

PEACE AND CONFLICT IN THE  
GREAT LAKES REGION: IS AN  
“AFRICAN” ANSWER  
FEASIBLE?

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# Conflicts in the Great Lakes Region

- New wars (intra-state rather than interstate conflicts)
- Interstate but which stem from intra-state (African stakes in the Congo War)
- Failed States or “nation states” (aftermath of the cold war- Mabuto)
- Violent Ethnic ending up in Genocide (Rwanda, Darfur??)



# Models of Conflict Transformation

- Prescriptive models (Experts who know it all, have models that are assumed to be universally applicable to all conflict settings) *prescriptive approaches propose pre-created models*
- Elicitive :draws out, highlights, and catalyzes existing or communally held knowledge related to transforming conflict between individuals, groups, and communities (John Paul Lederach)



# Retributive and Restorative models

Restorative justice is primarily concerned with:

- healing victim's wounds, restoring offenders to law-abiding lives, and repairing harm done to interpersonal relationships and the community
- The central premise is that victims, offenders and the affected communities are all key stakeholders in the restorative process
- The goal is not revenge but restoration of healthy relationships between individual and within communities
- The assumption: crime has its origins in the social conditions and recognizes that the offenders themselves have actually suffered harm. Maiese (2003:1)



# Retributive justice

- The central idea of retributive justice is that people should get what they deserve in respect to their behaviour.
- Emphasizes individual responsibility and accountability for crimes committed.
- Adheres to the moral notion of justice which emphasizes justice very close to revenge.
- Punishment [must] fit the crime and that like cases be treated alike.
- Associated with Modern (formal) justice institutions like the International Criminal Court, International Court of Justice and the Formal State justice systems

# Do these two justice systems talk to each other?

- Differences between cultures magnified to create distinction between “we” & “they”.
- Olaniyan identifies two distinct discourses in the debates on cultural identity and difference: The *profane* and the *sacred*.
- The *sacred* has a strong inclination towards dualism and the absolute truth.
- Culture and identity of any system is conceptualized in terms of a “given totality, separated and separable from other cultures”.
- Elements of a culture are taken to be non-contradictory and non-antagonistic.
- Difference from other cultures is conceived as “absolute, closed and impenetrable” (Norval 1997: 7-8).



# Do they talk to each other?

- The *profane* discourse “insists on the madness of culture and the eventedness of every identity.
- Culture is conceived as a complicated articulation of mutually contradictory and antagonistic elements”.
- Norval -cultural identity cannot be seen as closed and positive but it “exists as fragile and vulnerable—as a hybrid and non pure”
- Retributive justice is not pure, has mutually contradictory and antagonistic elements and so is the restorative justice system.
- Both justice systems are incomplete as explanatory models of peace and justice in the daily lives of those in conflict.

# Challenging questions: peace or justice?

- Who should be prosecuted?
- Should those who made the decisions be treated any differently from those who carried them out?
- Can groups and entire communities be held responsible for violations of human rights?
- Need for creativity and innovation



# Transcending the Justice-Peace Dichotomy: Restorative Justice in Peace building

- How to respond to past evils, without undermining or jeopardizing prospects for equitable and long-term development?
- face up to past wrongs, acknowledge evils that occurred and bring those responsible to justice;
- BUT also an imperative to move on, to look to the future, to establishing peaceful, equitable conditions of coexistence for generations to come.



# Alternative models- that take cognizance of Cultural Resources

- **Hybridity**- Combine both retributive and restorative may be necessary:
- *Ubuntu* – Tried to South Africa with the Truth and Reconciliation Commission (telling the truth and seeking forgiveness)
- *Gacaca* (combination of International Tribunals with modified traditional justice systems – Rwanda)
- Combination of ICC trials for leaders of militia but restorative – traditional justice (*Mat Oput* in Northern Uganda). But what about the atrocities by the National armies?

# TRC

- Ubuntu is an ancient African meta-philosophy essentially means 'I am my self through you'.
- Restoring human and civil dignity to victims which they have lost, in a spirit of *ubuntu* or humaneness.
- Conceptually, the TRC: deal with the victims and offenders by focusing on the settlement and on the root causes (Maepa 2005: 66-67).
- Offer amnesty to perpetrators on the condition that they make full, public disclosure - political crimes
- TRC a morally appropriate "third way" between trials and blanket amnesty



# The possible Hybrid solution:

## *Gacaca*

- *Gacaca*, meaning ‘on the grass’ a ‘traditional’ participative justice in Rwanda
- Draws upon a customary system of community hearings used to resolve disputes
- An ideal model where retributive and restorative justice models meet, drawing on the benefit of each while using a system familiar to the Rwandan people.
- Involves an uneasy mix of confessions and accusations, plea-bargains and trials, forgiveness and punishment, community service and incarceration.





# *Northern Uganda-Possible Hybrid: Formal justice systems & Mat Oput*

- Agenda Item No. 3 of the JUBA Peace Agreements: accountability and reconciliation
- ‘traditional’ justice mechanism, truth commissions, the Special War Crimes Court
- Reflects the government’s willingness to negotiate between the restorative and retributive justice systems.
- “In that case, we can approach the ICC and say, yes, those people who we have brought to your attention have now come (back)... we ask you to withdraw our complaint...If they opted for the ‘traditional’ settlement” (President Museveni)



# *Mat Oput*

- *Mato oput* - drinking the bitter herb or root. Traditionally used to resolve inter-clan disputes, E.g. killing of one clan member by a person of another clan
- Separating the affected clans, mediation, establish the ‘truth’ and payment of compensation according to by-laws”
- Traditional justice views criminal justice is a process of confessions, forgiveness, cleansing, reconciliation, responsibility, restoration, rehabilitation, stability, and continuity.



## Conclusion: Hybridity?

- A variety of practical and moral considerations that must be taken into account in evaluating the feasibility and desirability of options.
- A more comprehensive and holistic concept (**Hybrid**) of justice should be adopted;
- One that conceives justice as not merely righting the wrongs committed against individuals, but also constituting a home grown initiative for local and community-based justice
- A pragmatic and multi faceted approach is therefore necessary, one which could potentially include a combination of TRCs, national War Crime Trials, 'traditional' reconciliation processes, and limited amnesties.
- Thus the *profane* discourse which allows for **hybridity** through creativity and pragmatism and combines global and African context specific discourses is the most suitable for complex conflict transformation in the great lakes region