rwanda, observe the Constitution and the other laws; work for the consolidation of national unity; conscientiously fulfil my duties of representing the Rwandan people without any discrimination whatsoever; never use the powers conferred on me for personal ends; promote respect for the freedoms and fundamental rights of the human being and safeguard the interests of the Rwandan people' The oath taken by *abunzi* mediators when they are being sworn in is the same oath that is taken by the President, members of parliament and other public officials. This oath can be found in the Constitution of Rwanda, Chapter 1, Article 61, Sections1-7.

In its Strategy and Budgeting Framework (January 2009- June 2012), the Republic of Rwanda: Justice, Reconciliation, Law & Order Sector defends the focus on mediation, asserting that it has the potential to resolve conflicts and improve relationships, which the more formal court system is less suited to do. Although *abunzi* mediation committees are local just like the *gacaca* courts, the *abunzi* function according to codified laws and established procedures although their decisions often remain inspired by custom. They encourage disputing parties to reach a mutually satisfying agreement but if necessary they will issue a binding decision.

According to the Rwanda Governance Advisory Council (RGAC), more than 30 000 *abunzi* mediators operate in Rwanda at the cell level. This statistic is confirmed by the Ministry of Justice whose website[10] mentions that Rwanda has a total of 32 400 Abunzi Committee members across 2 150 cells, and within 30 districts. The *abunzi* have broad jurisdiction which ranges from civil disputes to criminal cases. They mediate over civil disputes related to land and other immovable assets whose value does not exceed three million Rwandan francs. The *abunzi* also settle cases involving movable property and assets such as cattle, whose value does not exceed one million Rwandan francs. Other cases they are mandated to deal with include civil cases involving breach of contract where the value of the matter at issue does not exceed one million Rwanda francs. In addition, *abunzi* mediate in family cases, including paternity, matrimonial inheritance and succession issues when the matter at issue does not exceed three million Rwandan francs. Article 8 of the Organic Law (2010), which deals with competence in civil cases, states that *abunzi* mediation committees can deal with business and labour cases, including breaches of commercial and labour contracts as well as insurance and commercial contractual obligations where the maximum amount is 100 000 Rwandan francs.

Article 9 of the Organic Law (2010), which addresses competence of *abunzi* mediation committees, indicated that the *abunzi* mediators also have jurisdiction over some criminal cases, as long as the matter at issue is less than three million Rwandan francs. Such cases include some land-related matters such as boundary

10 See http://www.minijust.gov.rw/moj/mediationcommittees.aspx

disputes, cases of damage to crops and theft, larceny and extortion committed between members of the same family and killing or wounding without intent.

However, in terms of geographical jurisdiction, the *abunzi* can only mediate disputes that involve persons from their sector. Currently, the Organic Law (2010) prevents cross-sector mediation. Sessions of the *abunzi* mediation are conducted onsite; in the area the dispute took place and where the affected reside. Additionally, *abunzi* mediation sessions are conducted in public, which means that other community members are free to participate. While community participation is encouraged, the compulsory attendance of sessions is reserved for disputants and witnesses, while community members are not compelled to take part.

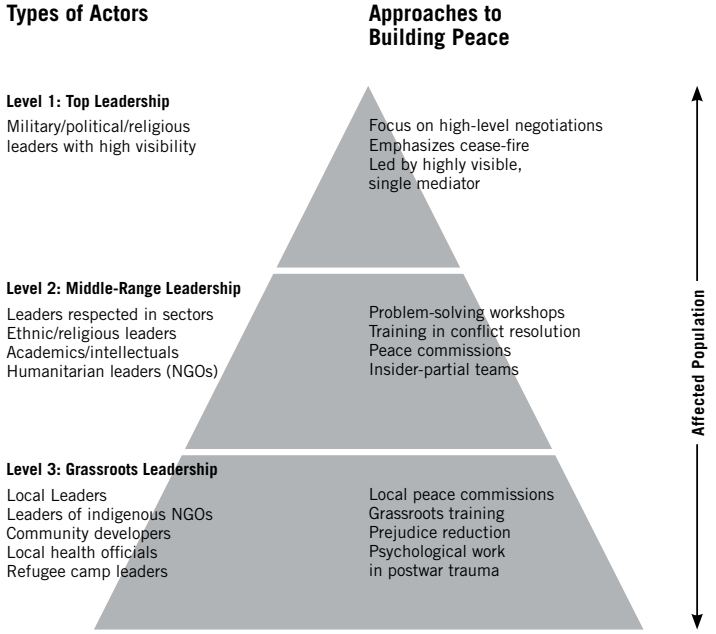
A theoretical perspective for comprehending the *abunzi* peacebuilding theory

The *abunzi* mediators in Rwanda can best be understood in the context of ongoing peacebuilding initiatives. Peacebuilding theory becomes a useful lens with which to analyse the *abunzi* mandate and its contribution towards conflict resolution. Peacebuilding theory can be traced back to the early 1990s when the then United Nations Secretary-General, Boutros Boutros-Ghali, popularised the concept of peacebuilding. Boutros-Ghali (1992) outlined the concept of peacebuilding in his renowned publication, 'Agenda for Peace'. Lederach (2000) conceives of peacebuilding as a transformative process which seeks to eliminate violence by transforming relationships and supporting conditions for peace. Overall, peacebuilding is therefore a comprehensive, multifaceted and intricate task which requires working along political, economic, structural, cultural and psychosocial processes to promote a culture of peace and remove conditions that support violence.

Various authors conceptualise peacebuilding differently. Cousens and Kumar (2001) perceive peacebuilding as a process in which political processes are imperative and critical. Employing a neo-liberal peacebuilding agenda, Cousens (2001) proposes the idea ‘opening up political space’ as one of the major imperatives of peacebuilding. Greener (2011) contends that activities

of peacebuilding would be meaningless if the broader political context is not considered. Similarly, Reychler (2006) emphasises that sustainable peacebuilding is characterised by the capacity to transform conflicts constructively. This can be done by different actors at various levels. Similarly, Barnes (2006) emphasises that peacebuilding processes and initiatives must be embedded in local communities. In the same vein, Lederach (1997) underscores that peacebuilding should have space for diverse actors, from the state to civil society and ultimately to local community members who are faced daily with the impact of conflict. Lederach advocates grassroots peacebuilding instead of state-centric peacebuilding, hence his conception of the peacebuilding pyramid model which categorises actors in peacebuilding into top, middle and grassroots ranks.

Figure 1: Lederach's Peacebuilding Pyramid



Derived from John Paul Lederach, Building Peace: Sustainable Reconciliation in Divided Societies Washington, D.C.: United States Institute of Peace Press, 1997, 39.

At the top level there are government institutions, political elites and the military leaders who are not only powerful but also have the mandate to engage in peacebuilding from their constituencies. The middle-level actors include non-governmental organisations, other civil society actors and local leaders who are capable of influencing both top leaders and grassroots actors. At the bottom level of the pyramid are grassroots actors and members of local communities who not only experience the day-to-day impact of conflict but are also best positioned to resolve that conflict because they are aware of their environment and the needs of the community. Lederach emphasises that it is usually the grassroots actors who are effective in peacebuilding because of their intimate interaction with conflict and disputing parties. Using this line of thinking, one could conceive of the *abunzi* as grassroots actors in peacebuilding as they actively play prominent roles in resolving conflicts at the local level. The attempt by the Rwandese government to include grassroots actors in the transitional justice equation reflects a leaning towards this peacebuilding pyramid espoused by Lederach.

Restoration and reconciliation perspective

The government of Rwanda has been promoting local institutions of conflict transformation as part of a broader agenda for reconciliation. Post-1994 institutions of justice such as *gacaca* and *abunzi* are a response to the 1994 genocide as the government solidifies its concerted strategies to restore peace and promote reconciliation. Reconciliation has emerged as a strong narrative for Rwandans from the government to civil society and ultimately to grassroots communities. Given the country's shattered past in the wake of the genocide it comes as no surprise that any attempts towards state-building, institution building and reconstruction is juxtaposed with the reconciliation agenda. The government of Rwanda acknowledges the social, psychological and emotional toll of the genocide on Rwandan society, including the destruction of social bonds, hence the stated objectives of 'bridging the rifts within society and healing the wounds of those afflicted by genocide' (Ndangiza, 2007:1).

In the case of Rwanda, decentralised legal forums and state mandate dispute resolution rituals are considered as 'sites for social healing' due to their repetitive, symbolic and stylized nature (Doughty, 2011). Comaroff and Comaroff (1999) argue that such localised legal forums have the capacity to foster creative tension and transformative practice thereby allowing for Rwanda to reshape its future towards a more stable peace. For example, the *gacaca* and *abunzi* processes have been conducted over a long period of time in communities, even prior to the colonial era. As a result of their long-evolving nature, traditional methods of conflict resolution in Rwanda have ended up shaping communicative practice and influencing social interactions resulting in mending of broken relations, establishment of new bonds, bridging of social divisions, and ultimately restoring the decimated social fabric. This is made possible because through *abunzi* mediation, for example, it is the community members who lead such processes, determine the approach, negotiate outcomes, and ultimately determine responses. As a result, such processes eventually pave the way for reconciliation.

Against such a background, the Government of Rwanda established not only the *gacaca* and *abunzi* as vehicles for restoration of relations but also created other state institutions such as the National Unity and Reconciliation Commission (NURC) in 1999 which was mandated to fully operationalise the notion of reconciliation. Since its inception the NURC has organised meetings, consultations, training programmes and studies on the themes of unity and reconciliation in various communities. The creation of the NURC and its subsequent widespread outreach processes in Rwanda are a clear demonstration of the eminence attached to the theme of reconciliation by the Government of Rwanda. The government also tries to prevent any repetition of the 1994 genocide, hence the slogan 'never again'. In 2007, a national commission to fight against genocide was established through Law No.09/2009, and article 179 of the constitution commits to fight against what the government labelled the 'genocide ideology'. In addition, schools in Rwanda have been instructed to teach a curriculum that is in line with the narrative of unity and reconciliation. It emphasises the notion of *abanyarwanda*, which essentially means that Rwandans are one people who have a shared past as opposed to being Hutu,

Tutsi or Twa. The *abanyarwanda* concept facilitates a sense of an 'imagined community' (Anderson, 1983) or a sense of 'imagined belonging' (Appandurai, 1989) and 'imagined worlds' (Appandurai, 1989). Essentially, *abanyarwanda* aims to replace ethnicity and other potentially 'divisive' sub-state loyalties with an undifferentiating concept of 'Rwandan-ness' (Purdeková, 2008).

Despite its stated objective of unifying Rwandans, the concept of *abanyarwanda* has been given different labels by various scholars. Critics (Reyntjens, 2004; Zorbas, 2004) have labelled *abanyarwanda* as an 'abolitionist attempt that attempts to delete identity', *abanyarwanda* is also categorised as a form of 'de-ethnicisation' in the new nation-building project in Rwanda. Some observers (Reyntjens, 2004; Zorbas, 2004; Purdeková 2008, Lemarchand, 2009; Thomson and Nagry, 2009) have expressed numerous reservations about the concept and practice of *abanyarwanda*. The present author adds that by hesitating to discuss ethnicity Rwandan society is ultimately avoiding important candid dialogues on ethnic differences, inequality and privileges. Despite these concerns, the concept of *abanyarwanda* is still heavily advocated by the RPF government. The narrative of reconciliation has become a daily narrative for Rwandan people. It is exhibited everywhere including in sports, the arts and entertainment.

The decentralisation thesis

Decentralisation refers to the transfer of public authority, resources, and personnel from the national level to sub-national jurisdictions (Ndengwa, 2002). Decentralisation is often discussed alongside devolution, which is the transfer of political power from central government to local authorities and communities (Kauzya, 2007). Decentralisation as a concept and practice is informed by dependency theory as well as the centre-periphery thesis which both argue that too much power in the centre is detrimental to the development of the periphery. However, the nature and strategies of decentralisation are often guided by the history and socio-political needs of a particular country. In Rwanda, the decentralisation project was informed by the need to 'provide a structural arrangement for the government and people of Rwanda to fight poverty at close-range and to enhance their reconciliation via empowerment

of local populations' (Government of Rwanda 2000). Through the National Decentralisation Policy, the government of Rwanda has engaged in efforts that seek to bring development and devolution of responsibilities to local communities by enabling their participation in critical processes. Various policy documents developed by the Government of Rwanda epitomise the decentralisation thesis, and these documents include the Decentralisation Policy, Decentralisation Implementation Strategy of 2000, the Community Development Policy of 2001 and the Decentralised Government Reform Policy of 2005.

The *abunzi* can be labelled as 'grassroots justice,' as they are part of the Rwandan government's repertoire of initiatives designed to make justice available to citizens at every level. In 2003, the Constitution of Rwanda adopted a broader nationwide project of decentralisation, hence the setting up of the MINALOC. The objective of decentralisation was to allow citizens to 'participate in the planning and management of their development process' (Ministry of Local Government 2008). Decentralisation is a central theme in Rwanda's broader development goals and it is embraced by several government departments including the Ministry of Local Government, the Ministry of Finance and the Ministry of Justice (MINIJUST). Rwanda's Vision 2020 strategic plan is entitled 'Community Driven Development' in pursuit of the decentralisation theme. Furthermore, the government of Rwanda advances the decentralisation of justice thesis based on the assumption that this will enhance good governance in Rwanda through the emphasis on local autonomy, collective action, and bottom-up decision making. In the quest for decentralisation and dispersion of the government's administrative functions to the local level, the government of Rwanda created five provinces (North, East, West, South and Kigali Province). These are further divided into 30 administrative districts which are sub-divided into 416 sectors, which are further sub-divided into 2 150 cells (Peter and Kibalama, 2006). These structures are meant to enhance service delivery as well as to facilitate the involvement of communities in development and decision making and are envisaged to ultimately improve governance.

The *abunzi* is not the only local institution that has been mandated by the Rwandan government to decentralise justice and other public goods. Rather,

the *abunzi* system exists amidst a myriad of other decentralisation initiatives of governance, community development and justice including the *gacaca, umudugudu* (villages), *ingandos* (solidarity camps) as well as other fairly modern systems of justice. *Ingandos* were set up by the Rwandan government to teach participants the concept of 'oneness' and ultimately promote a sense of community building. The government's major initiative to decentralise the justice system and to provide advice and support at the community level involves the establishment of an Access to Justice Office (MAJ) in every district throughout the country. MAJ is an institution that offers legal aid to the public and raises awareness about the law. Although the local institution of *abunzi* can be explained by the decentralisation thesis, it is inevitable to recognise that the Rwandan government still wields significant power. While the government of Rwanda has decentralised administrative and governance structures at the local level, the reality is that the government has not fully devolved political power to the local level, as activities of the *abunzi* are very much controlled by MINIJUST. Critics posit that the decentralisation of the law is simply a means used by the Rwandan government to extend its authoritarian control to grassroots locales, hence the concept of 'lawfare' (Chakravarty, 2009; Thomson and Nagy, 2010). Through decentralised structures the government is able to be vigilant to everyday activities, looking for signs of dissent. Indeed, the government in Kigali remains powerful and uses its local intelligence sources to retain control of the processes, activities, mindsets and interactions of the ordinary citizenry.

Restoration of security and the rule of law

Abunzi can be analysed using the lens of the law. There is a growing focus on the promotion of the rule of law in post-conflict societies as a prerequisite for sustainable reconstruction and peacebuilding. This focus is based on the assumption of an intricate nexus between conflict and the absence of the rule of law. As examples from South Sudan, Sierra Leone and Liberia demonstrate, many countries emerging from conflict focus on legal reform as an approach to restoring order and promoting security. Reforming the legal system is perceived as a strategy of addressing the litany of post-conflict challenges which include

burgeoning levels of crime and upsurge of cases of sexual violence, among others. Increasingly, global institutions and development partners such as the United Nations and the World Bank now underscore the need for the prevalence of the rule of law for sustainable peace.

It is this view that could have facilitated Rwanda's concerted efforts at legal reform and the rule of law. The genocide in Rwanda left a message relating to the importance of security and the rule of law in a country. The creation of the *gacaca, abunzi* and other institutions of justice in post-genocide Rwanda can also be interpreted as indications from the government that the law is an enabler and promoter of security. The enhancement and institutionalisation of traditional forms of justice is also an attempt by the Rwandan government to ensure that disputes are settled at the local level thereby preventing their escalation into national level conflicts. In an analysis of the DRC, Autesserre (2010) posits that settlement of disputes at a local level ultimately supports the larger national peace agenda. The perception of law as a form of social control dates back to the period when scholars such as Foucault (1992) wrote about law as an instrument to regulate citizens. Following the end of genocide, the Rwanda government embraced many justice reform initiatives. The belief was that an accountable, transparent and effective justice system would restore order and enhance security in the country. Institutions such as *gacaca* and *abunzi* were used by the Rwandan government to 'go deep into the areas where crimes are committed' (Karamera, 2008). The law has been effectively applied in Rwanda to shape citizens' behaviour in several realms including economic life, social interactions as well as in the maintenance of the country's infrastructure. Residents of Kigali and other cities in Rwanda rigorously follow laws on the environment and keeping the city clean hence the indelible measure of cleanliness in Rwanda.[11] The law has been used in Rwanda to regularise public life and association. It is a common feature to see the police and military wielding guns and standing in the street as an overt reminder to the public of the perils of breaking the law.

11 Since new laws were established in Rwanda banning the use of plastic bags, preventing ad-hoc vendors from the streets and removing street beggars, Kigali has been the pride of African cities in terms of its orderliness and cleanliness. Indeed, the author's trip to Rwanda attests to the cleanliness of Kigali.

For example, the Rwanda Bar Association was created in 1997 with 30 members initially, and now its membership runs into thousands (Kimenyi, 2010). Similarly, an Institute for Legal Policy and Development was established in 2008. Since law is central to Rwandese life, legal aid clinics have sprouted in the country with the intention to assist citizens to understand the law and navigate through the legal system. In essence, the post-genocide Rwandan government identified the law as central for the reconstruction of the country. It is seen as enabling Rwandans to deal with the past as well as shaping their mindsets and relationships towards one another. From the author's observations, the government envisages that law will transform the genocide ideology into a situation where Rwandans will interact with each other as one nation group instead of as members of disparate ethnic groups.

Insight into *abunzi* justice: Opportunities for sustainable conflict resolution and justice

Delivery of responsive justice

In the post-genocide era, the Government of Rwanda has sought to strengthen unity and reconciliation among the citizenry by reforming the justice system and institutionalising local institutions of conflict resolution such as *gacaca* courts and *abunzi*. The *abunzi* are part of the institutional architecture being created to ensure prompt, accessible, affordable and universal access to quality justice. The *abunzi* system is in accordance with one of the goals of the MINIJUST, which is to promote transparency, accountability, mediation, unity and reinforcing reconciliation mechanisms as well as the maintenance of law and order. The *abunzi* are lay mediators who live in the community where they work and hence are proximate with the impact of the conflict. They are accessible to the people and understand the conflict dynamics better. The *abunzi* are well perceived by the Rwandan population. According to the 2010 Citizen Report Cards (CRC) survey conducted by the RGAC, the *abunzi* mediation committees are the most appreciated dispute resolution instruments in comparison with other mechanisms. Citizens felt that the *abunzi* process allows for easy access to justice. The survey by RGAC reveals that 81.6% of the respondents were

satisfied with the service delivery of the mediation committees in resolving their disputes, compared to the 63.4% satisfaction rate with formal courts and 18.4% satisfaction rate with the Access Justice Bureaus.

The *abunzi* is also a context-responsive institution which addresses the justice needs of many Rwandan people. Land disputes are the most common cases that are brought before the *abunzi*, which clearly reflects how important land is to Rwandan people. Close to 90% of Rwandans depend on agriculture for their livelihoods (USAID, 2008). Land disputes break out when different types of land rights clash in relation to the land. In addition, land disputes in Rwanda are compounded by the political changes that occurred after the 1994 genocide, especially in the light of past Tutsi refugees coming back to Rwanda following the RPF victory. Conflicts between returnees and old inhabitants of land are common. The conflicts can be have an ethnic dimension since returnees are usually Tutsis while old inhabitants are usually Hutus. However, the government has instituted a policy that obligates land sharing with returnees, although this does not necessarily prevent outbreaks of conflict over land. The Government of Rwanda instituted the *umudugudu* policy on land, which essentially means 'clustered settlement'. *Umudugudu* is a resettlement programme which has been implemented since 1996 by the government to consolidate land and ultimately address land conflicts (Government of Rwanda, 2010).

In addition, Mamdani (2001) posits that certain verdicts of *gacaca* courts somewhat affected the distribution of land. The author observes that some of the people who committed crimes against property during the genocide were ordered by *gacaca* courts to pay reparations to victims of genocide and they often did this by selling off pieces of their land. A report by the United States Agency for International Development (2008) observed that the sale of land frequently triggered conflicts among family members with claims to that land. The same report notes however that, the overwhelming majority of cases of land disputes that are presented to the *abunzi* involve women's claims to land (USAID, 2008). These are often complicated by intricate issues such as poverty, patriarchy, polygamy, inheritance, divorce and unofficial marriages. In addition, the introduction of new laws protecting women's right to land seem to have increased the number of land conflicts among families. As spelt out under the

section on the competence of the *abunzi,* these mediators can also hear cases of sexual violence. While crimes such as sexual violence and rape are supposed to be reported to the police, mediators have been allowed to play a role in this sensitive matter. The Organic Law of 2010 allows the *abunzi* to investigate such cases when the victims are afraid to report their attackers. Nonetheless, the *abunzi* are mandated to report the matter to the relevant authorities.

Local ownership and consensus building

The *abunzi*, like the *gacaca* courts, is designed to enable the restoration of relationships and ultimately facilitate a sense of community. The *abunzi* institution uses mediation as an approach to resolving conflict. Both the process and outcome of the *abunzi* mediation are expected to reflect conciliation and restoration rather than retribution. The Organic Law (2010) prevents *abunzi* mediators from handing down punitive sentences. As a result of the emphasis on non-adversarial techniques, this approach has been credited with promoting reconciliation among disputants. Reports on the RCN Justice & Démocratie website conclude that the majority of cases heard by the *abunzi* are resolved through a compromise arrangement although the majority of disputants in *abunzi* cases rarely go further into reconciliation.

In addition, the Organic Law (2010) requires that *abunzi* mediators conduct information gathering before they hear the case in the actual mediation process. Interviews with *abunzi* mediators revealed that the process of information gathering is quite extensive as it involves investigations and consultations with fellow community members about the dispute at hand. Based on the author's observations, since *abunzi* mediators can only resolve disputes within their community the processes of information gathering and investigation are made easier.

Reduction of costs

Like the *gacaca* courts, *abunzi* mediations have contributed to reducing the congestion of the formal courts as most civil suits and crimes that fall under 3

million Rwandan francs are resolved at the local level. First, some disputes are too trivial for the formal courts' attention, hence the *abunzi* are mandated to deal with such disputes. Statistical reports which were accessed in July 2011 from the Ministry of Justice website indicate that before the *abunzi* system, 80% of civil cases pending before courts involved less than 1 million Rwandan francs. However, following the establishment of the *abunzi* in 2006, approximately 70% of all civil cases now fall under the competence of the *abunzi*. This reality has ultimately freed the formal courts to focus on bigger and more demanding cases. The MINIJUST also conducted a survey in 2005 to ascertain *abunzi* effectiveness. The results concluded that 73% of cases tried by *abunzi* were not later referred to the formal court system. This could be reflective of the high levels of satisfaction with the *abunzi* system or the lack of desire to appeal because the Organic Law on the *abunzi* provides for appeals of outcomes of the *abunzi* mediation. When a case that was once before the *abunzi* is brought to the formal court as an appeal, the *abunzi* mediators are allowed to submit their investigations, discussions and decision which would be used by the formal appellate courts as official documents for the case.

Second, the litigation approach is often associated with protracted court battles. These not only polarise relations between disputants also clog up the formal court system due to their enduring nature. A 2008 USAID report on land and conflict revealed that the *abunzi* mediators have played a prominent role in resolving land disputes thereby relieving the over-burdened court system. An AllAfrica.com report quotes a representative from the Ministry of Justice, Mary Saba, on the advantages of using the *abunzi* approach to justice: 'The mediation committee is a strong pillar of conflict resolution which will deal with social conflicts regarding land, gender violence and abuse of child rights in rural communities'(AllAfrica.com, 24 January 2011).

In addition, the local mediation approach by the *abunzi* encourages positive-sum thinking and ultimately the peaceful resolution of disputes. The quest for a win-win solution often means that the cases are resolved in a shorter period as there is limited room for the conflict to become intractable. Even in cases where the mediator decisions are appealed by disputants, the formal courts mostly follow the recommendations of the *abunzi* since they are considered

to be credible. Ultimately, reliance on local mediation reduces costs associated with the formal justice system. Even though the *abunzi* mediation is framed as beneficial and less costly, Nader (2008) cautions that alternative forms of dispute resolution are actually marginalising to the poor, especially if they are mandatory. The author argues that Alternative Dispute Resolution (ADR) makes it difficult for poor rural people to access the formal courts as some cases are deemed too unimportant to feature in the litigation system. However, considering the pressure on the country's modern courts it is perhaps not far-fetched to conclude that the institution of *abunzi* mediation, although not perfect, at least allows people to access justice timeously. If the modern courts were operating alone without the assistance of these decentralised legal forums it is highly likely that many Rwandans would have been completely marginalised and disenfranchised from the formal justice system.

Abunzi: Challenges to justice

Limited mediation skills and legal knowledge

Although the *abunzi* is mandated by the Organic Law (2006), which was amended in 2008 and 2010, there is procedural dissonance which is caused by a lack of knowledge about the law and dispute resolution methods by *abunzi* members. Knowledge of the substantive law, aptitude for mediation, skills in evaluating evidence and respect of procedures are important attributes of any mediator. However, many *abunzi* mediators are elected to their positions not on the basis of these attributes but mainly because they are 'persons of integrity' and are willing to offer their services to the state and their community. Analysis of the Organic Law governing the operation of the *abunzi* reveals that the legal instruments do not go further to outline the modalities of mediation. In fact, the current author concludes that personal integrity of the *abunzi* is emphasised as a key attribute more than the knowledge of mediation. In reality, however, the *abunzi* mediators need to be knowledgeable in other laws apart from the Organic Law for effective dispute resolution. Such laws relevant to the *abunzi* tasks include the land law, family law and inheritance law since these are the most emergent cases for the *abunzi*. Nonetheless, observations during the

author's fieldwork revealed that, with few exceptions, these *abunzi* mediation committees and individuals have limited access to copies of applicable laws. The few that are available for some *abunzi* are untranslated technical documents written in 'legalese' instead of the accessible, summarised and simplified versions.

Since most *abunzi* mediators lack the knowledge of applicable laws, the danger is that the result of their mediation may be deemed unsatisfactory and illegitimate in the eyes of disputants. The limited mediation skills significantly reduce the effectiveness of their efforts. This has resulted in numerous cases of appeal that have affected areas such as the Nyarugenge sector. While appeals can signify the fairness of the process, too many such appeals can also be attributed to the incompetence of the mediators as perceived by parties to the dispute. According to a study conducted by RCN Justice & Démocratie (2010), 55% of the *abunzi* decisions which were annulled by the primary courts were due to errors in assessing facts, while 26% related to procedural errors and 19% were due to the misapplication of substantive laws. In an effort to counter the challenge of a lack of awareness of the law, the Rwandan government has initiated some kind of capacity building programme for *abunzi*. The government, through its relevant ministries, MINIJUST and MINALOC, organises various forms of training and information exchanges for the *abunzi*. Online and fieldwork in Rwanda revealed that, non-governmental organisations such as the RCN Justice & Démocratie and Access to Justice Centre (AJC) offer mediation skills training as well as training on substantive law to the *abunzi*. Organisations outside Rwanda such as the University of Pepperdine's Straus Institute for Dispute Resolution and Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics have been training religious leaders in laws on domestic violence and inheritance.

Inadequate institutional support

The *abunzi* institution also suffers from the lack of adequate and effective institutional support. Although some organisations offer the *abunzi* support in terms of training and skills development, this support is often scarce and inadequate. Training in mediation and substantive support is often voluntarily conducted by organisations such as RCN Justice & Démocratie, AJC and NURC.

However, the ratio of attorney-*abunzi* mediator at AJC is 1:1 000 which is hardly adequate or effective. Support from government is equally limited. A USAID study of 2008 assessed the local resolution of land disputes in the Kabushinge and Nyamugali cells and concluded that the *abunzi* do not receive support on basic necessities such as cellular phone airtime and even transportation costs. The same issue was revealed during the interviews with *abunzi* mediators conducted by the author in Gacuriro in July 2011, wherein the mediators verified that they use their own personal funds to travel to meetings and hearings. Unlike their counterparts in the *gacaca* courts, the *inyangamugayo,* who received support with costs such as transportation, stationery, cellular phone airtime and school fees for their children, the *abunzi* mediator is essentially a volunteer. However, there have been calls for the government to pay health insurance for the *abunzi* members in the same manner these benefits were accorded to *gacaca* court judges. Information on the Ministry of Justice website which was accessed in March 2012 indicates that although the Ministry acknowledges that *abunzi* are volunteers, there is need to incentivise their operations. The website mentions that MINIJUST now pays for *abunzi* families' health insurance which is worth 5 000 Rwandan francs (US$5) per year. Additionally, the website also reports that MINIJUST also supplies one bicycle per cell to help *abunzi* access all parts of their jurisdiction.

Legalised and state-mandated mediation

Although the *abunzi* existed in pre-colonial Rwanda, the *abunzi* institution in its current form is a somewhat adulterated version in the sense that it is top-down mediation. In pre-colonial Rwanda, *abunzi* were ordinary community members who would be called upon to resolve the disputes among fellow community members. They were given this role on the basis of their possession of integrity. *Abunzi,* like its counterpart the *gacaca*, is what Hobsbawn and Ranger (1983) would describe as a 'reinvention of tradition for particular uses in the present'. Thomson and Nagy (2010) posit that the general assumption about community-led conflict resolution processes is that citizens are willing participants when the reality is that such processes are controlled by the

government. In Rwanda for example, citizens might be compelled to participate in *abunzi* due to their social situation and powerlessness as well as the lack of credible alternatives for justice. Since the current form of *abunzi* mediation is mandated by law, there is debate as to whether this institution is yet another form of legalised mediation rather than a community-centred justice mechanism. Doughty (2011) almost dismisses such processes, arguing that legal rituals and decentralised legal forums have a tendency of creating politicised healing.

However, it must be noted that Rwanda is not the only country employing legalised mediation processes. This practice is also common in other countries including the United States of America. Legalised mediation is often classified as a form of ADR. However, state-mandated mediation distorts the entire manner in which proper mediation is supposed to be experienced by actors. The Government of Rwanda has made it explicit in its laws on the *abunzi* that it expects a mediation process from *abunzi* members. In other words, the culture of mediation is communicated by the law. Crimes and disputes of a particular nature are by law required to go to the *abunzi* for a hearing before the primary courts can deliberate on the issue. The Government of Rwanda's preoccupation with the creation of decentralised legal forums where people can access justice has resulted in the *abunzi* mediation filling a void in the justice arena. However, the mandatory nature of such institutions makes the resultant reconciliation questionable. Citizens are obligated to use the *abunzi* mediation approach while they are reminded of the punishment that will follow from the formal courts should the mediation efforts fail. The author observed that the *abunzi* system is an apt demonstration of the tangled relationship between law, power and justice and how these cumulatively impact on the lives of ordinary Rwandans brought into contact with the state.

The *abunzi* mediation is promoted by the government as an avenue for promoting community restoration and unity. However, Reyntjens (2004) cautions that politicised notions of community healing and unity often have dangers of negating dissent and promoting a culture of fear. Lemarchand (2009) posits that the culture of fear emanates from subtle sanctions on what can and cannot be said publicly. Reyntjens (2004) observes closure of public social space thus diminishing civic liberties in contemporary Rwanda. In this environment

it is difficult for Rwandans to express an opinion that differs with government policy and logic because it could be interpreted as fuelling division (Reyntjens, 2004). Doughty (2011) further asserts that the government narrative on unity does not invite contestation.

Given the foregoing, the *abunzi* are an illustrative demonstration of the dual impact of state-initiated systems of restorative justice. Participants in the *abunzi* mediation process are often explicitly told about the danger of non-compliance with the *abunzi* process and outcomes, including payment of fines as well as incarceration. When the state is involved in issuing incentives and disincentives with regard to a person's participation in local legal forums, the process in essence becomes coercive. People end up participating in the mediation process not because they are convinced it works or because they subscribe to its tenets. Rather, they do so because they are obliged to. In addition, people participate in the mediation process because of the entire narrative of the *abunzi* being cultural and locally owned. The combination of state-backed threats and cultural romanticism makes the *abunzi* an institution that is replete with compulsion, hence the term 'voluntary-yet-mandatory control' (Doughty, 2011). Because of these overt and covert threats in the *abunzi* mediation process, there is a danger of people sacrificing their individual rights in order to uphold community rights and collective interests. Gahamanyi (2003) is sceptical of cultural practices that are often touted as being beneficial to the community. Instead he cautions that these can be disempowering to individuals. In essence, people end up participating in the *abunzi* process to be seen to be participating in community activities and they accept the outcomes for the good of the community. Although the threat of punishment by the *abunzi* system is less overt than in the *gacaca* courts, the imposition of mediation undermines elements of choice, freedom and individual will to decide on a course of action to take. In addition, the fact that some people do not take cases which would have been dealt with by the *abunzi* to the primary court might not reflect satisfaction with the mediation outcome. Rather, this might be due to fatigue or lack of funds to confront the clogged formal court system. It would be interesting to analyse the long-term impact of the *abunzi* system on social relations and on ownership of the outcomes of the *abunzi* process. On the one hand, the *abunzi* mediation

can be perceived as a system that guarantees access to justice which does not necessarily have to be purely mediation. On the other hand, the same system can be interpreted as a highly politicised institution of state-mandated local justice which curtails citizens' right to choose their vehicles of justice.

Elements of retribution

The *abunzi* system demonstrates a level of ambivalence when it comes to pursuance of the restorative and retributive approaches to justice. This is because the *abunzi* is a traditional system of conflict resolution which was simply transplanted into the formal legal system and is still expected to exhibit a conciliatory approach. However, the attempt to merge the adversarial and conciliatory processes has not always been easy for the *abunzi*. Although the Organic Law states that the *abunzi* are supposed to use restorative approaches instead of a retributive approach, the reality is such that this institution can also exhibit adversarial tendencies. In some instances of observing the *abunzi* institution, there seem to be problems in distinguishing between the mediation and adjudication processes both in comprehension and in action. Some members of the Rwandan community refer to the *abunzi* as arbitrators. For example, an RCN Justice & Démocratie report of 2007 referred to the *abunzi* as 'arbitrators' and the same case was found in many other online reports. Furthermore, in instances where a disputant refuses to compromise and conciliate, the *abunzi* switch to an adversarial approach. Where disputants are refusing to follow positive-sum procedures, the law empowers the *abunzi* mediators to request the police to arrest a person pending an investigation. In some complex cases *abunzi* mediators end up applying the adversarial process. For example, in instances where disputing parties cannot be reconciled the *abunzi* will adopt a decision applying the laws of the state. This is a typical combination of sanctions and incentives in conflict resolution. Although the use of 'carrot and stick' strategies is common in adversarial approaches, in Rwanda this has been used by *abunzi* to deter delays in handling cases.

Social legal forums and sustainable peace

Abunzi, like *gacaca,* is an elaborate process by communities trying to own the justice and conflict resolution space. While the symbolism in these processes is evident, what cannot be ascertained is how far they have gone in facilitating social cohesion, group unity, reconciliation and healing. It is even more difficult to ascertain these issues by directly asking Rwandans at the grassroots level and in civil society because of the limited social and political space in post-genocide Rwanda. The level of political freedom in Rwanda is quite low. The country has been consistently ranked as 'not free' by the think tank, Freedom House every year since its annual survey was launched in 2002 (Freedom House, 2011).

Given this reality, Zorbas (2010) asserts that certain 'silences' are being imposed on the Rwandan population when it comes to the reconciliation and unity project. Such 'silences', Zorbas argues, are evidenced by the lack of debate on Rwanda's conflicted 'histories' especially on accountability for past massacres. The government has extensive control on what is said within Rwanda. Zorbas (2010) adds that the fear of being labelled a 'divisionist' may prevent people from sharing their real thoughts about their experiences of cohesion and inter-ethnic interaction. However, what can be directly observed is how people religiously participate in these forums as called for by the government. This is akin to a situation labelled 'dramaturgical representation' by sociologist Erving Goffman (1959) in his seminal work, 'The presentation of self in everyday life'. It is arguable that their participation is out of fear of the repercussions of non-participation. The image of ordinary Rwandans participating in *abunzi* and *gacaca* processes may portray too much tranquillity. This begs the question of how authentic such unison and harmony is. These concerns have led some scholars to label the current situation in Rwanda as 'pretending peace' (Buckley-Zistel, 2006). Buckley-Zistel's conclusion is that there is still ethnic antagonism among Hutus and Tutsis, but that the government does not allow its expression because any such exhibition of differences would be labelled 'genocide ideology'.

Abunzi and international legal standards

Although the *abunzi* mediation is guided by the law and the selection of mediators by disputants is transparent and the process is regarded largely as fair and as important in filling the justice gap, concerns remain. These relate especially to its compliance with international norms and standards. However, even if there is dissatisfaction with the process, outsiders like human rights defenders and civil society organisations have not been afforded an opportunity to critique the process mostly because of reluctance to criticise state processes. Additionally, the cultural narrative and mysticism surrounding processes such as *abunzi* and *gacaca* compels people to utilise this institution because people are culturally responsive beings. Although *abunzi* is a state-backed legal initiative the nomenclature of traditional, cultural, local and Rwandese often accompanies descriptions of this process, hence their protection from lashing by observers. The culturalisation of local dispute resolution processes can be seen as a strategic move by the Rwandan government to protect the process from being criticised for not meeting international legal and human rights standards such as the right to have legal representation. However, this is not to dismiss the notion of unique 'Rwandan-ness' in these processes because there is nowhere else in the world that the *abunzi* exists in its nature, form and dynamic.

Conclusion

The evidence from the field research and document analysis supports the conclusion that the *abunzi* have filled a void left by the formal court system by ensuring that local people have access to prompt and universal justice. Like their counterparts, the *gacaca* courts, *abunzi* mediation committees have brought justice to the grassroots level and enabled community members to participate in the dispensation of justice both symbolically and practically. Although *abunzi* mediation functions and jurisdiction are spelt out by law, the institution, process and rituals associated with *abunzi* are uniquely Rwandan and existed long before colonialism. Additionally, a*bunzi* processes embrace the notion of restorative justice as they emphasise mediation and conciliation as methods of resolving the dispute in question. This makes *abunzi* mediation a huge departure

from competitive and punitive approaches common in formal courts. However, despite their restorative dimension, *abunzi* processes are not free from fault. *Abunzi* mediation committees can resort to punitive tactics in their operation. For example, the failure of disputants to cooperate with the *abunzi* mediators can be followed by adversarial processes and applications of the punitive laws of the land. In its current form, the *abunzi* mediation process in Rwanda risks being one of those state-mandated programmes, addressing disputes at the superficial 'make-believe' level without effectively restoring broken relationships and trust. The mixture of the pseudo-adversarial approach and the conciliatory approach, coupled with the combination of culture and western justice are some of the inherent contradictions within the *abunzi*. These contradictions not only affect how *abunzi* mediation is perceived by parties and observers, but also impacts on the outcomes of such approaches to dispute resolution.

Without painting a pessimistic picture of the contemporary traditional justice forums in Rwanda, it is important to acknowledge the potential of the *abunzi* system if it is delivered well. Despite being a state-backed mediation process, the *abunzi* system has become embedded in Rwandan daily life and character. This approach to mediation and local justice has the capacity to promote social rebuilding, bonding and negotiation of communities in contemporary Rwanda – a nation that is focusing on addressing the trauma of the 1994 genocide. Ultimately, the synergy between the *abunzi* mediation committees and the formal system beckons the possibilities that lie ahead when traditional institutions of conflict resolution are institutionalised and acknowledged by law, yet de-politicised and left to operate independently. Given the foregoing, Rwanda could well be cited as a *sui generis* case study reflecting the hybridisation of state and traditional approaches to conflict resolution, in the context of a post-conflict society.

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