

# PEACE AND SECURITY IN AFRICA: REVISITING ENDOGENOUS RESTORATIVE MECHANISMS?

By

**Don John O. Omale (Ph.D)**

[Djomale@yahoo.co.uk](mailto:Djomale@yahoo.co.uk)

Department of Criminology and Penology,  
Salem University, Lokoja

## Abstract

Looking at Africa today, it appears as though the continent has become, in the minds of many around the world, synonymous with all that is wrong with humanity. Genocides, bombings, wars, tribal strife, disease and humanitarian disasters seem to have taken therein, and in the minds of many outsiders, this colouration has reinforced the multifarious stereotypes about Africa as a continent of misery, tribal wars and chaos. To this end, a former British Prime Minister-Tony Blair- in his call on the international community to support the healing of Africa, called 'Africa a scar on the face of the earth'. This paper seeks to promote an academic debate as to whether there are “African solutions to these African problems”. The author interrogates this discourse using ethnography and secondary literature evidence.

## Introduction

In contemporary times, security and peace building in Africa are issues which have become very topical in debates and discussions within and outside Africa. This is not only because Africa is characterised by many violent conflicts, but much more so, due to the realisation that, in most cases, the violent conflicts have negative impacts on Africa's socio-economic and political development. Thus endogenous security and peace-building processes have become very essential in solving the problem of violent conflicts in the continent.

On the basis of this fact, during the 2010 Summit meeting of the African Union in Kampala, Uganda, Heads of State welcomed the initiatives taken by a number of African civil society organisations for a partnership with the African Union on Peace and Security in Africa (see ISS Bulletin, August 2010). This paper is thus arguing that could indigenous and endogenous restorative mechanisms built into the peace and security architecture in Africa provides sustainable and effective framework as might be expected?.

For this reason, Mengara (2010) argues that numerous questions do indeed come to mind when looking at the issues of security and conflict in Africa, namely: How do Africans define, describe and/or understand conflict? What are the causes of conflict in present-day Africa, and what were these causes in pre-colonial, pre-Muslim and pre-Christian Africa? How have Africans dealt with conflicts and security issues in their pre-colonial, pre-Muslim and pre-Christian past, and how have they dealt with them in their post-colonial, Muslim and Christian present? Are/were there any principles of peace and security in African cultural ethos? Have any such principles been successfully implemented at some point in the past and/or present in African communities? Is/was there a philosophy of peace and crime prevention mechanisms in African culture(s)? How does/did it manifest itself? Are present-

day conflicts on the continent of Africa due to an inherent flaw in African culture (s) or have there been too many simplifications in past and present understandings of conflict in Africa? The questions are too many to list here, and the issues vast.

So, in order to begin an intellectual discourse on the complex issues of peace and security in Africa, this author explores the African philosophy of thought on themes of security and peace in Africa from a restorative justice perspective. It is expected that this restorative justice perspective which this paper advances, will help to illuminate not only the historical and anthropological dimensions of peace and security in Africa from ancient times to the present, but also their cultural relevance, especially as they pertain to the relationship between African restorative traditions and peace and security within the African context. Interestingly, this author argues how Africa and Africans in the Diasporas around the world could advance evidence-based research and case studies on Afrocentric and endogenous approaches to peace and conflict resolution for sustainable security in Africa and amongst Africans. Hence, this author argues that Africans and Africa need to look 'inwards' at the links between what historical, as well as cultural relationships can be established between the African spirit of *ubuntu* (I am because you are; and you are because I am) still alive in Africa and amongst Africans at home and in the Diasporas.

This paper argues that Africa and Africans at home and in the Diasporas, need the understanding of how their embattled (and non-embattled) socio-political and psychological situations impacts their cultural universes; and how these psychological and cultural ambivalences/crises have contributed to Africa's peace and security estrangement. Africa and Africans also need the understanding of how these cultural types of estrangements and ambivalences have defined their ties and relationships within the African continent, and informed the socio-cultural and political interactions within their own communities and the world in general.

Hence, this author argued, in an earlier paper (see Omale 2010:11), that effective solution to protracted problem is about tackling the problem with evidence-based models, and not about making the problem easier to live with. The peace and security challenges in Africa, like other conflict societies around the world, are about protracted and, sometimes intergenerational dispute. It is about 'Fundamentum Omnis Cultus Animae': that is, the soul of all improvement is the improvement of the soul.

The knowledge we need to learn is what has been the *status quo* in African traditions for sustaining peace and security in pre-Africa's Anglophonic, Francophonic and Lusophonic identities? Investigating this Afro-historical knowledge is imperative because according to an Italian philosopher Marcus Tullius Cicero (106 BC- 43 BC), 'not to know what happened before one was born is to remain a child forever' (see Omale 2006). So, examining restorative traditions of Africa might offer a backdrop for our understanding of the mechanisms for effective handling of contemporary peace and security challenges in Africa.

### **Revisiting Indigenous and Endogenous Restorative Mechanisms**

Braithwaite (2002) argued that we have yet to discover a culture which does not have some deep-seated restorative traditions. Nor is there a culture without retributive traditions. Perhaps, it is in view of this understanding that more and more people in contemporary times

are looking within their existing cultures and finding models and traditions that can be adopted or adapted to suit a culturally sensitive dispute resolution and reconciliation process. Hence, the Addis Ababa resolution by African Heads of States that 'Africa's problems be resolved by Africans' is perhaps not a misplaced position. This international trend of looking 'within' or 'inwards' for dispute resolution, peace and reconciliation mechanisms is one which ought to be encouraged especially in Africa. This author thus advances the Afro-centric historical evidence aimed at re-building the African restorative traditions in the light of emerging restorative justice paradigm.

However, in spite of the truth of deep-seated restorative traditions in most cultures of the world; retributive traditions is mistakenly often seen to have survival value, perhaps, because restorative traditions or cultures which were regarded as 'timid' and weak in fighting back imported traditions and cultures were often wiped out by the more determinedly retributive cultures (Braithwaite, 2002). But in the contemporary world, the author would argue that, retributive emotions have less survival value because retributive emotions are more likely to get us into trouble than out of it, as individuals, groups and nations.

The message that this paper intends to communicate to all cultures (especially the African cultures) is that in the world of the twenty-first century, we are more likely to find our restorative traditions a more valuable resource than our retributive traditions. Even sadly though, the hegemonic cultural forces in the contemporary world communicate just the opposite message.

### **Endogenous Restorative Mechanisms: Some Evidence-Based Reflections**

There are evidence-based researches on restorative resolution of dispute in Africa in 'the acephalous societies' (non-state), and 'early state societies' in the literature. For instance, Wright (2003), in his work, 'justice without lawyers' reviewed the historical existence of restorative approach to conflict resolution existing among the Kpelle people of Liberia, and Paul Bohannan and his wife (1957) spent three years understudying 'Judgement amongst the Tiv people' of Benue State, Nigeria. Similarly, Elechi (2006) in his 'Doing Justice without the State: The Afikpo (Ehugbo) Nigeria Model' reviewed extensively the restorative traditions of dispute resolution amongst the Igbos in South Eastern Nigeria. Omale (2006) challenging the obscurity of African restorative traditions in western restorative justice literature extensively reviewed restorative traditions of Africa in his 'Justice in History'. In another academic essay entitled 'Pre-Colonial Criminal Justice in West Africa: Eurocentric Thought versus Africentric Evidence, Dalglish (2005:62) review how rulers in ancient Ghana kept peace and security in their domain. He maintained that as a tradition of keeping close to the people and upholding peace among the people, the chief and his commanders often assemble and ride their horses through the lanes of the community and around it and 'anyone who has suffered injustice or misfortune confronts him, and stays there until the wrong is remedied'.

And to confirm that pre-colonial African restorative justice system of keeping peace and security was indeed not barbaric (as some might have thought). Justice Balonwu (1975:31) cited the testimony of Sir James Marshall, a director of the 19th century Royal Niger Company, who later became the first Chief Justice of the West Coast of Africa (now Nigeria, Ghana, Liberia, Sierra Leone, etc). The *London Times* of July 17, 1886 reported Sir James Marshall's testimony about the West African pre-colonial justice system thus:

His [Sir James Marshall] testimony as to the efficiency with which the natives administer their own laws is very striking. He has sat beside native judges, and witnessed with admiration their administration of justice. These people have their own laws and customs, which are better adapted to their condition than the complicated system of English jurisprudence. The adoption of them would, it is maintained, be more conducive to the best interests of all than the present system (*London Times* of July 17, 1886 cf Balonwu 1975:31).

In pre-colonial and rural African communities the fear of sorcery (e.g., the gods of thunder (Sango), obatala, etc.) or divine punishment is used to show what the breach of peace and security could bring upon the society and the perpetrators of evils. For instance, if perpetrators of breach of peace and security are warned to desist from their evil ways but refused; elderly women could mobilise themselves to walk naked in the compound of the evil doers. This brings bad luck; ill health and intergenerational curse upon the perpetrators. In most cases, when the perpetrators of evil hear about this plan, they go on self-exile or run to the Council of Elders to confess, apologise, perform ablution and seek forgiveness.

To confirm that this tradition still works in Nigeria, in June 2010, the Oba of Bini Kingdom weary of the rate of kidnapping in his domain announced on National Television (NTA) that he will place a curse on the perpetrators. A day after, to the surprise of police experts and criminologists; criminals residing in the domain went to the Oba's Palace to confess and seek pardon. This mechanism could be harnessed because, in modern times, known criminals and corrupt political leaders in Africa swear to an oath in court with the Bible and Quoran; and still perpetuate evil and injustice; knowing that the Holy Book does not condemn or punish offenders instantly as the gods of African tradition.

In another instance, history has it that when conflict brew between two neighbouring communities, daughters of the warring communities that are married out in the opposing communities go out on peace missions to resolve dispute. In some cases, they are used (or accept to be used) as 'bridge-building' blocks between hostile or fighting communities, through 'inter-community marriage' whereby a daughter of one community is given in marriage to a son of another community as a way of sealing an alliance for peace and reconciliation. But where the peace missions fail; the women desirous to protect their husbands and children, form a nude ring to block footpaths on the day of war. Any warrior who sees the nude women, turned back from the war (because it is seen as defilement or bad omen). Sometimes, the warriors who see these women returned home and die.

In addition to the above mentioned endogenous peace and security initiatives in Africa, this author could recall his ethnographic experience growing up in a rural Nigerian community where he witness a peaceful resolution of "grazer-farmer conflict" handled by the village Madaki (who incidentally was the author's father).

The Madaki (the Head Chief) said to his kinsmen: 'what is the quarrel at the waterside all about?' 'The quarrel is about water, sir'. 'It is between a grazer and a farmer': Replied the kinsmen. The Madaki then sent emissaries of youth headed by the *Acho-kolobia* (youth leader in Igala) to fetch the disputants. As the youth went to fetch the disputants, the town crier beats its gong around the village summoning an urgent meeting before the Council of Elders. The disputants were brought before the Council of Elders with matchet cuts and injuries.

Then the peaceful resolution of dispute began thus:  
'What is the quarrel about?' The Elders asked.

'It is about water, sir', the farmer replied. Then the Madaki asked: 'How much is water worth, my great farmer?' 'Very little, sir': The farmer replied.

The Madaki then asked the grazer: '*Aboki* (my friend in Hausa), how much is a cow worth?' *Deli dubu* (some thousands). The grazer replied.

The Madaki then asked: 'How much are you-the grazer and farmer worth?' 'We are beyond price, sir': Replied the grazer.

The Madaki then put it to the grazer and farmer that: 'Is it not stupid that because of water and a cow "we" should destroy ourselves who are beyond price'.

The word "we" here is significant. The Council of Elders did not see the impact of the dispute to be limited to the grazer and the farmer alone. This is because, in Africa, "what happens to the eyes happens to the nose also". This literally means that, an injury to the eye gives the nose some running droplets as well. This is the notion of *ubuntu* the interconnectedness of humanity. "I am because you are; and you are, because I am". Or as late Brenda Fassie puts it in her song: *Umuntu ngumuntu ngabantu* (a person is a person through persons).

The question that this paper wants to put to Africa and Africans is: where is the spirit of *ubuntu* in contemporary African communities, and amongst contemporary African leaders; that we have to recruit militias against the other? And, what has happened to this cherished African philosophy of Thought-*ubuntu*?

Admittedly, there have been many theories attempting to explain the origin of the 'move away' from this African restorative traditions to a more retributive and self-centred system, but none has succeeded in offering a 'plausible and satisfying theory' (Bianchi, 1994:15). However, Bianchi argues that this, 'old systems of conflict resolution, repair, and dispute settlement survived, openly or covertly, in many centuries' and indigenous cultures. Llewellyn and Howse (2002:6) also argue that there seemed to be agreement that the move from restorative traditions to what 'we know today as public, state-centred, retributive system began as early as the eleventh and twelfth centuries'. Zehr (1990) also argues that 'it took until the nineteenth century for retributive justice to gain prominence'. According to Zehr, whatever other factors that might have prompted this change, 'it was clear, at least in part, that it was motivated by the desire for political power both in the secular and religious spheres'. A notion referred to as 'legal revolution' by Legal Historian Berman (1983). This revolution according to Zehr (1990:110), resulted in a 'reconceptualisation of the nature of disputes'. By this end, Zehr (1990:110) argues that the crown had proclaimed itself 'keeper of peace' and as such would be the victim whenever the peace was violated. The role of the courts, he argued, changed in suit; no longer was their task to referee between disputing parties requesting their involvement but 'courts now took up the role of defending the crown and began to play an active role in prosecution, taking ownership over those cases in which

the crown was deemed victim'. To these courts, Zehr argues 'justice came to mean applying rules, establishing guilt, and fixing penalties'. As Christie (1977) put it, peaceful resolutions of dispute have been effectively 'stolen' from the people.

## Conclusion

This author would argue that if Africa and Africans really want sustainable peace and security; we should take a serious look at restorative justice. Restorative justice is the only form of justice that let the 'law' and 'reason' counter violence because criminal law in Africa, as it is presently practised, is a State-sponsored violence against the poor. The law protects the powerful; the poor are not allowed to speak out. This breeds further violence.

To this author, restorative justice is a jurisdictional *sankofa* for Africans: where we need to step backwards and ask ourselves, and deal with the past restoratively to heal the future. This is imperatives because if top-bottom justice in Africa is not working, how can we even think of the same justice mechanism addressing structural violence? Whereas, this argument is not in support of the spate of violence and bombing in Africa; it, however, argues that Africa should use the restorative justice mechanism available to it and apply its potential niche: "identifying, and locating where impunity actually lies". Impunity in Africa, this author would argue, is a state's privilege embedded in its monopoly of power and perceived sovereignty. Hence, this paper posits that once the restorative justice mechanism can hold all the 'powerful' accountable, and can demonstrate to 'all' that 'sovereignty comes with responsibility,' then ordinary citizens in Africa will have the leverage to pursue change from within.

The dilemma in Africa, today, is that the criminal court depends on the cooperation of the 'powerful' to execute its important mandate. In order for the court to prevent impunity, it must demonstrate its legitimacy and convince all people that it is capable and will inevitably hold accountable any individual believed to be responsible for commission of crimes. Such a gigantic goal requires the court to have legitimacy in the eyes of the people; have independent jurisdiction and unfettered discretion in executing arrest warrant that is devoid of corruption. This prudence and credibility has been lacking in many criminal court decisions in Africa in the past (save for few cases, may be). In situations like this, this author think that peace and security transformation in Africa requires building credible institutions and a population sensitised and empowered to rise up lawfully and non-violently to demand accountability from their leaders, even for the foreign loans being contracted and piled for their children to pay in future. This notion of accountability is what restorative justice demands from Africa and the African people.

So, if Africa has to put 'things falling apart' together (Chinua Achebe, 1970), her original restorative values and traditions must be revisited. It is time for Africa and Africans to rethink restorative justice not for revenge; but for restoration. And, the time to give the restorative justice doctrine a fair crack of the whip in Africa is now.

## References

- Achebe, C. (1970) *Things Fall Apart*, London: Heinemann.
- Balonwu, M.O (1975) 'The Growth and Development of Indigenous Nigerian laws as part of our Heritage from the British Colonial Policy of Indirect Rule' In Elias, T.O, Nwagbara, S.N, and Akpamgbo, C.O (eds.) *African Indigenous Laws*, Enugu: Government Printers. pp 31-67.
- Berman, H.J (1983) *Law and Revolution: The formation of the Western legal tradition*, Cambridge Massachussets: Harvard University Press.
- Bianchi, H (1994) *Justice as Sanctuary: Toward a system of crime control*, Bloomington: Indiana University Press.
- Bohannan, P (1957) *Justice and Judgement among the Tiv*, London: Blackburn.
- Braithwaite, J (2002) 'The fall and Rise of Restorative Justice'; [www.oup.org](http://www.oup.org) : 16/06/2003.
- Christie, N (1977) 'Conflicts as property,' *British Journal of Criminology*, 17, pp.1-15
- Dalgleish, D (2005) 'Pre-Colonial Criminal Justice in West Africa: Eurocentric Thought versus Africentric Evidence'. *African Journal of Criminology and Justice Studies* Vol. 1(1) pp. 55-69.
- Elechi, O. (2006). *Doing Justice Without the State: The Afikpo (Ehugbo) Nigeria Model*, New York: Routledge.
- Llewellyn, J.J and Howse, R (2002) *Restorative Justice: A conceptual framework*, Canada: Law Commission.
- Mengara, D (2010) 'Conflict and Conflict Resolution in Africa: History, Myths and Realities' Calls for papers, Available at: <http://www.sorac.net>.
- Omale, D.J.O (2006) 'Justice in History: An Examination of the African Restorative Traditions and the Emerging Restorative Justice Paradigm' *African Journal of Criminology and Criminal Justice*, Vol.2 (2), p.30 - 60 Available at: <http://www.umes.edu/WorkArea/showcontent.aspx?id=7012>.
- Omale, D.J.O (2010) 'Community Reintegration Models for Ex-militias: Lessons for the Niger Delta and Other Divided Societies', *ACCORD Conflict Trends*, Vol.1 p.11-18 <http://www.accord.org.za/publications/conflict-trends/downloads/724-conflict-trends-20101.html>.
- Wright, M (2003) 'Justice without Lawyers: enabling the people to resolve their conflicts' In Johnstone (ed.) *A Restorative Justice Reader*, Oregon USA: Willan publishing: pp.187-200.
- Zehr, H (1990) *Changing Lenses: A new focus for crime and justice*, Scottdale, PA: Herald press.