TRADITION vs MODERNITY in CONTEMPORARY AFRICA

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Foreword

On 24th and 25th of October, the 8th annual international conference on African studies VIVA AFRICA 2013 took place in Pilsen, Czech Republic. The conference has been a success since it opened in 2006 drawing many reputable domestic and foreign specialists in African studies.

The theme of the conference Viva Africa 2013 „Tradition versus Modernity in Contemporary Africa" initiated the debate about the process of modernisation and „re-traditionalisation" in contemporary Africa. The participants of the conference had the opportunity to discuss the problems of the conceptualisation of modernity and tradition on the African continent, its local appropriation and manifestation in political, economic, social and cultural sphere both in the past and the present.

As many ethnographic studies have shown, the modern and traditional aspects of social reality as two apparently separated realms are in fact closely interlinked and overlap in everyday life. The dichotomic conceptualisation of tradition and modernity as opposite categories produced by the western theory of modernity is now outdated. Today´s scholars point out that African traditions and modernity lies on the same historical continuum and should be studied as an evolving dynamic phenomenon encompassing many contradiction and ambivalences.

The proceedings of Viva Africa 2013 contain eight selected papers based on ethnographic research conducted in Rwanda, Kameron, South Africa, Uganda and Sierra Leone. The authors approach the main topic of the conference from different theoretical, methodological and interdisciplinary perspectives and thus fruitfully contribute to the multi-various discussion about the ambivalent and contradictive manifestations of modernity in contemporary Africa.

The problem of the implementation of the modern western political institution in Africa and its adaptation to traditional models of political organisation is closely elaborated on by Daniel Duarte Flora Carvalho in their paper called „From traditional to failed state".

Another contribution of Judit Bagi and István Tarrósy deals with the problem of women's political representation and participation in Rwanda today. The authors aim to understand the changing role of women in Rwandan society, especially in the field of politics.

The gender perspective is equally reflected in the article of Emilia Debska and Coro J-A Juanena who focus on woman's struggle for land access in Uganda. The authors analyse the consequences of the application of the customary law Land Act from 1988 from the point of view of women's rights in Uganda and focus on the problem of its coexistence with the official law.

In another paper concerning Rwanda, Jasna Balorda discusses the modernity of the Rwandan genocide. The Author controverts the conceptualisation of the Rwandan genocide as anti-modern, tribal violence resulting from atavistic ethnic hatreds that stands in opposition to the Holocaust presented by academics as the embodiment of modernity. Drawing on ethnographic data from fieldwork she demonstrates the ambivalence of modernity within the Rwandan conflict.

The contribution of Thwadi Komane draws attention to the contradictions of tradition and modernity in the field of law and judicature in South Africa today. The author focuses on contestations between those insisting on traditional courts being incorporated into the formal justice system and those lobby groups opposed to the formalisation of traditional forms of justice.

Drawing data from fieldwork in Sierra Leone, Daniel Künzler treats the problem of the continuity and discontinuity of public discourse surrounding militiamen. The author disputes the general affirmation that militia men are new figures of success. In his opinion they rather represent a social group adapted to pre-war patrimonial military formations (based on relations of patronage), arguing that they follow the same patrimonial logic with ranked relations of debt, obligation and mutual support and protection.

The Ethno musicological contribution of Vít Zdrálek deals with the public space of the commuter trains in South Africa as a place generating various kinds of individual, social and cultural experiences. By analysing musical performances on the train, the author offers an interesting insight into the dynamic social groups of black African commuters and migrants.

The last paper written by Irene Schöfberger investigates local strategies for the future in four rural communities in Senegal. Her analysis is focused on local perceptions of land use, development programs and migration while specific attention is given to representations of "African" and "Western" elements.

Editors

From Traditional to Failed State: A three-level Assessment on the African State

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Introduction

The end of the Cold War shed light on a perspective that the world was being divided into two opposite parts lead by Hegelian and Hobbesian ideal-types. This understanding was specifically applied to Sub-Saharan Africa during the 1990s and can still be found in decision-makers' minds. Nowadays, whilst some management consulting enterprises highlight Africa's growing economy and potential to do business, several indexes that measure the states' failure to classify African states as facing severe situations. Although both perspectives coexist, the later seems to prevail due to recurrent and recent crises in many states such as Côte d'Ivoire, Guinea Bissau, Mali, Somalia and Zimbabwe and to the generalised poor record of the continent on combating poverty and underdevelopment.

This contradiction can be portrayed by four recent reports. On one hand, Ernst & Young's report showed great optimism by being "positive about the future of Africa in the short, medium and long term" (Ernst & Young 2011). This opinion was shared by the McKinsey Global Institute one year later (2012). On the other hand, a UNDP report (2013) denounced a slight decrease in the proportion of Sub-Saharan Africa's population which was living below US$1,25 a day and conversely that it augmented 42,8% in absolute terms from 1990 to 2010. In addition, American intelligence believes that countries in Sub-Saharan Africa "will remain vulnerable, nevertheless, to state failure through 2030" (National Intelligence Council 2012).

The strengths of these antithetic arguments are unbalanced. Despite its great economic growth in the last decade, the continent still hosts 34 out of the 49 least developed countries and there is a broad

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consensus regarding its states' failure and fragility: 11 out of the 14 countries seen as the most fragile ones are in Sub-Saharan Africa (Ziaja and Mata 2010). Indeed, Africa – specifically its Sub-Saharan part – has the worst development record in the world and is still the stage for many intrastate and cross-border conflicts.

Many authors addressed directly or indirectly the theme of a states fragility in Africa. Inserted in broader debates such as the *new wars*, state failure has been studied by renowned experts such as Jackson (1990), Clapham, Herbst and Mills (2006), Fukuyama (2005), and Rotberg (2004) and still occupies an important part of the debate on statehood and African international relations due to the post-9/11 context and the concerns of the USA regarding safe-havens for terrorist groups. By and large, International Relations literature relies on the assumption that the problem lays in the statehood on the continent. On the one hand, the colonial legacy is accused as its source since it devised traditions and imposed artificial alien institutions and borders to ethnically heterogeneous peoples. This assumption gave birth to a notorious commonplace belief which denounces the noxious influence that colonial borders exercised over conflicts in the continent in post-colonial times. It is assumed that some ethnicities are not only incompatible to others but its people are unable to live with the difference. The colonial borders are said to have split those who should have been kept together in a state and to have mismatched those who should have been kept separated.

On the other hand, the international community's (lack of) engagement is to blame, since it assists corrupt governments and perpetuates the situation of dependency of the African states, or conversely, it is just doing too little to help them to pursue and reach development. In this case, it is argued that the international community should push African states towards reforms towards democracy and good governance through conditionalities that are supposed to prevent the remittance of financial and military aid by donor countries. Regarding the international community's role in African development, some authors argue that it is exactly this engagement which is a contributing factor to the underdevelopment and failure of the state, since it does not allow conflicts to be truly settled and reinforces the role of institutions that were alien to African countries which are said to be incompatible to indigenous cultures and political practices.

Notwithstanding the fact that both approaches are valuable, it is important to be aware of their limitedness and excessive parsimony.

They overstate and overestimate two variables which are usually treated in an exclusionary way and most often neglect the interaction between their units of analysis and identify a misleading ontological advance among them. This paper argues that the analysis should also assess the African international (sub) system, whose dynamics are relevant to understanding how indigenous institutions were poorly adapted to or suppressed by modern Westphalian statehood. For both adaption and suppression, state-building in Africa paid little attention to some demographic and geographic variables as well as to patterns of power diffusion in the continent since it had the Weberian ideal-type as a reference.

This intends to go into and through the process of state-building in Africa – understood here as a transition from a traditional pre-colonial polity to a modern Westphalian ideal-type of state. This examination ought to and shall comprehend the inter-connexion of three levels of analysis (the African state, the African system of states and the international system) in order to assess the forces that act upon such transition. However, before doing so, it is important to elucidate that we agree with the post-colonial critic which understands that African and non-Western states will be judged as failed states as long as the Weberian ideal-type of state is the reference. Yet, one should recognise that development and modernity have always been together and that African political actors have by and large pursued modernity.

Besides that, in order to better develop our argument, we have based it on three assumptions. First, we assume humans to be rational and self-interested and willing to maximise utility and profit. In other words, we see humans as *homo oeconomicus*. Second, governments act as rent-seekers. This means that as it is composed by *homines oeconomici*, it carries the same characteristics of its members. Finally, welfare and development are directly related to the presence of the government and to its authority and this has nothing to do with an option in favour or against free trade or the presence of the state in the economy since this assumption is valid for both. Whilst for the later, the state is responsible for investment and employment, the later acknowledges its responsibility to grant a free market. For both cases, the state should be present and able to make actors comply with the rules and the laws.

The African State

The first level to be analysed is the state itself and its flawed transition from pre-colonial to modern state. This choice is not due to the bestowal of importance in ontological advance, but to a methodological option since this might prove to be the best starting point towards a better appreciation of the dynamics in Africa.

Many of those who attempted to discuss state formation in Africa used the model coined by Charles Tilly in his chef-d'oeuvre *Coercion, capital and European States, AD 990-1990*. Although it focuses on the European states, it has served as a tool for making inferences on the African state-building process.

In his work, Tilly sought to answer two leading questions: 1- what is considered to be variations of time and space between the shapes of the European states; and 2- what they converged to be nation-states. Looking forward to answering them, he admitted that, despite the fact that European states had not gone through uniform processes and are the results of relatively recent phenomena, they were shaped by two driving forces: coercion and capital. The states are shaped by the need for war, what impels their rulers to extract resources from somewhere and nation-states originated when those resources cannot be promptly translated into war potential (Tilly 1990).

Seen from this angle, the African states' dysfunctionalities seem to be elucidated: they have not known the capital experience of interstate war in their past. Even after independence, the African states have in general not had such experiences. However, "the African experience of politics amid large supplies of land and low population densities while confronting an inhospitable physical setting is in dramatic contrast to the European experience of state-building" (Herbst, States and Power in Africa: comparative lessons in authority and control 2000, 13). Actually the African state was originated by the possession of spatial circuits and flows of trade. In a situation of low population density and high costs for diffusing control and authority, it was up to the African leaders to target the population when exercising their power. This is due to the low value of territory: "low productivity agriculture meant that there was less in the way of people or surplus to tax and collection costs were probably higher" (Herbst, States and Power in Africa: comparative lessons in authority and control 2000, 39). Thus, the African leaders had to consolidate the state from the costs of the extension of power since those were the lowest ones. In

contrast, consolidating authority and control in Africa based on a certain territory or on the nature of borders was inordinately burdensome for these leaders. The traditional rule hence was based, apparently, only on the most populated areas.

Following the independences, the African states continued to exist since there was a system of statehood which protected them. They did not have to endeavour to grant their very existence and sovereignty (Clapham 2000). Furthermore, the maintenance of colonial borders with little or no contestation lead to power vacuums in the hinterlands. The more remote and away from large urban centres the region was, the greater the power vacuum in it. This is due to the fact that there has been no change in the pattern of power diffusion over distances. Authority and control continued to be exercised chiefly where they would provide some return, that is, in the urban centres and not in the remote hinterlands. Strong evidence that support the continuity of these decreasing returns of scale from the exercise of authority and control can be found in Clapham, Herbst and Mills' book *Big African States* (2006). Their findings show that the size of African states has proved to be a problem for their governance: the bigger, the worse.

Accompanying the debate over African states' size and its upshots, the issue around ethnicities that has already been mentioned in the previous session arises again. The logic is blatant: the bigger the state is, the more ethnicities it comprises and, consequently, the more prone to domestic conflict it is. Though ethnic war cannot be discarded at all, it is important to remember that such an argument is excessively parsimonious and finds three major flaws: 1- it assumes ethnicities and other identities as statics and immutable; 2- it assumes the benefits of ethnic homogeneity, which is spurious; and 3- it neglects any possibility of legitimacy of the state and its institutions. Moreover, it is reasonable to see ethnic uprisings as outcomes of the marginalisation that groups living in remote areas and hinterlands underwent as a consequence of the decreasing returns to scale, a major characteristic of the pattern of power diffusion in Africa.

Lastly, another feature of African politics within its states that cannot be neglected is that many elites in African countries seem to be responsible and satisfied with their countries' underdevelopment. They seem to be strongly persuaded that African development should be a burden for foreigners. This refuse to development has its origins in an ideological system that arouse after the independences, based on what Axelle Kabou called "Friday elites", based on Daniel Defoe's romance

in which Friday symbolised the noble savage and the dependency of the primitive people in relation to the white men (Kabou 1991).

The forces which are endogenous to the African state played distinct roles on its consolidation. As it has been seen, the state is not alien to the African continent. Many polities possessed stable and complex political organisations during pre-colonial times. Notwithstanding, it is possible to reason that current states are exogenous and imposed on African peoples. As they were devised by default, neglecting both geographic and anthropological realities, they became the legacy left by the European coloniser, which has influenced directly the current conditions of the African state. Even so, the legitimacy of some states were kept up and, throughout the continent, there still is a vibrant civil society (though relegated to clandestine actions). Although political liberalisation is not synonymous with stability and state viability, African civil society has an important role to play in the state-building process in Africa. It would be spurious, however, to focus only on indigenous and domestic phenomena and variables in order to coin any explanation of the current situation of the African state. For such reason, forces that are exogenous to the African states and that act upon them should be analysed.

The Neighbourhood (or the African System of States)

The constitution of African states has happened in a different way if compared to the model coined by Tilly. The absence of a foreign enemy capable of inducing African leaders to levy taxes and prepare themselves for war meant territory was not to be of vital importance to state-building. Power was exercised over people and not over land and territorial domains used not to be questioned (Herbst, States and Power in Africa: comparative lessons in authority and control 2000). In this regard, stating that borders have not played a role in the state-building process in Africa may prove to be wrong. In fact, they played their role: a deteriorating one, which has not made any contribution to consolidate territorial power.

Tilly's warning that state-building usually began on the enemy's perception about the neighbouring state (which did not take place in pre-colonial Africa) recurs to the fact that states' concerns are at an intermediate level of analysis: the internal threats to the state and the international system's forces of conflict as a whole might not be the government's foremost preoccupation. In the first case, it is admitted

people's adhesion to a ruler (conditioned to specific situations, naturally) whilst in the second one, the issue that comes up is that the international system as a whole was not – and is not yet – able to be a direct threat to all of the states, since the lack of resources of and the distance between some of its unities do not characterise a menace itself. Hence, it would be in the regional level where the states' leading concerns lie – except for the great powers – since it is with the immediate neighbours that a state carries a relation out more intensely: "seen from most countries of the world, the relevant strategic setting is not primarily at system level – the first priority is regional" (Buzan and Waever 2003, 44).

The construction of the African sub-system and, consequently, its relations to the state-building process began in the late 19th century. The Berlin Conference (1884-85) – was responsible for the partition of Africa by colonial powers – set criteria for drawing the borders between the colonies that later would become the African states. The arrival of the Europeans had important consequences on the consolidation of African states. Besides the aforementioned partition of the territory based on the lack of any geographical and anthropological knowledge, the arbitrary division complicated the construction of national identities in regard to the new African states. Thereto, Europeans devised an alien system of boundaries and established groundbreaking economic systems. Moreover, the infrastructures constructed by them still mold patterns of trade, let alone religions, languages and other cultural practices (Herbst, States and Power in Africa: comparative lessons in authority and control 2000).

An alien pattern of broadcasting power was thus established in the African continent. The territorial issue was not taken into account on indigenous government calculations since power was diffused to populations and the territorial domination was by all odds due to the high costs of broadcasting power into the hinterlands. The surprising strength of colonial boundaries allowed the colonialists not to worry about the control and domination over remote areas, benefiting from the loyalty of local authorities. This is due to the fact that the Europeans did not succeeded in changing the costs of diffusing power over distances. Thus, many similarities were maintained from the colonial to the post-colonial period.

The various struggles for colonial liberation and the different methods applied by colonies in Africa in order to conquer their independences brought important consequences to the African states.

Political fragmentations that took place in the great European colonies gave birth to a new design to the borders of the newly independent African countries that, by proclaiming their independences, or associating themselves with other recently independent countries or insisted in remaining free. "Hence, the process of territorial balkanisation of Africa was the pattern" (Vizentini 2007, 167) .

The inherited borders thus became an important tool for the relations between the African states, defining once and for all the pattern of influence that the sub-system exercised on the consolidation of African states. The boundaries among the recently independent African states were therefore maintained since they were the sole "tangible reality" (Herbst 1989, 676). In this sense, leading Africanists from the 1960s attempted to expose their commitment as regards to their maintenance. Whilst African states were trying to consolidate their legal personality under international law (which does not require a functioning state), the continent was simmering amidst many political acts which took place in Africa in the attempt to (re)define the borders recently "liberated" from colonial rule.

The greatest concern these states had at that time was with vulnerability that was inherent to them within their consolidation. It would be the warranty for which a state with secessionist issues would not support separatist movements in a counterpart aiming not to create any internal precedent (Touval 1972). In part, this soi-disant "vulnerability argument" may be endorsed by the history of Africa through the actions of two of those who may be considered the leading pan-Africanist politicians. The Ethiopian Emperor Hailé Selassié I and the Tanzanian president Julius Nyerere figured in a diplomatic spectacle during the three bloody years of the Nigerian civil war, when General Emeka Ojukwu's troops tried to make the Republic of Biafra independent.

In different ways, Selassié and Nyerere demonstrated how the African system could interfere in Nigerian state-building. When the "sanctification" of the borders was approved, most rulers were in a calm and secure position to keep on broadcasting power only where it was necessary. The absence of an external threat due to the force of the African boundaries meant it was not mandatory to pay attention to the hinterlands, to the most remote areas of the African states. The continuity of this pattern is exposed and explained by Herbst (2000) when he finds evidence that road networks in African countries – whether they are favoured by geography or not – is directly

proportional to the population density in their regions. As he himself once said, "given to the lack of external threat, power will be broadcast in Africa at least somewhat like it was during the pre-colonial period and as it is now encouraged by the Addis rule: profoundly at the political core and radiating out with decreasing authority" (Herbst 2000, 171).

This way, the borders have proved to be an important independent variable on how the African system of states can have an influence on the state-building process. The diffusion of power in populated areas and the guarantee that there shall not be any external threat explain the configuration of an international system capable of comprehending the Sub-Saharan Africa as a whole, where the security dilemma is typified by the struggle of the ruling group for its own survival. In this sense, a logical conclusion is that the borders delayed development in the continent. The perspective that this dilemma shall not be altered in the short and medium terms in most of the continent since only a few interstate wars in Africa were recorded and the conviction that the relative absence of this type of conflict is not due to the record of democratic regimes, the diffusion of power in African states and the nature of their actors could only be reshaped by the strong influence of the international system as a whole (what has not occurred yet).

The Global Arena and its Impact on African States

Africa's insertion in a globalised international system seems to be a relatively recent process. For this reason, the inclusion of this level of analysis only makes sense after the moment that Africa really became directly influenced by the actions of international organisations and of the great powers that gave support to them in the last thirty years. The increasingly intense process of globalisation only had its first profound impact in the African states during the 1980s, when Africa – almost completely independent – had to deal with the Lost Decade, caused by the 1973 oil crisis and the 1979 shock concernig interest rates.

The tragic effects caused by the process of the global economy's restructuration and the economic crisis that began in the previous decade were aggravated in the following decade due to the globalisation of the financial market and to the scientific-technological revolution. The abrupt fall in the prices of commodities really contributed to the

sharp fall in African countries' exports that, besides being harmed by the crises, foundered because of strong protectionism from developed countries. In this scenario, the frail and fitful African economies were compelled to resort to the International Monetary Fund (IMF) and to the World Bank (WB), as well as other financial aid institutions. These two major institutions imposed the same prescriptions of currency, trade liberalisation, budget expenditures and subsides cut-offs, privatising land reform (i.e. putting an end to state farms) and the privatisation of all state companies for all the African (and non-African) countries who went to plead for aid.

Even though Herbst (2000) believes that from that time on both the IMF and the WB have not had profound effects and influence on household decisions made by African and Third-World leaders, the determination of the so-called Washington Consensus (the aforementioned prescription) were severely followed by the African countries, culminating in economic, financial and even political disasters of vast proportions.

The effects were withering, indeed, but there were some very important cases of success. The IMF demanded a dire monetary reform in both Ghana and Nigeria. Whilst the former attained to reach good and satisfactory results, the later saw its reforms to prove ineffective since fiscal control on currency devaluation was too weak. By and large, "many other African countries enacted significant devaluations during the 1980s. As a result, the black markets of foreign exchange, the most obvious symbol of economic distortions across the continent, had largely disappeared by the mid-1990s" (Herbst 2000, 223).

These structural adjustments of the 1980s challenged, above all, the neo-patrimonial state in Africa. Although it seems to be a positive effect, the collapse of this kind of state is directly connected to the collapse of the state itself. When state neo-patrimonialism was defied by the IMF and the WB prescription, African states began to intensify their repression against dissidence, since the "rulers sought to compensate by force what they could no longer achieve by inducement" (Clapham 1998b, 264).

These political and economic effects – to make matters worse – were combined with the end of the Cold War. "The disappearance of the bipolar contest for power and influence on the continent meant that Africa more or less lost what was left of its limited importance to global security" (Engel and Olsen 2006, 09). Africa's adequacy to the New World Order was quite difficult. The piecemeal withdrawal of

the USSR and consequently of the USA made Africa lose its forte of bargaining as well as losing its strategic importance. "The result was the *marginalisation* of Africa in the international system and the *de-strategisation* and the *tribalisation* of regional politics and conflicts" (Vizentini 2007, 203) . Another important consequence of this removal was its catalyst role in the process of state failure, such as the case of Somalia (Patman 2007).

It was in a scenario like this that the USA – following the terrorist attacks against its embassies in both Kenya and Tanzania in 1998 and, mainly, against the World Trade Centre and the Pentagon in the fateful September, 11th 2001 – heralded a new important agenda for the Third World. The lack of authority by states and rulers over their populations, especially in Africa, proved to be – according to Washington – a perfect scenario for the proliferation of terrorist groups (Le Sage 2007, Rotberg 2005). As a consequence, strong pressure began to be exerted on the African states so that reforms could be undertaken in order to recover state scope and to eschew state failure aiming thus to combat international terrorism. This may be considered the second structural adjustment imposed on independent Africa.

The strength and the depth of the impact that the international system had on state-building in Africa thus became evident but, despite everything, it did not change the way power is diffused in the continent. The only change that took place was, actually, that the African states had less power and fewer means to broadcast it over their populations. In this sense, seen that many dictatorial regimes have lingered due to the "doctrine of unrestricted sovereignty" that precludes intervention in countries which are undergoing a crisis and that gives support to them too (Clapham 1998) – complicating the roles of both civil society and states' endogenous forces aiming at democratization (to be understood here as the peaceful alternation of groups in power at regular periods) and due to the official aid they receive – it is worth analysing the impact that the end of military and financial aid would have had on the African continent.

As it turned out, the international system has a huge power of influence and a deep impact on state-building in Africa (particularly, the great powers), since it is endowed with legal and political mechanisms to do so. A clear example which is usually encouraged is the accomplishment of the Millennium Development Goals. The eighth goal aims to create a "global partnership for development" and, in order to achieve its supreme goal (eradication of poverty), it looks forward to

donations from the richest countries of 0,7% of their Gross National Product to the poorest countries through Official Development Assistance. This aid may be beneficial since it is "one among several mechanisms of inter-societal interaction promoting forms of combined development and playing a significant contemporary role in the social reproduction and adaptation and change of African states" (Brown 2007, 13).

On the other hand, even though there are survey mechanisms on the records of good governance by aid recipient countries, much of the aid gets lost due to corruption or in order to defray state apparatus. The various social actors that seize the aid or contest it have prevented aid reaching those who really need it. "Huge bureaucracies are financed (with aid money), corruption and complacency are promoted, Africans are taught to be beggars and not to be independent" (Spiegel Online 2005). Moreover, aid – when it does come – is of little use and has a devastating impact on local economies, provoking a dependence relationship: the great problem thus is that "no one can compete with the UN's World Food Program" (Spiegel Online 2005), chauffeuring many farmers to bankruptcy. This aid, hence, is nothing more than the international face of the "Friday complex" which is denounced by Kabou (1991).

Conclusion

The three levels that affect the diffusion of power in Africa have dynamics that are all but independent. They are profoundly interconnected in a way that is almost hierarchical and armoured. Armoured because it is difficult to conceive that the lower level will have some influence on the others, that is, any event that takes place at the state level (the very first level analysed in this paper) has nearly no power to influence or alter the dynamics in the other levels. However, the regional and systemic levels do have the power to directly influence the first one.

Having analysed the three levels and their dynamics, one may apprehend that, even though changes have occurred in the status of the African states (from colony to sovereign states) and in their *stati quo* in the international order, the power-diffusion costs variable has not been altered over the years, not even with the strong impacts of events in the African subsystem or in the international system as a whole. The effects on statehood and on African states wealth were really felt,

but the patterns of endogenous social-political dynamics and the reason for which non-state and insurgent actors have raised remained as well.

In all three levels, there is no record of any effective action capable of changing the pattern of power-diffusion in the continent. In the case of the first level, neither colonisation nor state-building after independences represented a shift in the costs that African leaders had to pay in order to exercise power and authority and to levy taxes. Still, the major contribution made by the African system of states was to enforce the borders in the continent. Their strength was big enough to isolate domestic dynamics from the peril of foreign aggression and, as a consequence, to maintain the costs of exercising power over distance. Last, but not least, the forces coming from the international system (as the actions made by the great powers or international organisations) either challenged the neopatrimonial state or backed governments that benefited from their position in the international system and which had no incentive for exercising power in its most remote areas.

The maintenance of such a pattern seems to have left no other option for the African state than to be a failed one. Since the Westphalian and Weberian reference assumes government's monopoly of coercion and a thorough control over a certain and fixed territory and is also incompatible with the opportunities and costs that African leaders face, the states in Africa shall not meet the exigencies for receiving the label of a viable (modern) state. The transition from traditional to post-colonial state hitherto proved to be an incomplete and – maybe – impossible shift from traditional to Westphalian and Weberian state.

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Women's Political Representation and Participation in Rwanda Today

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Introduction

There is a growing scholarly literature on the issue of the role of women in national parliaments.[3] "Numerous studies have examined whether a growth in the number (or proportion) of women in parliament makes a difference" (Yoon 2011, 84). Does it make a difference at all, and if it does, how much difference does "increased female representation have on government policy" (Handelman 2009, 156) and on democratic governance as such?

The paper aims at contributing to our better understanding of sub-Saharan African countries in transition, with a focus on the changing role of women in society, in particular, in the important field of politics and political representation. Our case study will offer an insight into the context of the "rising star of East Africa", the Republic of Rwanda.

According to the 2013 statistics of the Inter-Parliamentary Union (IPU)[4], only 21.4 percent of members of parliament (MPs) are women

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[3]   See for example, Thomas, Sue. 1991. "The impact of women on state legislative policies." *Journal of Politics* 53: 958-76.; Dahlerup, Drude, ed. 2006. *Women, Quotas and Politics*. London: Routledge.; Bauer, Gretchen, and Hannah E. Britton, eds. 2006. *Women in African Parliaments*. Boulder, CO: Lynne Rienner Publishers.; or Goetz, Anne M., and Shireen Hassim, eds. 2003. *No Shortcuts to Power: African women in politics and policy making*. London: Zed Books.

[4]   International organization of parliaments. "The Union is the focal point for world-wide parliamentary dialogue and works for peace and

in the world. Sub-Saharan Africa's rate is a bit higher than the world average at 21.9 percent. The East African country of Rwanda is in first place with 64 percent of itsMPs being women according to the world average list and it is the only state that has a female-dominated government (IPU 2013). To reach the 64 percent of female politicians in the national parliament, the country needed to make a long journey. After the terrible 1994 genocide and civil war the country had to face a demographic problem: nearly 70 percent of the population were female. Due to this issue, in the post-genocide period (1994–2003) women's issues were put high on the political agenda. Female representation in the parliament was around 25 percent at that time. In 2003 the country adopted a new constitution, which contains a specific regulation on women's political representation. According to the constitution, women must hold at least 30 percent of the seats in the parliament. That year, the number of female representatives went beyond expectations, and passed nearly 50 percent.

The paper offers a contribution to the debate on the process of 'modernisation' in Africa, as it will analyse the Rwandan case with the intention to comprehend how this high proportion of political representation of women can be possible and even more, be maintained in the future, in a traditional patriarchal society with a lot of pressing matters such as managing households, land conflicts, overpopulation, female poverty, girls dropping out of school, or early age pregnancies – to mention some crucial issues affecting mainly women, but also society at large. Although undoubtedly unique, Rwanda's case possesses a number of experiences and consequences that can be considered by other African states, in particular, as "discussions about female political participation [in the country] tend to assume that the increased participation by women will lead to greater gender equality and a 'better', more peaceful society, yet these changes have not necessarily increased the political power of women or led to more egalitarian notions of citizenship" (Burnet 2008, 363).

This article has three main aims. It first wishes to deal with gender quotas and their impact on the national decision-making process in

co-operation among peoples and for the firm establishment of representative democracy." On the official website you can find the latest data about percentage of women in national parliaments: http://www.ipu.org/wmn-e/classif.htm

Rwanda? This will be achieved by bearing in mind its unique post-genocide political landscape, which is described as having drawn upon fundamental scientific works in the field. Second, women's participation in reorganizing life in the country and their political representation in the different branches of power, but mainly in the national legislature will be looked at more closely. Third, the article will touch upon some women's issues such as land inheritance or the education of girls that still need tangible actions and solutions. Our intention is to raise some further questions to foster more debate on such gender issues in Rwanda and other sub-Saharan African countries. This is a first piece of a new comparative research project, which will be followed by empirical field research in the course of 2014–15.

The Impact of Gender Quotas. A Mechanism to Increase the Number of Women MPs

Gender researchers claim that at least 30 percent of women's representation in national parliaments, called the 'critical minority' or 'critical mass', is needed to successfully represent gender issues. Handelman, for example, underscores that "women usually need to achieve a critical mass of 30 percent of the seats in the national legislature in order to influence policy" (Handelman 2009, 156). According to Yoon, "a critical mass is the tipping point that translates descriptive representation of women (physical likeness) to substantive representation of women (act for women)" (Yoon 2011, 84). In that sense we can claim that the real question is when the descriptive representation turns to substantive representation. Others argue that the real representation of women in decision-making has nothing to do with the number of women in parliaments (Tinker 2004, 531). It means that a small minority of woman representatives can also make a difference on gender equality issues. In Europe, for example, plenty of countries have less than 30 percent of woman representatives but gender equality issues are much betterrepresented than in Sub-Saharan Africa.

In recent history there have been some important steps taken at the international level to promote gender equality. A significant one is called the United Nations Beijing Declaration and Platform for Action (BDPA). In 1995 this action aimed for "women's empowerment and their full participation on the basis of equality in all spheres of society, including participation in the decision-making process and access to

power, [which] are fundamental for the achievement of equality, development and peace" (BDPA 2005, Annex I. 13.).

For the sake of gender equality in decision-making many countries adopted gender-sensitive constitutions and have used different types of gender quotas. In the African realm, quota systems were mostly adopted at the end of the 1990s as part of the legal and constitutional reforms that were necessary after the end of civil wars. As Berger claims, "African women's history developed in a different context than the history of women and gender in Europe and the United States" (Berger 2003, 1). In Europe, gender as a notion became an important part of everyday life in the second half of the 20th century. In Western Europe, the members of feminist or liberation movements were fighting for gender equality throughout the 1960s and 1970s. In the case of Africa, gender issues were not put high on the agenda and there were fewer opportunities for the social protestation of women's rights due to cultural differences and antidemocratic regimes. In this context the fast and effective way to increase the number of women in national parliaments became a social and political necessity across the continent. Table 1 shows (how) the number of women parliamentarians in the East African Community (EAC), of which Rwanda is also a member state, in the last ten years due to gender quota implementations.

Table 1: Percentage of Women in National Parliaments in the East African Community (EAC), 2003–2013

	2003			2006			2008			2013		
	Seats	*Women*	*%*	*Seats*	*Women*	*%*	*Seats*	*Women*	*%*	*Seats*	*Women*	*%*
Rwanda♣	80	39	48.8	80	39	48.8	80	45	56.3	80	51	63.8
Uganda	304	75	24.7	332	99	29.8	332	102	30.7	386	135	35
Tanzania	295	63	21.4	319	97	30.4	319	97	30.4	350	126	36
Kenya♦	224	16	7.1	219	16	7.3	224	22	9.8	350	65	18.6
Burundi♠	179	33	18.4	118	36	30.5	118	36	30.5	105	32	30.5

Source: Women in Parliaments: World Classification – Inter-Parliamentary Union. www.ipu.org

♣ Data show numbers for the lower house of the parliament, the Chamber of Deputies. ♦ Data show numbers for the lower house of the parliament, the National Assembly. ♠ Data show numbers for the lower chamber of the parliament, the National Assembly.

Different quota types exist in different countries. In the domain of gender politics the following three are used frequently, according to the Global Database of Quotas for Women[5]: "The first one is called reserved seats (constitutional and/or legislative). This gender quota type regulates the number of women elected. The other two types: the legal candidate quotas and the political party quotas set a minimum for the share of women on the candidate lists, either as a legal requirement (legal candidate quotas) or a measure written into the statutes of individual political parties (political party quotas)."

Usually, the quota system aims at reaching the previously mentioned 30 percent female political representation in national parliaments. As the gender literature says: "The real question is, whether or not the nominated women are placed in a position with a real chance of election" (Dahlerup 2003, 4). The effectiveness of quota systems depends on the party list, where they place female candidates. For example, if there are 45 women out of 90 candidates on a party list it can mean an effective 50 percent gender quota but only if the so-called zipper system is used. A zipper system means that male and female candidates are represented alternately on party quota lists, which ensures equal participation for both genders.

Before going into details about Rwandan gender quota regulations, we first offer a brief overview of the political landscape, which is crucial to understand the "Rwanda experiment"[6] in general, and the post-genocide political realities in particular.

The Context of 'Election Democracy' and Identity Politics after 1994

Elections are key to democracy as they offer the citizenry a way to participate in the decision-making process. "The people participate primarily by choosing policymakers in competitive elections. Such elections are instruments of democracy to the degree that they give the people influence over policy making" (Powell 2000, 3). Elections, however, are not the only issue when democracy is evaluated, especially when system change is critically looked at. According to

[5]   http://www.quotaproject.org/aboutQuotas.cfm

[6]   This is the title of Anne Applebaum's 2011 article on slate.com.

Rustow's dynamic transition model, "certain ingredients are indispensable to the genesis of democracy. For one thing, there must be a sense of national unity. For another, there must be entrenched and serious conflict. For a third, there must be a conscious adoption of democratic rules. And, finally, both politicians and electorate must be habituated to these rules" (Rustow 1970, 361). "Serious conflict" in Rustow's argumentation represents a basis for democracy, as "even in the same country and during the same phase of the [transition] process, political attitudes are not likely to be spread evenly through the population" (Ibid, 345). A wide variety of social conflicts and political attitudes require debate and reconciliation. As long as politics "consists not only of competition for office, [but], above all, a process for resolving conflicts within human groups [...] a new political regime [may be] a novel prescription for taking joint chances on the unknown" (Ibid, 358). Taking the road to democracy involves therefore a "joint learning experience" resolving such conflicts.

In the case of Rwanda, there are some tough observations arguing that "Rwanda is not even a moderately functioning democracy," where the "regime fully controls the political landscape from the national to the local level" (Reyntjens 2011, 65-68). Others go back to the electoral origins of democracy, saying, "although the 2003 presidential and parliamentary elections in Rwanda met, by and large, the participation requirement of polyarchy [as defined by Robert Dahl], they failed to meet the contestation requirement" (Meierhenrich 2006, 632). Quoting Dahl, Meierhenrich underlined that "the right to participate indicates only one characteristic of systems, a characteristic that cannot be interpreted except in the context of other characteristics" (Dahl 1971, 5 in Meierhenrich 2006), and envisioned a "constitutional dictatorship" for the country.

Three years after the civil war that broke out in October 1990, a plan of transition from dictatorship (of President Juvénal Habyarimana[7]) to multi-party politics and free, democratic elections was worded in the form of the Arusha Peace Accords of 1993. However, the "power-sharing formula agreed upon at Arusha" (Lemarchand 2006, 4) turned out to be a failure. As long as context in general matters, among many of the reasons one directs our attention

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[7]   He was the third president of the Republic of Rwanda between 1973 and 1994 and built a totalitarian order.

to the "civil war context in which the Accords were negotiated […] the intense fears and anxieties felt by most Hutu in the face of the [Rwanda Patriotic Front] invasion, the mutual hatred […], and the climate of all-pervasive suspicion surrounding the Arusha talks" (Ibid, 5).

The New Rwanda programme of the transitional government from July 1994 advocated the desired national unity with a "nation of one people who refused the 'genocidal ideology' of the past" (Burnet 2008, 365). "Divisionism and harbouring a genocide mentality" (Hintjens 2008, 9) became one of the major points of reference for the government to keep order in society. In 2003, for instance, a "new set of thought and speech crimes were introduced into the law, including 'divisionism', 'ethnic ideology' and a 'genocide mentality'" (Ibid, 10). Demonstrating its strength, "with the motto 'Never Again' the RPF set about reconstructing Rwanda purportedly" (Rafti 2004, 6).

In a complex society "with four languages in current use [French, Kinyarwanda, English and Kiswahili] […], the increasing dominance of the anglophone 'Ugandans' […] it is no longer acceptable to refer to people publicly as Hutu, Tutsi and Twa." The complexity is further deepened by new fault lines reflecting "urban-rural differences, class conflict, regional tensions and the anglophone-francophone divide [that] all tend to be swept under the carpet" (Hintjens 2008, 13-14).

In such a political context Rwanda has been fostering an ambitious economic plan today along the Singaporean model. Behind the remarkable recovery and growth story, however, President Paul Kagame's argument that "control of the press, of politics, and of speech, was essential to the preservation of […] a fragile peace" (Applebaum 2011) makes us more hesitant to believe how much female political participation in the parliament or the government can really have a say in deep social changes , or as Bauer and Britton suggested, female legislative representation "may be used by political leaders […] to legitimize their agendas" (Bauer and Britton 2006, 22). In the next section we intend to look at this question more closely.

Gender Issues and Women's Political Representation in Rwanda

First of all, we argue that due to the series of events since 1990, Rwanda had to face a very difficult and complex situation. After the terrible genocide and civil war a demographic problem appeared: nearly 70 percent of the population were female (Powley 2003, 2). The country's women also went through serious hardships, and as a

consequence of this demographic imbalance, women found themselves in positions that used to be occupied by men. Women became heads of households, community leaders, and financial providers. Due to this problem, in the post-genocide period up until 2003 women's issues were put high on the political agenda. This political effort has two main reasons: one of them is the mentioned demographic imbalance, the notable majority of women in the Rwandan society. The other one is connected to the fact that the leadership wanted to establish an image that is democratic and preferred by Western donors; one of its basic elements was to enhance the equality between genders. Female representation in the parliament was around 25 percent at the time. In 2003, the country adopted a new constitution, which contained a specific clause on women's political representation. In the period leading up to the formulation of this new constitution women movements, NGOs, the Ministry of Gender and Women in Development (MIGEPROF)[8] and women parliamentarians played a very active role to achieve gender equality at the political level as well.

The country's new constitution was passed on 26 May 2003 after a referendum. It explicitly provides equal rights to all citizens of Rwanda and fosters the increased representation of "under-represented groups, particularly women and youth" (Burnet 2008, 366).

According to the constitution, women must hold at least 30 percent of the seats in the parliament. The regulation works in practise in the bicameral Rwandan parliament in the following way: "the Chamber of Deputies has 80 members, however only 53 of those (2/3) are elected directly through a closed list Proportional Representation system. Each list or each candidate has to have at least 5% of the votes. 24 seats are reserved for women, two per province, through indirect elections, 2 are elected by the National Youth Council and 1 is elected by the Federation of Association for Disabled" (Lutz 2005, 6). The Senate altogether has 26 members for an 8-year term: 2 elected by the staff of universities, 12 elected by provincial and sectoral councils, 4 appointed by the Forum of Political Formations, and 8 appointed by the president (Ibid).

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[8]   In the process of institutional reorganization in the aftermath of the genocide, the Ministry of Gender, Family, and Social Affairs (MIGEFASO) was created. Today, the ministry bears the name Ministry of Gender and Family Promotion and has the official website: http://www.migeprof.gov.rw.

Table 2 shows how this regulation has resulted in a substantial increase of women in the national parliament, and gone beyond expectations.

Table 2: Women in Rwanda's Bicameral Parliament between 2003 and 2013

	2003		2006		2008		2013	
	Seats	*Women*	*Seats*	*Women*	*Seats*	*Women*	*Seats*	*Women*
Deputies	80	39	80	39	80	45	80	51
Senate	20	6	26	9	26	9	26	10
Total	100	48	106	48	106	54	106	61

Source: Women in Parliaments: World Classification – Inter-Parliamentary Union. http://www.ipu.org/wmn-e/classif.htm

Besides citizenship, the 'A' level examination (this corresponds to a high school diploma) is also part of the requirements for eligibility. The 2003 constitution, in line with the Universal Declaration of Human Rights, assigns representatives from the two major ethnic groups (Hutu and Tutsi) in an equal, fifty-fifty proportion. The vulnerable and long-marginalized Twa pygmies (around 1 percent of the total population) have been struggling with their place in modern Rwandan society.

It is important to emphasize that women in Rwanda had already been active politically before the birth of the 2003 constitution. They had spoken up through several civic and local organisations for their rights and interests. Their role was further strengthened in 2000 when a constitutional committee with twelve members – out of which three were women – was set up and as a result, the committee placed particular emphasis on the promotion of women's political participation, on the strengthening of the role of women's movements and the elimination of widespread illiteracy among Rwandan girls and women. Judith Kankuze, the 'expert of gender' – whose name is mentioned in several pieces of the literature – helped the committee's work as an NGO representative (McGreal 2008). The different women's movements – among them the umbrella organization for different NGOs

called Collectifs Pro-Femmes[9] –, together with the female members of the parliament worked hardt for the new constitution, to get the necessary legal provision of equal rights for women. The preamble of the 2003 constitution refers to a number of international and human rights agreements and initiatives, which Rwanda also became a signatory of in preceding years (Powley 2005, 155). At this point, it is worth mentioning that the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), amended by the General Assembly of the United Nations in 1979, was also signed by the East African country. Shortly after the genocide ended the Ministry of Gender and Women in Development – responsible for gender equality, the improvement of women's rights and the protection of children's right – was formed and it has been widening its scope of activity ever since. The Ministry established the National System of Women's Councils. The local grassroots organisations operate parallel with the general councils. Each local council consists of ten persons, exclusively of women and deals with issues such as local professional trainings and the familiarization with women's rights (GCDA in Rwanda 2009, 12).

In 1996, the Forum of Rwandan Women Parliamentarians (FFRP) was also formed for the sake of fostering women's rights, to stop aggression against women; furthermore, it also works in favour of women's political and social participation. Representatives take part in the Forum irrespectively of their political affiliation and exclusively deal with women's issues (Powley 2007, 6). During the interim period following the genocide (1994–2003), the FFRP was the first organisation in the Rwandan National Assembly where participants conferred free from party interests.

The above-mentioned women-initiated actions could only succeed with the provision of the constitution offering a minimum of 30 percent of the representatives of the parliament to be taken by women. Not only does Rwanda rank number one in the world in terms of female representatives with its 64 percent of its MPs being women, but also other high-ranking positions such as the President of the

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[9]   The organization was founded in 1992 in Rwanda. The programme promotes non-violence and tolerance. It also helped in the rebuilding of society after the genocide.

Supreme Court or the Head of the Police are also occupied by women in the country.

Although the introduction of the new constitution has had an enormous effect on women's political representation, it seems to be problematic in certain areas. Many experts add that despite the progressive spirit of the Rwandan constitution (with equal rights, gender equality and women's representation) plenty of women's issues like land conflicts, overpopulation, female poverty, girls' dropping out of school, or early age pregnancy are still waiting for a change. Rwanda's case demonstrates that the most effective tool to increase the proportion of women in parliament is to set a minimum quota in the constitution. According to the 2009 gender report issued by the East African Community (EAC), as a result of the high level of female representation, significant steps had been taken in women's issues. For instance, since the new constitution took effect almost ten thousand jobs were created where the balance between male and female employees is compulsorily set (GCDA in Rwanda 2009, 14).

Another great step forward in the fields of gender equality has happened in the Strategic Plan for the Implementation of the National Gender Policy (SPINGP), which was adopted by the Rwandan Ministry of Gender and Family Promotion in 2010. "The National Gender Policy commits to: use the gender approach as a national planning tool; promote a social and legal framework conducive to gender equality in all areas of public, private and civil society life; promote the full contribution of women and men to the national development process; and promote a framework for exchange and partnership between all key players involved in the promotion of the status of the Rwandan women and men" (SPINGP 2010, 6-7). After giving an overview of the country's gender equality process up to the present day, the plan names the fields where gender promotion should be achieved. These areas are the following: improving economic conditions, consolidating good governance, improving women's and men's welfare, raising awareness on gender issues, mainstreaming gender in all development sectors, coordinating and regulating the implementation of a national gender policy. The plan also targets goals, which should be achieved in the next four years. Another strategic plan (Gender Cluster Strategic Plan 2010–2012) was also adopted by the Ministry of Gender and Family Promotion in 2010. This project complements the SPINGP and has focused more on how to put gender issues into practice.

In reality, however, as it has been previously underlined, the prevalence of real representation of women is much more nuanced. Several experts believe that it is the country's political system – i.e. the authoritarian regime dressed up in democratic clothes – that is the real obstacle to the genuine representation of women. The real representation of women would mean effective policy making and tangible outcomes on the many gender issues this paper also makes mention of – in a cooperative, joint effort of female and male parliamentarians. Jennie Burnet draws our attention to the growing authoritarianism, as a result of which, "female political participation represents a paradox in the short term," but she also stresses that "in the long term, however, the increased participation of women could prepare the path for their meaningful participation in a genuine democracy" (Burnet 2008, 363).

Women's Issues Still in Need of Action

We can agree with Greg Mills in stating, "Kagame's Rwanda offers much to admire" (Mills 2010, 176). Kagame has been a "donor favourite," as "one of a new breed of African leader […] [who] had embraced capitalism and were said to have understood the need for rigorous administration and good governance" (Ellis 2011, 36-37). Although Rwanda as a country has taken a huge leap forward, there are still some substantial women's issues such as land inheritance and conflicts, poverty, low life expectancy, education of girls, or overpopulation, that are awaiting a solution. We highlight some examples using the statistics of the United Nations and the World Bank.

Land Inheritance and Conflicts

In a patrilineal society like Rwanda, in which "sons have equal rights to acquire land from their father […] women's land rights have often been a source of conflict" (Takeuchi and Marara 2011, 124). It has been the case even more so taking into account that a large chunk of the country's population is heavily dependent on the land, "lives in the countryside and is engaged in agriculture" (Ibid, 119). The law that was introduced by the government in 2005 (Land Law) had to respond to the traditional discriminatory practice that did not favour women and female orphans. Besides clarifying the entire inheritance process, the law addressed "the problem of customary inheritance

and illegal practices that had deprived female orphans and widows from their rights over lands" (Uwayezu and Mugiraneza 2011, 2). Settling land tenure rights – as many other conflictual issues in the country – on the one hand strengthened and enhanced women's positions, but at the same time left the ground open to continued discriminatory practices, "which are prejudicial to women and due to the negative attitudes towards women's land rights," as the Rwanda Women Network pointed out in a Policy Brief[10] published in May 2011.

Poverty, Life Expectancy and Family Planning

In 2008, more than 60 percent of the country's population lived below the poverty line, less than 1.25 dollars per day, and 90 percent of the poor lived in the rural areas of Rwanda. One-third of the rural households were led by women, according to globalgiving.org. While in 2000 the GDP per capita was only 242 dollars, in 2010 this amount nearly doubled, and reached 540 dollars (Rwanda Country Report 2010, 23). The reduction of poverty as a crucial issue and one of the Millennium Development Goals is taken seriously by the Rwandan president, Paul Kagame, as indicated in the Country Report 2010 (Ibid, 20).

As one consequence of the 1994 genocide, Rwandan society has higher percentage of vulnerable groups in poverty. This phenomenon affects mainly the survivors, especially girls and women. Widows, imprisoned men's wives and raped girls all belong to this vulnerable social group. Undoubtedly, Rwanda's women society has more chance to become poor, which is confirmed by looking at the statistics: in 2006, 60 percent of the households led by women were below the poverty line (Rwanda Country Report 2010, 28).

The ratio of vulnerable working women is also higher than that of working men. In Rwanda, 44 percent of working men and 55 percent of working women live in poverty (Ibid). Statistics predict, however, that in the next decades the poverty gap between men and women will decrease.

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[10]   This is entitled "Women's land rights gains in Rwanda are eroded by cultural practices and negative attitude". http://www.landcoalition.org/ publications/policy-brief-women-s-land-rights-gains-rwanda-are-eroded-cultural-practices-and-negativ

Life expectancy is closely related health issue to poverty. Women's (57 years) and men's (54 years) life expectancy in Rwanda is still very low[11]. This means that the government needs to invest more into healthcare.

Rwanda is one of the most overpopulated countries of the world, and family planning represents another key question today. The total fertility rate is 5.4 per person, according to UN Data 2010.[12] To raise awareness about childbearing the government had a goal of increasing the usage of and the access to Fertility Awareness-based Methods. The family planning programme has been quite successful; the number of unintended pregnancies has been decreasing, and more women want less children. Family planning is a good method to reduce poverty because with the use of different types of contraceptives families have the opportunity to decide about the ideal size of their families, the number of their children.

Girls' Education

In the case of the whole of Africa there is a serious necessity for the application and success of educational reforms. Countries of the developing world in general are in need of knowledge and educated people in order to catch up, otherwise their regular trends and vulnerability would not change in the future. In order to receive the required education, however, it is undoubtedly necessary to establish an education system that is democratic, efficient, economically sustainable, and gives marketable knowledge to the African peoples of the 21st century. It is, therefore, of huge concern that in the region of Sub-Saharan Africa an outstandingly high number of girls drop out of primary school. Sub-Saharan Africa showed 54 percent of its girls leaving primary school before completion, according to World's Women (2010, 55). According to the data from 2009, in Rwanda, 94.2 percent of the girls enrolled in school (Rwanda Country Report 2010, 44), but the proportion finishing primary school is the lowest (under

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[11]   Resource of data: UN Data, see:
       http://unstats.un.org/unsd/demographic/products/socind/

[12]   Resource of data: UN Data, see
       http://data.un.org/Data.aspx?d=SOWC&f=inID%3A127

50%) in Sub-Saharan Africa. Reasons for dropping out of school include teenage pregnancy, the necessity to help with household chores (carrying water, collecting firewood), the high expense of school accessories, and the lack of integrating new female roles. Enrolling in primary school is compulsory in Rwanda and education is for free. According to a survey in 2009, 22% of women between the ages of 15 and 49 received no education at all (Rwanda Country Report 2010, 48). Much fewer girls commence secondary school than boys, and they also have worse results (GCDA in Rwanda 2009, 27). Thus, it is obvious that girls are in a much more disadvantageous situation compared to boys in terms of participation and success in education. The percentage of citizens with secondary or higher education qualification is exceptionally low. According to a survey made in 2007-2008, commissioned by the Rwandan government, 13% of men and 11% of women graduated from secondary school. Furthermore, only 1% of women and 1.6% of men finished higher education (Rwanda Country Report 2010, 44). It is a fact that the Rwandan government did a lot to encourage education and to decrease illiteracy among citizens. While in 1990 only 62.5% of children enrolled in primary school, this proportion rose up to 94.2% by 2008 (Rwanda Country Report 2010, 44). As Robert Rotberg underlines, "the future of Africa depends on advances in educational opportunity, on greater and greater access to enhanced schooling chances, and on ensuring that more and more of Africa's young – especially girls – are well educated" (Rotberg 2013, 55). This is obviously true in the case of Rwanda, too. In particular, as Jackson Kaguri, president of the Nyaka AIDS Orphans Project in Uganda emphasises, "you educate a woman means you would have educated the whole community" (Tarrósy 2013).

It is evident that educating young citizens locally, who are capable of acquiring innovative knowledge and keeping them within the country by establishing job opportunities requiring qualifications is in the best and basic interest of Africa. The resources of the continent alone, however, are not yet sufficient since it is still without the necessary amount of capital and the required quality of infrastructure, hence the engagement of the international community including international financial institutions is still needed to make improvements. In order to advocate education among girls, the following goals were set to be achieved according to the strategy plan of the Rwandan Ministry of Education between 2008 and 2012 (GCDA in Rwanda 2009, 28): improving girls' school results, decreasing the

number of school dropouts, developing school infrastructure and equipment, increasing the number of students enrolling in higher education, reducing the proportion of teenage pregnancies and assaults against girls, and spreading information regarding gender equality between parents.

Although there are even more similar fundamental issues that need special attention and care on behalf of the legislative and executive institutions of the state, the country has certainly departed from a hopeless past toward a bright future. Having been criticized by many as becoming more authoritarian since 2003, but functioning as a nominal democracy, Rwanda may expect the long-term benefits of greater female participation across the political spectrum. "The presence of women in the legislative, executive and judicial branches of government marks a significant departure for Rwandan society and the collective cultural imagination" (Burnet 2008, 382).

Concluding Remarks

In the post-genocide era a strong leadership has inevitably been imposed on Rwandan society. President Paul Kagame's ruling RPF was re-elected again with an overwhelming majority in 2010. The legal framework of the period, says Beswick, "has allowed the regime to equate criticism of the RPF government with support for the genocide, and thereby to delegitimize its critics and opponents" (Beswick 2010, 240). Even beyond the brutal cases, which have occurred to prevent opponents from political activism against the Kagame regime, many think that he "remains a visionary with a high order of analytical intelligence. His leadership has already brought real material and spiritual gains to Rwandans" (Rotberg 2013, 214).

Rwanda's "Vision 2020"[13] development plan – finalized in July 2000 – lays emphasis on the private sector so that the country can become the region's telecommunications hub. To be able to achieve this goal, the government focuses on human resources by developing capacities to transform Rwanda into a knowledge-based economy. This "capable state" obviously calculates with the active participation of women – both in the private sector and in the government. Today, Rwanda is "one of the few countries which is reaching the

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[13]   See among others: www.grandlacs.net/doc/4164.pdf

Millennium Development Goals," among which its government has been making efforts to get "more children into school by 2015" (Dowden 2009, 528). As shown, from this angle Rwanda still keeps girls' education high on the political agenda.

It is beyond doubt that the government and civil organisations still have a lot to do to change the traditional way of thinking about gender roles in society – to encourage families, for instance, to send girls to school. In Rwanda, "the inclusion of women in governance has changed public perceptions of women in governance roles and opened the doors to greater individual freedom for women in other aspects of their lives" (Burnet 2008, 382). Despite the exceptionally high number of women representatives in the national parliament, serious issues are still waiting for debate and a change. This means that in the case of Rwandan female politicians, whose proportion is well over the 'critical' 30% in parliament, can speed up the positive change in women's issues but they cannot solve them on their own. As long as women's voices have become louder and are heard more widely, irrespective of the authoritarian nature of the state, female political representation can in the long run influence the policy-making process. Other examples from the region such as Tanzania's also direct attention to the change the Rwandan case raised: "with more women in parliament, there has been a noticeable trend toward better articulation of women's issues" (Yoon 2011, 88).

As a summary of the major points, the high percentage of females in post-genocide Rwandan politics and politico-economic transition can be seen, as Helen Hintjens suggested in an interview, "at one at the same time as a) a manipulative tool to convince Western donors that the Rwandan government is genuinely progressive; b) as a genuine opportunity, something good that came out of the genocide, which was something bad; c) as a policy that reflects the reality that women do most of the work in most of the region, and d) as something that makes sense as a way to focus attention on something other than ethnicity."[14]

Rwanda's history of genocide and its heritage are hardly comparable with any other countries on the continent. From a policy-oriented perspective Rwanda can certainly be an example for other African

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[14]   The interview was recorded on 6 March 2014 via e-mail. See: Tarrósy 2014.

countries to open the arena for gender-sensitive policy-making. The long-lasting heritage of the conflict and the conflict itself "provided new opportunities to articulate debate about gender politics as well as for individual women to live in a different way" (Pankhurst 2002, 127). From other perspectives, for instance, with regard to identities, difficult and long political and social transformations are awaiting the country and its citizens. In connection with people's self-identification, as Wangari Maathai soundly put it, "while it may appear that the micro-national 'marker' [i.e. the ethnic identification to be Hutu or Tutsi publicly] has been removed [by the government], it cannot truly be extinguished. It will have to express itself one way or another" (Maathai 2009, 217).

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Rwanda – The Ambivalence of Modernity: From Colonialism to Genocide

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Within genocide studies, the concept of modernity often seems to be used with a particular kind of bias. In relation to the Holocaust, the literature insists on the modern qualities of the context and the execution, emphasizing the superiorities of modern technology and the cold and calculating nature of instrumental rationality, while the studies of more recent genocides, such as those exploring Rwanda or the fall of Yugoslavia, directly or indirectly point towards what is shown as a more atavistic conflict of a spontaneous, primal nature, thereby de-facto denying the modernity of not only the genocides, but also contexts as such (Neuffer 2002; Smeullers and Hoex 2010).

What is the problem with such a dichotomy? Apart from the obvious oversimplification of such categories, the division of the field into modern and pre-modern results in numerous other difficulties. Within the academic universe this strict division presents an obstacle to a coherent definition of the term genocide, as a significant number of authors have come to view the Holocaust as the only modern genocide and therefore the only one worth analysing, while dismissing the others as tribal and "natural". Furthermore, the unwillingness to include genocides such as Rwandan and Bosnian into the category of modern genocide prevents the identification of common factors within the broader category thereby obstructing the development of the comparative method, the only overwhelmingly useful method in the study of genocide. On a more depressing note, the practical use of such conceptualizations has contributed to the formulations of non-interference policies and provided a justification for allowing the genocides to carry on, as the idea of "ancient ethnic hatreds" and "outbursts of tribal rage" was used as an excuse by Western powers to not get involved.

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Rwanda: A Pre-colonial Modernity

As several important authors have noted, modernity brings with it an increase in violence, particularly violence as related to race (Bauman 1989; Arendt 1962). From the time when Islamophobia and anti-Judaism are modified in Isabella and Ferdinand's Spain by attaching the idea of darkness to the notion of otherness, thereby making it fixed and untranscendable through conversion, cleansings begins to take place. In Europe, through technological and medical advances modernity quickly resulted in overpopulation and a lack of resources which is why new territories had to be acquired through scrambles for Africa and Europe. Indeed, the pressures to acquire as much territory as possible, thereby securing the nation's place in the sun, resulted in panic and destabilization, but also in a decline of ethnic minorities and an annihilation of groups and languages, through assimilation, but also killing (Mann 2005).

Colonialism has, indeed, been one of the most harmful modernity projects, closely related to capitalism and enforced exploitation and social change. In Marx's view, it is an "instrument of wholesale destruction, dependency and systematic exploitation producing distorted economies, socio-psychological disorientation, massive poverty and neo-colonial dependency" (Gregory 2009). As the Europeans appropriated the social institutions within Africa, the indigenous population was left powerless due to the profits being repatriated to the colonial mother countries, leaving the places like Rwanda permanently underdeveloped and poor. What for Europeans was progress, for Africa was a step backwards as the development of the West was a direct consequence of underdevelopment of Africa. This process was, however, not only restricted to the exploitation of resources, but also resulted in the sophisticated and far more sinister colonial interference in African identity categories. The denial of African modernity through the insistence on indigenous barbarism via scientific racist theories has been the main tool of the colonisers to justify their oppression (Des Forges 2009, 624).

Indeed, the literature on modernity more often than not frames modernity as a specific period in the history of human race, a product of tendencies such as colonialism and industrialisation, which resulted in a transition of feudal monarchies towards capitalist nation states. Instead of traditional Gemeinschaft societies, in which the bonds between people were mainly ancestral, in modern, Gesellchaft

societies, the bonds are based on the rational, capitalist division of labour (Tönnies 1957). The nation state is, therefore at the very heart of the modern project which is occasionally portrayed as more sinister than the older forms of rule but is more often today commonly understood as a benevolent defender of human rights and a cradle of Western democracy. The institution of the nation state is, to a certain extent also a product of the French revolution and incorporates within its legal systems the values of Enlightenment. However, the Enlightenment's heritage is unfortunately reductionist and simplifying as much as it is emancipatory and liberating, while the racist idea of humanity's linear progress from simpler (tribal/underdeveloped) to more complex (Western/developed) forms of civilisation had been reproduced by the philosophers and is at the very heart of the idea of nation state. Indeed, after "cuius regio eius religio" became the norm, firmly established in the European context, the nation state becomes the superior player on the modernity's stage. It possesses a monopoly on violence, which moves away from the streets and into the realm of political negotiations, as the modern instrumental rationality with its absolute focus on the goal, becomes embodied in the state structure of bureaucracy which has a dehumanizing effect on societies through ultimately turning human beings into numbers. In short, the modern nation state is a complex state of surveillance which aims for the highest levels of social control; plans its goals rationally with certain disregard for the collateral and achieves them through a fragmented bureaucratized division of power. In spite of the fact that a number of these characteristics, including nationalism itself, might indicate that a nation state is, indeed, prone to violence, it is, more often than not, viewed as the highlight of European modernity, which was exported to the colonies. However, a closer analysis of pre-colonial Rwanda disproves this notion.

In spite of the theoretical accounts which emphasize the supposedly tribal nature of the Rwandan context, we find that, interestingly, some evidence of modernity can be found even in the pre-colonial period. Indeed, before the arrival of the Germans, by the end of the 19th century, Rwanda is a feudal monarchy with a complex bureaucracy and division of power between the different types of chiefs. In relation to the colonial re-organisation of the feudal system, particularly under the Belgians, the pre-colonial Rwanda is far more benign and offers more protection to its peasants as in the bureaucratic network of

"intertwined fingers" a serf could always find protection from one of the chiefs.

Overall, we can find five main indicators of early modernity in pre-colonial Rwanda (Mamdani 2001, 10; Prunier 1995, 21). Firstly, as mentioned, there was the complex bureaucracy with a significant fragmentation of power, comparable to the European monarchies of the time (Lemarchand 1970:119). Secondly, the state possessed highly sophisticated stately institutions, much like those in European parliamentary monarchies. The institution of Biru in particular, which consists of a council interpreting the will of the king, so that the decisions made are in accordance with the overarching profile and agenda of the monarchy can be seen as the African equivalent of the constitutional court. The third and the fourth indicator of modernity are related to the theoretical debates which consider a modern state as characterized by an increasing centralisation and ever more harsh levels of social control (Prunier 1995, 3). In relation to Rwanda, at the time of the colonisation the state has been expanding for almost two hundred years, incorporating more and more of the surrounding regions by force. Indeed, the evolution of Rwandan state towards modernity is followed by a direct militarisation of the state and the military becoming an influential factor in the decision making process, very much like, for example, early modern Prussia. In addition, at the time of the colonisation, the Germans were shocked by the strict levels of social control that they observed in Rwanda. Indeed, the bureaucracy provided a network used for monitoring and surveillance. Finally, the group identities did not precede the state formation, but were produced by the state - an obvious indicator of modernity. In pre-modern societies, the group identities in clans were created typically along family lines. In Rwanda, however, a clan represented a group of serfs (both Tutsi and Hutu) tied to a Tutsi feudal lord, who moved with him as he travelled. The identities were thus created along occupational rather than family lines, as is more characteristic for modern, Gesellchaft societies (Tönnies 1957). Applying the modernity theories to a context such as Rwanda is challenging, however, and creates resistance particularly because we are used to looking at it as a strictly European and Western cultural heritage.

Colonialism - Modernity Denied

The era of colonialism has brought a significant number of changes in the structure of the Rwandan state. In order to justify their conquests, the Europeans began promoting racist propaganda, which changed the ways the groups saw themselves. As we have seen, objectively, the Rwandan state showed certain indicators of early modernity in terms of state organisation in pre-colonial times. However, the Rwandans were only introduced to the idea of modernity as the highlight of linear progress with the arrival of the Europeans. A number of quasi scientific theories were imposed by the European colonialists in Rwanda with the aim of excluding Africans from the category of modernity, seen as the cultural property of the higher, European, culture, and presenting them as naturally simple and backwards.

The notorious Hamitic myth, a tool of symbolic violence, imposed by the colonisers, not only in Rwanda, but in other African countries, presented the existing societal aristocracy of the colony, in the Rwandan case the Tutsi, as descendants of European conquerors who supposedly brought civilisation to the inferior indigenous populations, but over time mixed with them, losing their skin colour, language and culture (Prunier 1995). This tells us two important things about modernity. Firstly, in relation to scientific racism, which is according to academic literature often defined as a typically modern progeny, we see that the supposedly scientific theories in this case rely on pre-modern tales based on Christianity, as the biblical story of Ham, a man cursed into slavery for embarrassing his father evolved from being used to justify serfdom in Europe to becoming a scientific justification for slavery and colonialism. Indeed, what we consider modern might often include elements of the pre-modern, which questions the validity of the idea that modernity is a unique and separate period in history. Secondly, through racialising the Tutsi aristocracy into the superior Nilo-Hamites and the Hutu peasants into inferior and slave-like Bantu, the colonisers in fact rejected any kind of notion of modernity or civilisation in Africa or anywhere else outside of Europe, locking the indigenous populations in the position of barbarity (Goldenberg 2003, 170; Whitford 2009, 173; Prunier 1995, 16). The denial of modernity is thus the main weapon of symbolic colonial violence and the racial categories it has created have persisted, constructing and maintaining tension and hatred between the groups, demonstrating that the importance of analyzing modernity lies in the

way it was constructed and used to keep certain groups in power, while oppressing others (Gourevitch 1998, 54).

Indeed, the refusal to accept Africans into the realm of modernity was a strategy of the white hegemony, which also becomes obvious in the colonial myth of tribalism. The concept of tribe is something that the colonisers used from the very beginning of their rule, an element used liberally in the writings of European travellers as well as academics. Indeed, the notion of tribe is difficult to apply to the Rwandans, not only because the inhabitants all share the same customs and understandings of the world, but also because all the contemporary literature, including the influential Des Forges, show Rwandan groups as classes and not ethnic or tribal groups (Des Forges 1999). In fact, the borders between groups were in pre-colonial Rwanda fluid and a Hutu could transcend the barrier by acquiring cattle, while an impoverished Tutsi would automatically become Hutu. In addition, as the state engulfed the surrounding regions, the cooperating elites in occupied zones would become incorporated in the Tutsi category, while the poor peasants would also become Hutuized, demonstrating that the process of inclusion was about status and not about blood or tribal kinship, as some theories imply. As we see, the idea of tribalism as the very opposite of what is perceived as modernity, is not only inadequate in explaining the social organisation of the Rwandan monarchy, but is also purposefully misleading in that it creates and perpetuates a racial bias, which affects the Western understanding of the entire African continent to this very day (Makunike 2008; Lowe 1997). The intentional transformation of classes into ethnic/racial groups and the infusion of racial categories with opposing values is, contrary to the arguments presented by the tribalism scholars, the key element in the development of ethnic hatreds. Indeed, Rwanda is an example of a context where no ancient ethnic hatreds between the groups are to be found prior to the arrival of the colonisers, demonstrating the unlikelihood that the theories of ancient ethnic hatreds as the cause of genocide are of scientific value. It was, indeed, primarily the colonial influence which created the hate in order to easier accomplish its divide et impera goals (Goldenberg 2003, 170; Whitford 2009, 173; Prunier 1995, 16).

In fact, the reality imposed by the colonisers was much harsher than the reality groups were faced with prior to colonisation, which confirms the theories linking Western modernity with an increase in violence. The Belgian "Les Reformes Voisin" not only reproduced the

dichotomy already existing in the society, but created conditions that intensified animosity between groups. In fact, while in pre-colonial Rwanda the Hutu had a number of ways of acquiring power and becoming accepted into the ruling class, such as becoming chiefs of the grazing lands, members of the Biru council to the King or advancing in the military which provided equal opportunities regardless of class, in Belgian Rwanda, the remaining Hutu chiefs were replaced by the Tutsi to such an extent that finally all the positions of importance were held by this group and education was reserved for them alone. In addition, the land, which was previously at the disposal of the Hutu who worked it was now privatized and given solely to Tutsi, with the peasants having little or no rights to the land. Finally, the new and harsh Western reality entailed a system of slave labour imposed on all the peasants. The Belgian Rwanda, as opposed to the German Rwanda was supposed to be a profit making colony, as the cruelty of capitalism was especially pronounced in the European treatment of the colonies during the second partition of Africa (Lemarchand 1970, 65-73).

In fact, contrary to the European insistence that they were bringing modernity to the colonies, in reality the group divisions created and maintained by the colonisers became a permanent obstacle to the modernisation of Rwanda. To begin with, the feudal system was useful to the Belgians, as it enabled them to exploit the country so they maintained it long after it would have been able to survive on its own, as the state wasn't able to develop naturally. Secondly, the scientific racist theories which claimed that only Tutsis were biologically linked with the Europeans, while the Hutu were racially slave like and fit for exploitation enabled a system in which the Tutsi became the racial representatives of the whites and the executors of the will of the colonisers thereby creating a permanent rift in the inter-group relationships. These imposed identities proved fatal not only in the way the Rwandan revolution unfolded, but were also highly relevant once the state gained its independence as they became an obstacle to the creation of a successful, unified nation state. Indeed, not only a unification of the Tutsi and the Hutu became problematic from the perspective of a cohesive state, but even a unification of Hutu was difficult to achieve as the colonial rule leaves them highly fragmented. As a consequence, the uneasy group relations would necessitate two things:

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one – the existence of the outside Tutsi enemy in the guise of the RPF[2], used to achieve a unity of the Hutu in the newly independent Hutu republic which only further deepened the fractions and two – the existence of an authoritarian, military state unable to progress towards democracy.

In relation to the latter, the persistence of the colonial administration in the period of independence also to some extent determined the relationship between the ruling elite and the people as the colonial administration was created to exploit, pacify and depopulate. Finally, and perhaps the only real opportunity for the opposing groups in Rwanda to find common ground was the Rwandan revolution. However, the actions of the Belgian colonisers prevented this from ever taking place. Fearing that an explosion of popular rage might put a stop to their influence in the region and that the groups might find a similar perspective in the form of communist thought, the Europeans decided to support the revolution thereby transforming their role in the eyes of the Hutu revolutionaries from that of the hated oppressor to that of a benevolent patron. The revolution was, thus robbed of its independence and transformed into just another colonial project, thereby greatly reducing its significance and ensuring persistence of group animosities (Lemarchand 1970, 93).

Sadly, even after independence, the colonial interference remained one of the decisive influences on Rwandan political reality. The pressures by the International community for the state to democratize only resulted in the creation of a more stressful atmosphere in a country already hit by vast economic problems. On top of this the postcolonial influences of the Western dominated International Monetary Fund whose Structural Adjustment Programmes proved disastrous in large parts of Africa, resulting in dubious economical solutions and a devaluation of the Rwandan Franc, while international projects which were supposed to ensure self-sustainability, like the deforestation project of the World Bank, destroyed the little resources the country had left (Des Forges 1999, 97). Indeed, in relation to the theories which define modernity as linked to democracy and liberal values, it is important to point out that instead of bringing the progress they promised, the colonizers in fact represented a significant obstacle to

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[2]   RPF- Political and military organisation of Rwandan Tutsi, located in Uganda and with the aim of returning to mother land.

actual modernization of the state not only during their rule, but also later through post-colonial actions of agents of global capitalism such as the IMF and the World Bank.

Genocide – the Ambivalence of Modernity

By the end of the eighties the economic crisis in Rwanda was overwhelming and the ruling elites, pressured by the International Community to enter a power sharing agreement with the Tutsi refugee military organisation RPF, were willing to do anything to remain in power. The violence can therefore not be said to have erupted, but was, on the contrary organised, which is why the Rwandan genocide must be included in the category of modern genocide. The role of the nation state in modern genocide is here of key importance as it was the state that planned the genocidal venture, prepared the population through targeted use of genocidal propaganda, trained the civilian defence, distributed weapons, used the efficient bureaucratic apparatus to carry out orders and so on. Indeed, the decision to develop violence was a rational decision made by the modern Rwandan elites. In fact, in more ways than not, and particularly in relation to mass participation, efficiency, racist propaganda etc, the Rwandan genocide is quite similar to the Holocaust.

As we have seen, and contrary to what the tribalism scholars claim, the genocide in Rwanda was not a spontaneous outburst of ancient hatreds. Of course, the group animosities greatly preceded the violence, but they were always created and imposed from outside and needed to be maintained, first by the Belgian colonisers and later by Rwandan ruling Hutu elites. The demonization of the RPF was the key tool in the creation of conditions for violence and in the years of genocidal propaganda the local Tutsi population would become purposefully identified with the outside enemy through targeted efforts of the virulently racist RTLM radio station and newspapers such as Kangura. The Rwandan genocide was, indeed, as other modern genocides organised by a modern nation state and there are numerous arguments to support this (Mann 2004; Des Forges 1999, 1). Primarily, a refusal to participate in the violence was punishable by death which provides an explanation for the mass participation and highlights the fact that modern genocide entails a creation of a mass nationalist movement. Secondly, the killing was presented as a patriotic duty demonstrating the influence of modern propaganda strategies in

nationalist projects. Thirdly, the perpetrators were trained by the state and the so called civilian defence was in its totality organised and prepared not only by the Rwandan army, but also by the French. Efficiency, a thoroughly modern obsession has been one of the main characteristics of the Rwandan genocide, probably even more so than in the case of the Holocaust. Finally, legal papers documenting proper conduct had to be signed by all who owned weapons and those who stood at the barricades, but most of all it was the level of social control which allowed the decisions from the top to be swiftly executed on the ground through a complex bureaucracy which was utilised as a sophisticated tool of surveillance (Robbins 1999, 269-274; Mann 2004; Des Forges 1999, 1; Lemarchand in Totten 2008, 405; Destexhe 1995, 36).

The existence of a bureaucracy is, indeed, a sure indicator of a modern state and as we mentioned earlier a structure of this type was already existent in Rwandan monarchy in pre-colonial times, indicating a presence of elements of modernity, ironically not related to the arrival of the Europeans. However, the importance of bureaucracy for the study of genocide is of even bigger importance. According to Arendt, the bureaucratic structure was in fact developed in the colonies and with the purpose of control and exploitation, which is why this form of structure is suitable for the execution of genocide (Uvin 1997, 95; Arendt in Mamdani 2001, 19). As Weber famously argued, it is the iron cage of rules and commands within the structure based on cold rationality that excludes the notion of empathy from that which is permissible and dehumanizes individuals turning them into numbers. In accordance with this, the Rwandan archives were used to trace the lineage of the citizens, identify the victims, and legally prevent them from moving in order to save themselves thereby turning bureaucratic regions into de facto concentration camps. The Rwandan final solution is therefore an attempt to create a utopia where problems of the past will no longer exist and the Hutu will be able to live in a racially pure universe where they will never again be exploited.

Interestingly, this is what gives the Hutu struggle a sort of proletarian ring, even though the genocidal plan is, of course, entirely sinister (Des Forges 1999, 42). In the Hutu nationalist propaganda, the Tutsi were shown as retrograde rulers of the traditional and exploitative kingdom, while the Hutu were shown as modernizers who introduced the Republic. Both the Rwandan revolution and the genocide have been portrayed as attempts to prevent the regressive Tutsi

monarchy from regaining influence over the Hutu majority. The Hutu struggle for justice, as the genocide was presented, is thus framed as the fulfilment of modernity as the genocide is committed in the name of majoritarian democracy. In other words, both the revolution and the genocide should thus be seen as an attempt to reclaim modernity, which has been so long denied the Hutu. However, this attempt is still on colonial terms as it takes place within the colonial categories. Although the political scene has witnessed the reversal of the Hamitic myth, the arguments justifying genocide are still based on the scientific racist imagery. While they were previously, in the colonial fantasy, seen as glorious descendants of European conquerors, the Tutsis are now seen as outsiders and colonisers who should go back to where they came from, while the Hutu are now seen as the indigenous population with the sole right to the land. The application of the Western idea of majoritarian democracy, which the Hutu nationalists have relied on to create a new power structure is of questionable validity and potentially dangerous in ethnically mixed contexts, as it was also seen in the Yugoslavian wars, where the violence was, among other things, a consequence of the groups' unwillingness to become reduced to a status of minorities.

On the other hand, as much as Rwandan genocide was about reclaiming modernity, attempting to change ones position in relation to the norms of the West and framed in the Western gaze, on another level, Rwandan genocide is also about rejecting modernity because it was introduced by the colonisers. Indeed, pre-colonial Rwanda showed some signs of modernity, but it was only introduced to the concept as a part of the colonising project, a symbolic weapon of the white Bazungu[3] which managed to create an untranscendable rift between the classes. In the caricatures of the Hutu power newspaper Kangura, we see that the Tutsi are shown as representatives of the white man and his modernity, a city people, usually businessmen, corrupt and without morals. The Rwandan republic has constructed itself, particularly in the age of Habyarimana, as opposite of what was understood as Western values: traditional, simple, hard-working, with a cult of peasantry and sacred soil, while the West was seen as amoral and corrupt (Verwimp 2001, 17). Indeed, one of the reasons independent Rwanda never fully liberalized was because opening the

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3   Bazungu: The White fathers.

doors to foreign influences, would, again, mean exploitation, which took place, nevertheless, in the form of the post-colonial influences of the IMF, the WB and the UN. Participating in modernity therefore meant accepting a world hierarchy in which ones place is necessarily at the bottom and the roles are not likely to be re-defined. Totalitarianism has therefore been the only logical option and the isolation from the world was seen as protective, so liberal modernity was rejected in favour of political survival. The trauma of the colonisation seems so huge now that it is insurmountable. As a result, the key ideologists of genocide and those whose visions of the future provided the basis for the genocidal project, envisioned the genocide as a holy act of purification which was not supposed to bring about a completely new society of the future, but was, on the contrary, supposed to resurrect a pre-industrial paradise of the past. If, as Giddens claims, modernity is about looking towards the future, while the tradition is mainly preoccupied with the past, then even though totalitarian systems are often said to be typical for modern times, they, in fact, represent attempts of nations to remove themselves from the threatening influences of modernity, which is seen through inequality and Western exploitation. Historians like Ferdinand Nahimana romanticized ancient Hutu kingdoms which existed before the arrival of the colonisers. The very idea of genocide as a retreat to a pre-industrial utopia implies not only a refusal to participate in the modernity of the present, but also a refusal to move towards a future which entails the inequalities of globalisation (Kiernan 2007).

In the essence of ethno-nationalism we again find a rejection of modernity. A regression into pagan values and superstitions, warrior mentality, an obsession with soil and an irrational, mystical, death oriented cult of tradition is typical for Rwanda, much like all 20th century genocidal contexts, for the simple reason that a retreat to the past, even if that meant inventing it, seemed like a better choice than accepting the adversity of the present. Imperial revisionism and the need to look to the past for answers about the future is indeed not often accepted as modern, it is, rather, a subconscious withdrawal from modernity. The need to retreat to the safety of ancient times is at the core of modern genocide. Indeed, genocide is an attempt to recreate a pre-modern state of affairs through the use of modern tools. Even underneath scientific racism, this typical progeny of modernity, we see pre-modern values of White Christianity.

Conclusion: The Disillusionment with the Modern

As we have seen, the African experience of modernity is closely related and inseparable from the experience of colonisation. As Arendt states, genocide was, indeed, taught in the colonies and the links between the Herero Nama genocide and the Holocaust are now with certainty established (Arendt in Mamdani 2001, 19). In addition, the rule of the colonisers was particularly disruptive to indigenous populations due to creation and naturalisation of inequalities between groups and thus the establishment of a foundation for future violence. In Rwanda, the transformation of classes into ethnic groups took place as a result of the colonising influence and scientific racism which replaced arguably less violent religious stereotyping in Europe. The colonial heritage in Rwanda not only created confusing identity categories, inter-group animosities and a false history account, but also made the development of a solid nation state extremely difficult with too many differences between groups resulting from foreign occupation. Ethno-nationalism was in such contexts adopted as a logical choice, in an attempt to force a unity through rigid and authoritarian rule and organic identity models, but this has sadly proved itself to be counter-productive.

In relation to Rwanda, we must conclude that both the context and the genocide demonstrate key signs of modernity, as defined by the key modernity theorists. The context is a modern nation state, with roots in a modern nationalist movement, relationships within society based on occupation, not descent, state bureaucratisation and fragmentation of power, functional parliament, monetary system and a heritage of enlightenment: education for all – a Gesellschaft society in all aspects. In addition, centralisation and authoritarianism found in the genocidal Rwanda, along with orderliness, organisation, discipline, the high work ethic, surveillance, control and efficiency, are all indicative of modernity in this context. In order to accomplish genocide, the power of a modern state was utilised, state apparatus, bureaucracy, state military power, including technology, state authority, state organised para-militaries and state issued propaganda, all reflecting a top-down execution which is why the violence should in no way be seen as a result of ancient tribal rivalries or a spontaneous outburst of primal rage.

Other evidence, however, indicates that modernity is rejected by the genocidal context. Indeed, the genocidal ideology is an ideology of

social frustration and it rejects the liberal principles of enlightenment. Rwanda had difficulties with political modernisation and the development of a nation state due to the confusing identity heritage of the foreign rule, but also other harmful influences particularly by the West, which intentionally attempts to keep relevant others in a position of dependency, so instead of transforming the societies fully and allowing a liberalisation of the rule, the genocidal state was forced to turn inwards towards authoritarianism, as a consequence of which it politically matured only slowly, retaining certain characteristics of more traditional times.

Genocide is, however, not only about the retention of tradition due to an inability of the state to evolve, but also about an outright rejection of modernity as a threatening force and a weapon of white hegemony. Indeed, a rejection of modernity on several levels can be found in this context: rejection of modernity as western capitalism, rejection of modernity as Americanisation: the domination of western culture and customs and rejection of modernity as colonialism or post-colonialism in regards to the harmful economic policies of the World bank, the IMF etc. Indeed, implicit in this context there is a critique of modernity and inequality that comes with it, which we also see today in relation to globalisation. Modernity is also rejected as democratisation, which is introduced by force and international pressure through agents of globalisation. The way in which the genocidal dictators, like Bagasora have ascended to power also indicates a complete lack of respect for democracy, as genocidal states are hijacked states, an opposition to democracy both in ideology and in praxis.

In this respect the vast economic crisis, a result of the instability of modern capitalist markets and the threat of the disintegration of the nation state, but not the age-old hatreds as it is sometimes claimed, must be emphasized as the main pre-conditions for genocide. It could thus be said that modernity to an extent betrays its promise of emancipation and equality and instead of progress causes the stress that results in a state regression into more primitive and conservative forms of rule. The idea of linear progress is here challenged. After all, Enlightenment is followed by Counter-Enlightenment as the enlightened age of reason is followed by romanticism's focus on emotion. The human race does not necessarily progress towards better and more complex forms of rule and the idea of modernity as a higher culture reproduces inequality and western hegemony, much like the idea of race always implies a dichotomy between superior and inferior races.

In accordance with this, in spite of the fact that Rwandan genocide seems to fit well into the category of modern genocide, the question is whether modernity as a category is useful in relation to scientific research. Modernity, seen as a time frame seems to incorporate elements of pre-modern or anti-modern quite often, as a strict line between the periods or tendencies is impossible to find. Both totalitarian utopias and organic nationalist philosophy in general, contain within them elements of the pre-modern, nostalgia for the pre-industrial past and a focus on agrarian, Gemeinschaft models of belonging. The very idea of modernity as an objective scientific category seems therefore meaningless as even the types of prejudice used in genocidal propaganda rely on the pre-modern stereotypes enforced by Christianity. Modernity seems to be a cultural property of Western imperialism creating a dichotomy where those removed from the centre of power and exploited by the powerful are constructed as primitive and barbarian, thereby justifying the exploitation. The question is therefore not about what modernity is as an objective scientific category but how it is constructed and how it is used by the powerful to maintain inequality and how it is both desired and rejected by the powerless in a desperate attempt to regain influence in internal matters.

The reason for this is that modernity in Rwanda and other genocidal contexts is introduced through both physical and symbolic violence, while the foreign influence was maintained even in the era of independence and represented a real obstacle to the liberalization of the state. Indeed, modernity seems to serve not only as an identity frame which maintains the global hegemony of the West, but is generally adopted to construct symbolic violence, as even the perpetrators of genocide use it to identify themselves as superior contrary to the "barbaric otherness" of their enemy, and this is a type of binary opposites that are typical both for romantic nationalism, but also for the supposedly rational enlightenment. Ironically, the dichotomy between the civilised "Us" and the "barbarian" others is not at all modern, but stems at least from the time of classical antiquity.

Overall, Rwanda is characterised on the one hand by the need to reclaim modernity, to be accepted in the world of the white fathers on equal premises, to disprove to the world the idea of African backwardness, but on the other hand there is a deep hatred for modernity which cannot be understood as other than a symbolic frame of reference which reproduces inequality, violence and exploitation. This is why the totalitarian ideology of Rwandan genocide attempts to retreat

to the traditional safety of imagined ancient kingdoms; it does so in an attempt to remove itself from the unjust world of white modernity. Genocide is thus an attempt to, through the use of modern tools; re-create a pre-modern paradise, so the annihilation at the heart of it is not only an annihilation of a people but an annihilation of modernity as well: both modernity that means white superiority, but also modernity that implies co-existence.

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African Tradition vs. Western Modernity Conundrum in Post-Apartheid South Africa: A Case of the Traditional Courts Bill

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Introduction

The watershed and historic moment of the first national democratic elections in 1994 not only marked the culmination of an arduous transition period in South Africa but also initiated the establishment of a mixed polity (Williams 2010). The country's transition from settler colonial rule to a democratic dispensation brought to the fore a myriad of value contestations between the past that was strongly embedded in an authoritarian racist social and political order on the one hand and an imagined inclusive future that promised to embrace both African heritage and Eurocentric modernity at the same time. While the Constitution of the Republic (Act 108 of 1996) provide for both western individualism and a more nuanced African traditional communal existence, in practice the chasm between the two value systems is far from being resolved. A clear example is entailed in the case of the Traditional Courts Bill (The Bill) which was introduced to South Africa's parliament in 1998 and is yet to be formally adopted or totally rejected in April 2014. The Bill, the paper asserts, represents an impasse that can be understood as symptomatic of the unresolved interface between African and western value systems in this South Africa and the African continent in general.

The paper draws largely from existing theoretical literature as well as from policy and legislative provisions in South Africa and elsewhere in the African region to explore the epistemological contestations manifested in the tension between the African collectivist notions of justice and the western individualism approach implied in the debate about the Bill. The paper is part of an ongoing inquiry into

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the complex nature of the *tradition - modernity nexus* in post-apartheid South Africa. While this paper departs from a theoretical analysis, future research will explore empirical experiences and conditions towards identity contestation and formation within the realm of tradition and modernity in post-apartheid South Africa.

The paper draws a sharp distinction between Eurocentric/western modernity and African tradition as the two value systems in perpetual conflict in the post-colonial South African transformation narrative. It is argued in the paper that the language of 'rights' embedded in the modernity discourse and that of 'culture' often associated with African tradition are not necessarily always mutually exclusive and inherently conflictual. The solution to this impasse, as Mamdani (1996) suggests, lies in sublating both, through a double move that simultaneously critiques and affirms and which further problematizes each of the value systems within the historical context of power and resistance in society.

Traditional Courts in South Africa

Defining Traditional Courts

Traditional courts and their contested functioning and role in the post-apartheid period in South Africa stand as a crucial point for reference for this paper. Equally important is the notion of customary law through which traditional or customary courts are to be understood and which laws these courts seek to enforce and protect. The paper uses the terms *'traditional courts'* and *'customary courts'* interchangeably as they are essentially referring to the same institution in the context of this paper. As a point of departure, Chapter 12 of the Constitution of the Republic (Act 108 of 1996) provides the broad context and recognition of traditional leadership and the institutions thereof. The Constitution further notes that traditional leadership is provided for at local level subject to other Constitutional and legislative provisions that may deal directly and or vary with aspects of customary law and in which case the Constitution prevails as the supreme law of the Republic.

The Bill seeks to re-establish an old African traditional practice and a diminishing heritage of traditional courts in rural communities that are part of traditional authorities. It is also intended that these courts will be formally integrated into the formal justice system.

A traditional or customary court is defined in the Bill as a formal court institution which is established as part of the traditional system and which functions in terms of customary law and custom. The Bill further states that such a court is presided over by a king, queen, senior traditional leader, headman, headwoman or a member of the royal family who has been designated as a presiding officer or similar by the appropriate government Minister. Such a court usually includes a forum of community elders who meet to resolve any dispute in the community. The Bill further recognises that proceedings in these courts could be conducted in any of the indigenous South African languages.

Background to the Traditional Courts Bill

Koyana (1997, 126) argues that before the advent of white rule in Africa, customary law was the legal system that sustained the people, that it was without external challenge or competition and further that it sufficiently met the needs of the community as it were. Skosana (2011) further points out that evidence exists that the traditional justice system is the oldest formal organisation of the state and society before the formation of the modern government. Skosana (2011) further demonstrates how the Black Administration Act of 1929 became the bastion of apartheid policy segregation through which the institution of traditional leadership was perverted by the white minority apartheid government to maintain and enforce apartheid ideology and laws. In this context, the introduction of the Traditional Courts Bill[2] could be seen as arguably one of the most critical pieces of legislation towards restoring the dignity of the African populace since the dawn of democracy. Ntlama and Ndima (2009) points out that the Bill is set against a wave of continental imperatives to undo decades of colonial and apartheid distortions on African traditional justice systems and offer a potential path of renewed growth and development.

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[2] The Bill [B1 - 2012] was originally introduced in the National Assembly in 1998 and then withdrawn for the first time in June of 2011. By April 2014 it had been referred back to provincial legislatures for a record fourth time by the Select Committee on Security and Constitutional Development due to disagreements and objections at different levels of the legislative consultative process and may also have possibly faced a Constitutional Court challenge if adopted in its current form.

Since the Bill has been introduced into the formal legislative consultative domain there has been many voices contesting the original form and content of these courts. There have also been concerns whether such will be consistent with other human rights provisions in the Bill of Rights[3] and the Constitution at large. The discussion about the Bill is but one of many such debates that have raged on since the fall of formal apartheid rule in South Africa, which is to some extent, comparable to similar questions which had been raised in other countries in the African region, i.e. basically whether and how to incorporate African traditional law and practices into the mainstream [*and very often western influenced*] development agenda?

As is the case and experience in many African states after independence, the post–apartheid government in South Africa sought to re-establish and preserve these institutions through formal recognition. Although essentially disputing the current Bill and arguing for an approach that generally subjects traditional courts to the vicissitudes of modernity and the liberal human rights discourse, Williams and Klusener (2012) provide a useful and elaborate analysis of various experiences of formalising or recognising traditional courts in the African region (i.e. Tanzania, Zambia, Zimbabwe, Mozambique and Ghana) and conclude that:

- South Africa is not the first or only country in the African region to grapple with how to preserve the value of traditional courts after independence
- Traditional courts may provide useful dispute resolution mechanisms
- Eradicating them completely may not be effective, as they may continue to operate parallel to the official system
- The more effective models develop traditional courts into community courts, providing more training opportunities for inclusion by participation and in decision-making

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[3]   Chapter 2 of the Constitution of the Republic (Act 106 of 1996), referred to as The Bill of Rights, provides for both 'western styled' individual rights and variations of communal and cultural rights espousing an authentic African oriented heritage.

The comparative analysis by Williams and Klusener (2012) is useful in contextualising the debate about the Bill in South Africa. A major shortcoming in their analysis may be that they take it as a given and non-problematic, the location of their analysis within the broader human rights discourse that is embedded in the neo-liberal modernity paradigm. This assumption ignores the possibility that African traditional systems and institutions could be understood differently if explored within the logic of African traditions as trans-modernity and as rationality outside western modernity. This point is expanded further in the concluding section of this paper.

Traditional Courts in a Developmental Context

Very often the formal collapse of colonial regimes has resulted in a confused, varied and sometimes with competing expectations about what form of development trajectory a country assumes post colonial conquest. While there has always been a consensus about poverty and inequality as a priority in post-colonial Africa, there has often been less clarity and consensus on how to deal with the broader fabric of transformation. Even more troubling has been the question of diminished or adulterated African heritage and how it should get replenished and made part of the ongoing social and political fabric in the new polity. It may also suffice to indicate that the *colonial* and *post-colonial* characterisation in this context refers merely to the historical periodization of the relationship between Africa and Europe in terms of colonial conquest and the political independence thereafter.

In South Africa the negotiations and outcome towards a political settlement leading to the 1994 watershed moment seem to have managed, to some extent, to weave a middle ground that sought to accommodate most of the powerful interests at play during the negotiation and resulting transition phase [i.e. strong nationalist liberation movements and former settler colonial rulers as the two main interest groups]. Notwithstanding the good and well-meaning intentions of those who crafted the new dispensation (at least in theory), tensions have continued to plague and in a few cases even polarise the country's transformation narrative. These tensions may be arising partly from the fact that the Constitution of the Republic has all but laid a foundation for the recognition of both value systems without providing a clear framework and attendant details on how the interface should be interpreted in everyday life. This paper

therefore suggests that the Constitutional framework should or ought to be considered *'work in progress'* and at best, maybe that its founding architects understood the difficulty that lay ahead in resolving some of these tensions and probably hoped that future generations will navigate and find their own way[4].

It is clear from the debate about the Bill that one cannot escape the interconnectedness between tradition and modernity in South Africa today. The theoretical boundaries often drawn between the two value systems are likely to be blurred and often intertwined in everyday life. It is also clear that without understanding the historical context of South Africa very little progress is possible towards adapting the many 'colonially inspired' formal practices and institutions with the experiences of ordinary citizens across society.

This paper departs from a simple observation that, very often the debate about modernity and African tradition tends to contrast western modernity with African tradition as two opposite ends and many a time modernity is assumed to imply human progress. The assumption inherent in this equation ignores the central role played by tradition in the very fabric of industrially and economically developed western societies as well as the very synthetic nature of the development processes in society in which neither modern nor traditional institutions and practices can remain unchanged over time (see for example El-Shakhs and Lutz, 1982 and Said, 1993). It is very possible that beyond or without the colonial encounter, African tradition could have evolved into a different epistemological path other than as an appendix to European modernity, especially given the overwhelming regime of evidence that western modernity consciously and often violently sought to adulterate and modify African tradition in its own interest during and post-olonial period (See for example Mamdani, 1996; Myers, 2008 and Adjaye and Misawa, 2006).

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[4] South Africa's Constitution and the democratic dispensation itself is a product of a negotiated settlement mainly between white minority former settler colonial rulers and the nationalist liberation movement group led by the African National Congress. A number of compromises and sacrifices were made as a result to apiece each of the many fiercely negotiating parties during the formulation of the country's new laws and governance framework leading to the dawn of democracy in 1994.

Tradition and Modernity in a Historical Context

Adjaye and Misawa (2006) distinguish between three discernible historical phases through which the institution of chieftaincy in Africa can be analysed. These are defined as pre-colonial, colonial and post-colonial phases. While the pre-colonial phase has a complex but useful historical narrative and framework for us to locate and discern institutions of justice and the rule of law, it is the colonial and post-colonial phases that primarily concerns this paper. In the South African context and the African region to a large extend, chieftaincy and its associated institutions have been used as local proxies for administration by the colonial empire due to their proximity to and ability to exercise economic, political, social, spiritual and moral control over African communities (Myers 2008). This phenomenon (of turning traditional leadership institutions into a colonial local proxy) has been referred to as *'indirect rule'* or devolution (Adjaye and Misawa 2006). In the British colonies it primarily involved the British Colonial Office allowing the continuation of traditional leadership structures through which the empire was able to administer control over the colony and its regions (Myers 2008). Interestingly, as Mamdani (2008) observes, where customary laws were in conflict with colonial laws, it is the colonial laws that simply and unquestionably took precedence over customary laws.

Myers (2008) points out that the origin of indirect rule can be traced back at least as far as the 1850s in the thinking of colonial administrators in India and Natal, though its best known application and elaboration was in the administration of Northern Nigeria under Frederick Lugard in the early 1900s. Myers (2008) further indicates that the indirect rule's basic premise was simple: rather than building from the ground up wholly new forms of government in colonised territories, British sovereignty would be layered atop of existing indigenous institutions. African elites would continue to rule over the day-to-day affairs of the subject population, though always under the oversight of the colonial governor.

The notion of indirect rule is important to understand in that it lays bare the nature and character of chieftaincy and its associated institutions in the colonial era. It is also useful to understand the dynamics of power and control during the colonial period and how these were shaped and in turn they themselves shaped the institution of traditional leadership. It is in this context that most traditional

courts were functioning during the colonial period and thus most likely the basis upon which the current efforts to revive them may have been partly located. It is however important to note that oral traditions and other forms of knowledge production and codification in African communities, of which traditional leaders are generally custodians, were used in the consultative processes towards formulating the Bill.

Indirect rule in South Africa seems to have emerged and solidified against a continental tide where this form of colonial control was actually being undone through independence. Mamdani (1996) refers to this unique development as *'late colonialism'* in South Africa. Combined with the myriad of settler-colonialism (a unique type of settler occupation unparalleled in the general colonial experience in the African region), late colonialism in South Africa meant that the South African white minority ruling elite saw the enclave of 'tribalism' as a justification to pursue separate development at all costs. After all, *Africans seemed comfortable in the tribal scheme and pushing them into adopting European models of civil liberties will be to 'undermine' their own preferred ways of social and political organisation* (a view strongly emphasised by Jan Smuts, in Mamdani 1996, p5).

Mnisi (2012) estimates that the Bill will affect approximately 17 million people in South Africa, most of whom are rural women. Mnisi further points to some research evidence that shows customary courts to operate in ways that are starkly different from the model adopted in the Bill. The argument advanced by Mnisi is that government has failed to provide a suitable framework that is consistent with the Constitution, especially the sections in the Bill of Rights which specifically relates to women's participation and gender equality. She further points out that some of the terminology and titles used in the Bill, e.g. a Presiding Officer, are directly borrowed from modern western law and may not be consistent with the very community driven and people-centred nature of customary courts as they functioned in the past. This is so because a 'Presiding Officer' espoused in the Bill is bestowed with certain decision making powers that are embedded in individually subjective and discretional rather than 'consensus-based' approaches as was the case in historical African communal settings. If one was to interpret the powers of these 'Presiding Officers' in the context of an evolving and highly contested social fabric, the argument goes that it could as well suffice that among other things gender, class and religious power contestations could play themselves out in

the process of adjudicating or dispensing justice. There are many other contestations and objections to the Bill by lobby groups, it is important to note that most of them argue from the premise of a liberal rights–based discourse.

Ntlama and Ndima (2009) provide a slightly different take on the Bill and its intentions. For them the Bill attempts to intertwine two principles, i.e. enhancing the role of traditional leadership and building the institution of customary and indigenous law at the same time. It is important to make the distinction between the two principles explained above in order to locate the contours of the current debate about the Bill in South Africa. For its part, the argument by Mnisi (2012) and other similar engagements with the Bill departs primarily from a liberal rights-based principle and therefore possibly avoids the broader African traditional value system and context as a precursor to this debate and discourse. As argued earlier in the paper, Ntlama and Ndima (2009) posit their analysis of the Bill within the possibility of undoing the distortions effected on African traditional justice systems by western modernity during the colonial period. Skosana (2011) further argues that the enactment of the Bill will enhance access to justice to vulnerable, poor and marginal communities by providing an alternative dispute resolution mechanism to the retributive western justice system and also that the flexibility, local language usage, communal participation and reliance on community values as well as its restorative justice approach will resonate far much better with these communities than the contemporary western formal justice discourse.

Towards African Tradition as Trans-Modernity

Instead of conceptualising African tradition as 'deficit', the paper proposes that diminishing African heritage such as customary courts should become part of an organically unfolding identity formation discourse. It is noted in the paper that what is termed 'African tradition' refers to a multitude of practices that are neither inherently and organically static nor geographically confined to one part of the continent or region. The aggregation is made for purposes of making a distinction between two main broad value systems under review in this discussion. It is therefore equally important to point out that modernity in this case is a summation of practices and a world view that spans many imagined geographic and temporal spaces but that essentially originates in Europe and whose orientation is towards an uncontested

Eurocentric world view. It is further noted that in interrogating how to replenish diminished African customary practices, we should not fall into the trap of easily romanticising (in the case of African heritage) or demonising (in the case of western modernity) the past.

It is by recognising the historical power matrix and context that shaped current African traditional practices that we may begin to appreciate the possibility that these value system may hold answers to some of society's current legal challenges, especially in the rural African communities where the western legal system has not fully succeeded in dispensing justice and fairness. The continued exclusion, marginalisation and vulnerability of the poor African populace in South Africa points to the limitations of the mainstream and dominant social and political value systems in advancing the cause for this section of our society. At the same time it will be almost naïve and is indeed inconceivable that efforts to resolve the exclusion and marginalisation of poorer communities can be pursued without them first resonating and steadily building from within the current political and economic logic. In this way, the paper advances an approach that will accept the centrality of western modernity as a commanding feature of social relations while at the same time recognising the possibility of exploring and gradually embedding African traditional value systems into the realm and fabric of current value contentions. The idea is also that new paradigms may be discovered in the future that are neither modern nor traditional. For the latter to happen it makes sense that each value system has to be allowed space to evolve. Since modernity is already deeply entrenched in society, it is therefore common course that African tradition must also be accorded space in the scheme of things. It thus suffices as the paper advances, that African tradition should not be viewed as 'deficit' or an appendix to western modernity but rather as a different form of modernity to Eurocentric value systems.

Enrique Dussel (2002) makes the point that the centrality of Eurocentric modernity in human history is not necessarily more than two centuries old and further that this modernity's technical and economic *'globality'* is far from being neither representative nor totally appealing to the majority of the world's population outside of its origins. Outside of the combined effects of mass media, international political economy and geo-political forces, which largely transported and entrenched European modernity onto a global scale, it is highly unlikely

that European modernity would have occupied so much of society's development discourse and attention.

While many scholars have predicted that the African traditional systems will gradually fade away with the advent of democratisation, the opposite seems to be the norm in most parts of Africa. As the case of South Africa clearly demonstrates, such African traditional systems like chieftaincy and customary courts have withstood both colonial and post independent political systems and there are clear signs that they are not going to disappear anytime soon. Part of the reason why these value systems have survived was due to their ability to adapt and blend with the different political systems without losing character and relevance to the ordinary village folks. Indeed, as Williams (2010) argues, chieftaincy in rural South Africa has remained a commanding force at local level despite being subjected to triple dominance of the 'indirect rule' of the British Empire, apartheid regime and lately the ambiguous but assuring embrace of the post-apartheid democratic government in the last century.

Most of the analysis and commentary on African tradition has often departed from within the realm of modernity. Debates about African tradition in general and about chieftaincy and customary law have tended to contrast them with established liberal norms and values set against the principles of a modernity inspired democratic value system. Not that there is anything necessarily wrong with this approach but at the same time, we need to acknowledge that such an analysis is likely to overlook the essence, validity and currency of African tradition outside western modernity.

As indicated earlier, African tradition continues to enjoy support and popularity among many South Africans. Is it perhaps opportune that we consider African tradition differently from and in fact, independent of the logic of western modernity? What would such an inquiry and analysis comprise? Lash (1999) observes that cultural theory has shown how modernity of the dominant social and human science is inscribed in a rationality/ [logic] of 'the same' and how this constitutive and constituting inside of sameness excludes and extrudes all 'otherness' and indeed posits it as 'anti-rationality'. Lash (1999) then argues that to think of a different modernity will require us to acknowledge existing or construct a different rationally altogether. African tradition is indeed premised on and departs from a different set of values and assumptions about human nature. Any attempt to construct or deconstruct it within the logic of a rationality embedded

in modernity will not assist us to understand its intricacies and internal dynamics. For Nhlapo (in Mamdani 2000), the African customary law is an outward and a visible sign of a very deep and all-pervasive conception of the world and the meaning of life. The task of scholarship will be to explore and navigate this maze and the complex set of values and institutions that inscribe the cultural world in Africa. Using modernity to understand this world is futile. Part of creating an appreciation of African tradition as an alternative or trans-modernity will be to dedicate and inspire more social science research into the practice and evolution of customary practices such as traditional courts. It will also be useful that a combination of inter-disciplinary, trans-disciplinary and multi-disciplinary approaches be adopted in order to discern this complex discourse.

Conclusion

The impasse between tradition and modernity is often punctuated by the many adversarial policy and legislative stalemates in South Africa's development discourse. This conundrum, although manageable or at least superficially avoidable in the early days of democracy, is increasingly becoming a painful reminder of South Africa's fading 'honeymoon' democracy. The current dilemma in South Africa has long been experienced by other countries on the continent that gained their independence much earlier. However, many post independent experiences on the continent has shown that this quagmire was never anywhere near being resolved. In this way, South Africa's transition and the political gestures to embrace African traditional practices in the new polity posited a renewed possibility of finally finding that balance between rights and culture in the development discourse.

It is evident from the many discussion about the Traditional Courts Bill in South Africa that by devolving these arguments narrowly unto the human rights discourse, which itself is embedded within the principles of liberal democracy and western modernity, it is likely that African tradition and its attendant value systems are likely to be interpreted as hostile to development and human progress. However, an effort to understand history and its colonial legacies in Africa, especially in relation to power, social control and political hegemony might create some appreciation of the centrality of the African value systems to the ordinary populace and how these will remain part of everyday life. It will also be important to note that outside of the

contours of sustaining state power and the legacy of maintaining economic and political hegemony by the old colonial order it is difficult to contemplate what specific role traditional courts and chieftaincy institutions would have played in rural South Africa during the colonial era. Similarly, the new and democratically elected government, while boldly asserting the importance of African traditional institutions in its mixed polity, has not managed to provide clear and implementable policy options on how best African traditions can be promoted and protected in the new dispensation. The policy and empirical conundrum in South Africa represents a broader analytical quagmire that must be carefully navigated.

This paper advances the position that the wholesale uncritical objection to the Bill outside the historical context of the evolution of customary law, the institution of chieftaincy and indirect rule in colonial times as well as the transformation dynamic into the new dispensation may fail to recognise that modern or traditional practices and institutions in themselves may serve specific historical political interests and that they can also change or acquire new meanings at different times. Inkosi Phatekile Holomisa's[5] observation and likening of chieftaincy [and consequently customary law] in post-apartheid South Africa's transition phase as a *'double-edged sword'* that could either advance or negate humanity's course could not have been more appropriate (Holomisa 2011). It is also important to note that the uncritical embrace and acceptance of current structures as well as the content of African traditional systems could be suspect if it doesn't recognise the damage or alterations these institutions may have suffered under colonial rule. It is further cautioned in this paper that some of the arguments against restoring diminished heritage in the African context quite resonates with the *'modernisation'* idea by Rostow (1960), i.e. the assumption that African tradition and its ways will eventually succumb or graduate into an industrialised western type value system as part of economic historical evolution.

To resolve the African tradition vs. western modernity conundrum in South Africa, and possibly elsewhere in Africa and the developing

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[5]   Inkosi Phatekile Holomisa is the Chairperson of the Southern African Development Community (SADC) Council of Traditional Leaders and has been President of the Congress of Traditional Leaders in South Africa (CONTRALESA) from 1989 to 2013.

world in general, I propose that the point of departure should be to acknowledge that modern philosophy and the human sciences in general and the specific analytical discourses such as cultural theory and sociology need to discard their Eurocentric bias and begin to appreciate that African tradition is actually a rationality in its own right, without Europe as the 'centre of the universe'.

Acknowledgements

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Women Struggle for Land Access in Uganda. Is Returning to the Customary Law in Uganda the Best Solution? Land Act of 1998: Its Consequences and Application

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1. Introduction

There are many societies in the world, where the right to land depends on the social status of a person. Land rights are especially crucial when it comes to rural areas as they decide the entire families chances of survival. Land tenure also has a direct impact on key issues such as education and health, just to mention two of the main factors. It empowers people and has immediate consequences associated with their basic living standards.

Speaking of women, their fight for their right to land has a long history that begins in the colonial period. Colonial laws gave more weight to men's rights, awarding them power over women and their access to land, as well as over many other aspects of daily life. The existence of women as legal persons was annulled by colonial laws. Therefore, they had no other choice than to fight for the recognition of their rights which are critical when it comes to ensuring their families dignity.

The question of land rights, speaking of Sub-Saharan Africa, is very complicated as it concerns areas that are not easy to define from a geographical point of view. This intricacy does not disappear when we think about Uganda which is a country with enormous ethnic and

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cultural diversity within its official borders[3]. However, the topic of the present paper is not cultural diversity. Here, we want to ask ourselves what does modernity and tradition mean when it comes to laws about land tenure in Uganda. More so, what logic underlies the discourse about the tenure of the land when we discuss state law vs. customary law? All of this brings us to the main issue of this work: can the customary law protect women's right to land, both when it comes to access and tenure? We hope to find some answers by analysing the situation in Uganda, after its Land Act of 1998 was put into place, and its clashes with supposedly *traditional* customary laws.

As the bibliography demonstrates, it is fundamental to understand the land's tenure diversification that one individual person might have or, as happens in 'most cases, when it comes to groups of people, including institutions' (Bohumangi et al., 3). According to Allan Bohumangi, Cheryl Doss, and Ruth Meinzen-Dick in the publication 'Who owns the land? Perspectives from rural Ugandans and implications for land acquisitions', those types of land tenure are: 1. Access: the right to be on the land, such as the right to walk across a field; 2. Withdrawal: the right to take something from the land, such as water, firewood, or produce; 3. Management: the right to change the land in some way, such as to plant crops or trees, clear brush, or make improvements to the land; 4. Exclusion: the right to prevent others from using the land; 5. Alienation: the right to transfer land to others through rental, bequest, or sale. Access and withdrawal are considered use rights, while management, exclusion, and alienation are control or decision-making rights.

Moreover, we need to distinguish between access to, use of, and control over land. When we speak about acquiring certificates of ownership it is really complicated to decide if titling is good or bad[4]. Rural

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[3] There are 10 main ethnic groups in Uganda, distributed throughout all of the counties and over 40 different languages spoken. If we assume that language is one of the main features that define one culture, the comprehension of the Ugandan society becomes even more complex. This information may be found in '*Uganda. Guide to the country*', issued by Spanish Economic and Commercial Office in Nairobi (2012)

[4] This is a wide extended discussion among many researchers and experts in the field who still debate themselves between customary laws and human rights approach.

sociologists, Judy Ribot and Nancy Lee (2003) have distinguished the differences between the 'access to land' and the 'rights to land'. Access to land would be considered a 'bundle of power' rather than a 'bundle of rights' (Ribot and Lee-Peluso, 153-181).

In the majority of African countries women can access land through their fathers, husbands or children and are not recognized as legal owners of the land, individually speaking. This may have particularly dramatic consequences in the case of widows, orphans or second wives in polygamous relationships. As a result, women are not recognized by society as farmers or actual owners of the land which 'limits their access to agricultural services, including credit, extension, and other inputs. The result can be an endless cycle whereby women are not given land because the farming women are seen as less productive, and their farming is less productive because they have less access to land and other inputs' (Bohumangi et al., 3).

The security of land tenure is under a constant threat. This happens primarily due to lack of agreement and social cohesion on the coexistence of official and local laws. It is indispensable that these two legislative approaches work together, in order to enable the protection of most the vulnerable persons. In most cases, these are women who are not only the weakest ones as they are abandoned by state administrations, but still live under patriarchal systems where their social position depends entirely on men.

In this paper we searched for information both within the diverse bibliography and in informal conversations with African friends that we were fortunate enough to be able to speak with. One of the persons we spoke to is a nun from the San José order. She comes from the Democratic Republic of the Congo and has worked in different African countries, particularly in education and empowerment projects focused on women. When it comes to the bibliography itself, we have researched literature regarding the land access situation, Ugandan state law and, gender related literature, as well as the literature related to the issues of tradition and modernity and social movements.

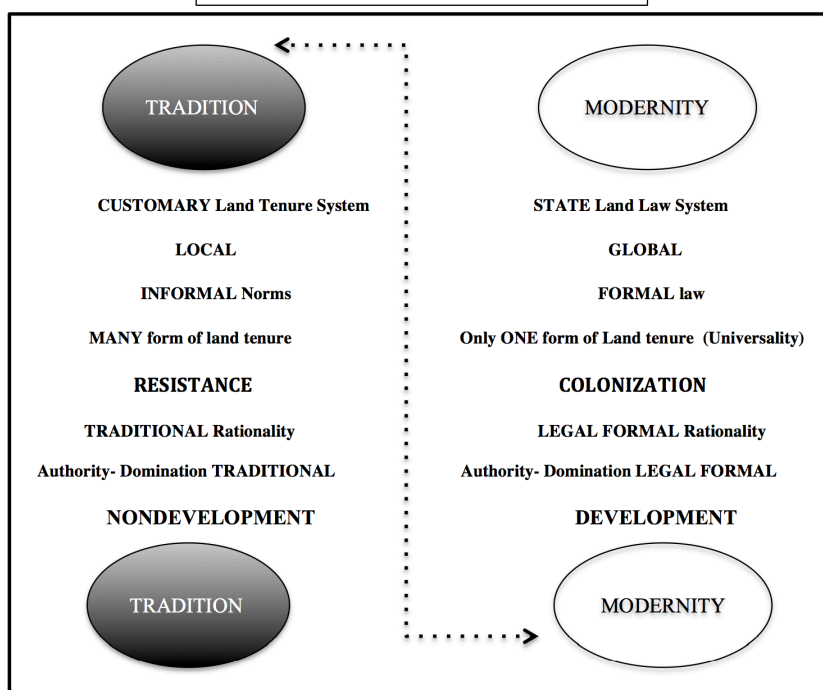## 2. Tradition vs. Modernity in the Context of Women's Rights to Land

When we think about different land tenure regimes in Africa, we usually refer to customary land tenure systems which represent the

culture of local traditions. That means there are many different forms of "informal" customary tenure.

Here, we will review this against state law and titling as a concept of modernization and development by the majority of policy makers and academia. On the other hand, the customary land tenure system often contains no equivalent to the western concept of 'ownership'.

The legal logic that underlies the norms or laws, regarding land rights, is completely different. The logic of state law is the formal legal logic that was taught to us by one of the founding fathers of sociology, Max Weber (Weber). He proved that the same logic covers all aspects of Western state nations and their bureaucratic mechanisms. According to Weber, the legal formal rationality was only applied to Western society during a specific time in its history and was a fundamental tool in the development of capitalism as we understand it today. This rationality that belongs to Western culture is characterized by the calculation of a means to an end, and is represented under rules and regulations that have been universally founded and applied mostly by economic, legal and scientific institutions. Western societies have imposed on the rest of the world their own rational culture which they refer to as, 'MODERNIZATION'. The process of acquiring or achieving the same level of Western legal formal rationality is called 'DEVELOPMENT', among other things. Weber had an evolving perspective of Western rights from the cultural system of norms to another, more structured system, of formal laws which can be considered positive progress.

In opposition to this unique rational legal logic we have the diversity of traditional logic based on local customs. This type of rationality, according to Weber, has to be confronted with other types of rationalities which actions are guided by values and customs. We have created this outline where we can see the two collective imaginaries.

COLLECTIVE IMAGINARIES	

TRADITION	MODERNITY
CUSTOMARY Land Tenure System	STATE Land Law System
LOCAL	GLOBAL
INFORMAL Norms	FORMAL law
MANY form of land tenure	Only ONE form of Land tenure (Universality)
RESISTANCE	COLONIZATION
TRADITIONAL Rationality	LEGAL FORMAL Rationality
Authority- Domination TRADITIONAL	Authority- Domination LEGAL FORMAL
NONDEVELOPMENT	DEVELOPMENT
TRADITION	MODERNITY

The most interesting for us is the *traditional rationality* where action is guided by customs. And also, there is Weber's way of understanding the *formal legal rationality* as a form of authority, therefore a way of domination over *others*.

It is without a doubt that the Western formal legal rationality has been a basic instrument that helped the construction of colonial power in its plan for social, economic, cultural and judicial domination. This is one of the main reasons why so many anthropologists, sociologists, and post-colonial theorists defend customary law as the law based on cultural tradition, in part because it is coated with a self-hallo that confers the bases of authority on customs. Therefore, after the colonial period and its repudiation for what it brought to the dominated communities, any woman who confronts or contradicts the local law has to face the imaginary collective idea of going against her own culture because someone who defends Western culture is seen as a feminist (with a clearly pejorative meaning). However, is this all really true? Can we just simply focus on this analysis and keep applying these criteria?

In every social analysis it's important to stop and observe the games of power that are hidden under the different discursive logics. In order to correctly explain the situation of women in the context of land rights it is obligatory to introduce a gender studies' perspective. Here, we would like to point out four main issues that affect women when it comes to their rights to land:

First, western legal formal rationality is a way of masculine, and not only a capitalist, domination. Western rationality is a kind of patriarchal one. There are many scholarly works that prove that women under colonial rules lost most of their power, due to the importation of the patriarchal structure of social organization. Since then, we have seen women gradually losing power in local communities. This means that customary tenure has changed substantially over time and does not provide neither static nor harmonious structures. The masculine discourse appears, as Adoko and Levine (2008) have stated in their study, when men say: 'Woman do not own land under customary law' or when they deny their wives ownership of any land just because of 'their being a woman'. [5] Both expressions reflect, among other things, the interpretation and decision making that men take when concerning customary law and how it affects the role and place of women in their society. They try to pretend that this has been so forever that is "traditionally". Second, as we pointed out before, there are many different rights for land that are distributed, allocated, used and passed on. So when we speak about acquiring certificates of ownership, it is really complicated to say if titling is good or bad for women because there are various forms of customary laws concerning women's rights to land. The interpretation of these customary laws to formal law, to the practice of titling, most of the time has resulted in disastrous cases for women because the power to enforce the law is in the hands of men. Third, gender analysis is even more complicated when we introduce more variables like, age, marital status, education, and other economic statuses that women face. These situations substantially change women's position when speaking of access to land. There are, however, groups that always end up being left without any protection neither from state nor customary laws. Those are women

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[5] See more in chapter 'Falling between two stools' (Adoko and Levine, 2008) and in 'Women's Movements, Customary Law, and Land Rights in Africa: The Case of Uganda.' (Tripp).

who are not formally married or from polygamous relationships, widows, orphans and singles. These social groups are more marginalized because they have hardly any rights to land under customary or state law. Last but not least, Robin Palmer (2009) mentions another quite delicate issue while saying that the 'conflict of access to land for women are more complex because "they operate at the domestic level of the household"' [6]. Conflicts about land tenure don't simply exist in public spaces but also in private spaces. For this reason some social feminism movements have coined the slogan *'The personal is political'* [7]. How Amartya Sen (1995) has stated; 'once note that gender struggles are even more difficult than class struggles because unlike women and men the capitalist and the worker do not normally live under the same roof' [8]. In academia we don't address this problem in detail but it doesn't mean it is not crucial. One of the characteristics of the formal legal rationality that we spoke about before is the radical division between the public *and* private spheres. This radical division doesn't occur in other societies dominated by another kind of rationality.

The result is that women are marginalized from the private and public spheres, including all decision-making bodies. We can conclude that land is often regarded as a symbol of male dominance in a very obvious way and, in the case of Uganda, the land titling that followed a strictly western way of thinking, has concluded in deterioration of women's status and situation.

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[6]   Palmer raised this issue at "Foreword" in *Challenges in Asserting Women's Land Rights in Southern Africa. (*Palmer)

[7]   The origin of this expression is from Carol Hanisch who wrote a brief essay called 'The Personal is Political' in the Redstockings collection *Feminist Revolution*. Her essay is dated March 1969. The 'personal is political' refers to the theory that personal problems are political problems, because many of the personal problems women are the result of systematic oppression.

[8]   Robin Palmer (2009, XI) write this quote from Amartya that became very popular within gender studies when Amartya Sen published it at 'Gender Inequality and Theories of Justice' (Sen).

3. Case study: Apac District, North Uganda. Agricultural Reform in Uganda (Ugandan Constitution from 1995 and *Land Act* from 1998)

The Ugandan Constitution from 1995 brought many new concepts, in terms of land ownership, but ended up needing legal reinforcement while implementing its models. This is why, in 1998, Uganda adopted the Land Act. It was approved in a very uncertain social atmosphere, as its voting and implementation were followed by rejection expressed by some of the most traditional and conservative power groups in Uganda (Rugadya).

Nonetheless, it is important to point out the main goals of Uganda's land reform. As Margaret Rugadya explains in her work "*Land reform: the Ugandan experience*" from 1999, those were:

A) To ensure safety for all users of the land (in the case of Uganda they are mainly owners based on local laws);

B) To solve a legal impasse between registered owners of the land (according to the official law) and lawful and bona fide occupants;

C) To recognize customary tenure as legal and equal to other forms of tenure.

D) To ensure an institutional framework for the correct management of land under a decentralised system.

E) To ensure proper and coordinated development of urban planning.

F) To ensure sustainable land use as to preserve the environment.

G) To resolve the differences as well as historical injustices when it comes to use and occupancy of land.

H) To define the role of the state while managing public lands in accordance with the common good of the citizens.

There are many, particularly interesting factors to take into account when we want to understand the approach to land reform in Uganda. They are even more remarkable as they had a direct impact on the most vulnerable groups within Ugandan society. Following Margaret Rugadya again, we can distinguish three main aspects:

A. Security of Land Tenure

a) Land ownership: Article 237 of the Constitution establishes that land in Uganda no longer belongs to the state but to its citizens. The four established forms of land ownership are the following: Local Laws (Customary), Freehold, Mailo Property (established by

the British Government in 1900) and Leasehold. This way, individual rights to land have been secured by virtue of occupation.

b) Customary ownership: Article 237(4)(a) of the Constitution recognizes customary tenure as a valid legal form of land ownership. Owners are entitled to acquire an official certificate of the land's registration.

c) Tenants on registered land: the Constitution guarantees their safety through the possibility of renting or purchasing the land and obtaining an official certificate. An economic limit for such transaction is also set.

d) Communal ownership of land: The Land Act of 1998 recognizes the possibility that it is a community who owns the land.

B. Women and other Vulnerable Groups

The Land Act of 1998 institutes that, in the case of any transaction related to land, it is essential to consult and have the consent of those persons whose maintenance depends on the property. This refers to spouses, children of age and, in the case of minors, the Land Committee. Those aspects are included in the so called "consent clause" that aims to protect women in their quest for equal treatment. In practice, however, this clause is violated and not respected. The Land Act of 1998 states that any local law that would result in discrimination of women and children should be interpreted as null.

C. Institutional Framework

In the Land Act of 1998 decentralized land management and agrarian reform in general, as to obtain correct implementation at the local level. Many new institutions were created as to ensure community participation. This radical change of the administrative structure made it necessary to adapt very quickly to this new legislative framework (Rugadya).

In 2007, the Ugandan Parliament drafted amendments to the Land Act of 1998 because of security problems of bona fide occupants. Many registered owners made illegal sales and were trying to expulse

them from their lands[9]. The government's response was the adoption of additional amendments that were signed by the President in 2009. This attempt to ensure the rights of one of the most vulnerable groups in Uganda met, however, strong opposition from different power groups in the country. The amendments were criticized by registered owners as well as by different clans and groups and considered these changes as a threat to their independence and social status in Uganda.

3.1 Implementation Challenges of Land Reforms and the Land Act of 1998

The implementation of the Land Act had many challenges to overcome. It had to confront an institutionally weak country with huge ethnic diversification and, consequently, strong local cultures where the concept of individual land ownership had hardly existed before.

In this sense, it is very important to mention the 'lost clause' or 'Matembe clause' from the Land Act 1998 that intended to establish joint ownership of land between spouses. The clause was withdrawn from the document as a result of political manipulation. Those who supported the removal of the co-ownership clause called themselves guardians of tradition, empowering different governing clans in this way. Many social movements of women in Africa disagreed with the situation but were not able to make any changes. The loss of the co-ownership clause is a clear example of lack of a social base in the Ugandan society. In addition to the co-ownership clause, at the time of implantation, the Land Act faced also other challenges including lack of institutional capacity, lack of knowledge and acceptation of the reforms by Ugandan communities and, finally, lack of any strategic plan for its implementation. Political pressures and economic difficulties would make this process even more complicated (Rugadya).

3.2 Land Tenure Laws in the Apac District, Uganda

It is generally understood that the land owned under customary law is collective. The clans often expressed that 'land belongs to the

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[9]   This was the case of Livingstone Kenya, among many others, who has seen himself forced out of his home at the age of 64 as the registered owner sold his land to international investor (BBC).

clan' (Adoko and Levine, 2008, 106). However, individual households in Apac have historically owned land and these possessions are individualized. If families of the same clan cultivate land together it is mostly to be efficient and to help each other, and not because the land is a collective property. Families own farm land and its 'management is passed on from fathers to sons' (Adoko ad Levine 2008, 108). The real power over the land is held by its administrator while he or she is also a formal head of the family. The administrator's responsibility is to take care of the land and his or her household. In Apac land, family welfare and social status are directly interconnected.

In recent times, land's value has increased from an individualized point of view. This is why family territory is more often divided between all of the children; instead of going to one of them (usually the eldest son) that becomes the head of the family. This process of fragmentation is also 'accelerated with an increase in land sales' (Adoko and Levine 2008, 108). When there is a sale transaction involved, the clans still retain the right to investigate both the buyer and the seller as to ensure that the land won't go to anyone who could harm the family. However, given the population density in Apac, sales transactions are less influenced by clans. Once the land is sold, the family no longer has any power over it.

3.3 Women's Land Rights in Apac under Customary Law

a. Customary Laws from a Historical Point of View

A newly wed woman, automatically began to be under the protection of her husband's clan. Protection of her rights was the responsibility of her new family. If her husband decided to have more wives she was still guaranteed sufficient land to support herself and her children. Traditionally, there was an assumption which stated that when a woman was married, she converted into a member of her husband's clan and ceased to belong to her parents' clan. Divorced or single women had 'rights to be allocated land to use by their own parents' clan' (Adoko and Levine 2008, 108). In the case of the husband's death, his wife could claim the social and economic protection of the latter's clan. Widows could, theoretically, choose not to remarry. This way they kept their right to the land which the deceased husband had left them as inheritance. Even so, under customary law, 'the rights of married woman are limited because though she has rights to be given

land to use by her husband, she has no right to sell this land' (Adoko and Levine 2008, 110). However, under customary tenure, neither could men freely sell land without the consent of the clan so, in theory, this was not a problem for women until modern times.

b. Economic Development and Land Sales

The number of land sales in Uganda grows dramatically. Transactions occur in an informal way and under customary tenure laws, without any official record or administrative control. Their goal is not expansion or increase in wealth but simple survival. Most sales are not agreed by both spouses. The land is often sold by the husbands in social meetings, bars and under the influence of a considerable amount of alcohol. Women 'have no control over such transactions and often do not know they have been made until their husbands come home with money. They are also afraid to express their concerns. One of the women in the district says: *Consent is never sought. (…) and when you ask where the money is coming from you are told to pack and go back to your home because you do not own land*.' (Adoko and Levine 2008, 109) There are also cases when it is the family who sells the land without any prior consent. The buyer is usually a politician who takes advantage of his social status. The main purpose of these transactions is to speculate and does not bring any benefit to the communities where they concur. The transactions, from a legal point of view, stay in a grey area where customary tenure overlaps with the official law and everyone chooses what best suits them, as to complete the sale. Furthermore, clans lost their social status and no longer have the power to perform necessary pressure as to protect the most vulnerable (Adoko and Levine 2008, 111).

3.4 Customary Law and Official Law Disadvantages

Although it is undeniable that customary laws are part of the tradition of Uganda communities, when it comes to women's rights to access land, there are three key disadvantages.

First, as they are not written law, 'there is no clear jurisprudence and the verdict depends on each person who establishes it' (Adoko and Levine 2005, 1). This leads to a lack of clear principles and similar or even identical cases don't always obtain the same verdict, depending on the judge. Second, as customary law is directly connected to

the power play within and between different clans, for women and their children it is 'virtually impossible to challenge and appeal decisions of judges' (Adoko and Levine 2005, 18). Clans, on the other hand, cannot admit the weakness of their decisions, or acknowledge changes that are taking place in the Ugandan society as they want to keep their authority. This lack of recognition of the existing problem makes it even more impossible for women to feel protected. Third, there is a huge misunderstanding when we talk about who really influenced and established the customary law we know at present. Is it really the customary law from pre-colonial times? Or is it a hybrid law that we found left over from the colonial times that influenced precolonial cultures and traditions? More precisely who *invented* or *imagined* the customary law of the indigenous people from Africa? What role did western civil servants play in the construction of the *customary law*?[10]

When it comes to the official law it attempted to protect women and other vulnerable groups. However, several mistakes in the implementation process and its combination with customary laws have decreased its impact. The ambitious attempt to unify the administrative system of land management, through the Constitution of 1995 and the Land Act of 1998, failed to bring together tradition and culture with state law and official requirements, and this is the key factor to why Ugandan citizens still find themselves without any real protection. The authors Judy Adoko and Simon Levine in the Chapter "Falling Between two stools: women's land rights in Northern Uganda" from "Women's Land Rights & Privatization in Eastern Africa" (2008), make an interesting synthesis of the main reasons for the failure of state law.

Why the official system doesn't work? First, the state policy of Uganda assumes that customary laws don't have any positive impact when it comes to the protection of land rights. For some time now, the state administration has begun to grasp power from the traditional representatives. In this way the administration officials monopolize all decisions regarding land rights. Second, the Ugandan Government assumes, without any constructive criticism, that all citizens operate under the official law and that the state fulfills its role of controlling

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[10] We ask this question in the same way that Terence Ranger wrote 'The Invention of Tradition in Colonial Africa' (Ranger).

and monitoring proper implementation of its policies. However, the vast majority of Ugandans haven't a clue about their rights and the best example is the complete lack of knowledge about the consent clause. Women don't know that this clause even exists and don't pursue their rights. Third, there are situations where affected persons know their rights but it is their communities or families who violate them. This is the case of widows and orphans who are thrown off the land belonging to their husbands or fathers by other family members. Although victims bring their cases to court and win from the official law point of view, the verdicts are rarely executed. There is also a problem of free reinterpretation of customary and state laws depending on personal interests. According to Simon Levine and Judy Adoko, these cases do not fall wholly within the term of violating the law because they are a hybrid. And finally, the rights of women and other vulnerable groups cannot be forfeited simply because the administrative and institutional frameworks are insufficient.

All of these issues make us wonder if the subscription of the Land Act of 1998 was not just a political game to ensure the government, both with the support of women groups in parliament and a greater acceptance of Museveni rule worldwide. To guarantee fundamental rights on paper is a simple task but without rigorous and correct implementation of laws, all these promises remain worthless.

4. Discussion and Conclusions. Can we do better?

It seems that women in Uganda find themselves in the situation of *no man's land.* Neither customary laws nor official rural reform have brought clear solutions to their vulnerability and exclusion when it comes to the access to land. This is mostly because, from the perspective of gender studies, both systems are a male construction of social reality. They speak about *his-story*[11]. Legal practices are expressions of power in a society. Michael Foucault defines the *regime of truth* as specific historical mechanisms (Foucalt) which produce discourses that function as being true in particular times and places. In the case of land rights, women have suffered a process of exclusion in both land

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[11]   As many feminists have argued that history is the story of a specific form of domination, namely of patriarchy, literally 'his-story' (Tuhiwai Smith, Linda, 2006)

tenure systems because, in any case, men created their own *regimes of truth,* excluding women from decision making and robbing them of their voice. The voice of tradition and the voice of modernity derive from their mouth, while the voices of African women are silenced.

Therefore, for all of these reasons the question is not really: tradition *vs.* modernity, but rather: how can we empower rural African women? Which tools can we use to raise their voice? Or how can we reach to the real subaltern memories of rural African women as to construct *THEIR regimes of truth*?

A very common question when debating human and land rights is the scope of formalizing different laws and putting pressure on titling the land (Ikdahl, 40-60). It is an important issue, especially when considering the preservation of local traditions and laws within the indigenous communities. It is a widespread dilemma of deciding how far we can go and where the necessary limitations should stand as to enforce the human rights framework that, initially, were intended to be universal for all of us. It is unquestionable that the cultural richness and traditions of the different indigenous communities must be protected. However, when it comes to land rights, customary tenure allows situations that conclude in the unremitting discrimination of women. In most cases, they are completely unprotected and exposed to unimaginable risks when driving them out of their homes and, consequently, from sources of food and water. Moreover, in the context of the land privatization processes, customary tenure is no longer able to protect its citizens against the risk of losing land. Not only women need a formal legal framework to protect their land access rights, but the citizens in general need them too. Human rights can provide the necessary generic framework for the protection of land rights. It is crucial, however, to reach a consensus between customary tenure, which contains key culture values and defines traditions of each community, and official laws, that must accomplish the real protection, respected by all of the involved parties. It is also necessary to debate the *authenticity* of customary laws we know nowadays and rethink them from the gender perspective, taking into account the fact that those laws were created by men and *their* interpretation of the reality. It is very difficult to find the interpretation that went "back to its origins". This is why we consider it important to "start a new" when it comes to re-writing any law and to do it including a gender perspective.

What tools might be useful while attempting to achieve the above mentioned goals? In our opinion, first of all, it is obligatory to really include women in the process of redefining their rights and cultural contexts as we cannot keep excluding them both from public and private decision making spheres. This would, hopefully, conclude in the construction of a new public, collective and individual identity of women as such, and society as a whole. As long as public governance bodies do not let women take an active part in the creation of the new social paradigm and exclude them both from design and execution of the new legislation concerning land rights, women will be suffering from social exclusion forever. It is also crucial to have coordinated actions between new women social movements and international institutions that have many tools at hand to push for necessary reforms and, also, to create discursive space where African women may speak as sovereign subjects.

We consider that this might be a shy start to developing a new legal framework that would include other forms of tenure and would be culturally closer to Uganda's society. It is no longer about designing solutions for Ugandan women as to protect their land rights. It is about giving them the tools to do it and, if we are very lucky, maybe they will let us be part of it.

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Militia(wo)men: A New Figure of Success or a Form of (Dis-) Continuous Patrimonialism?

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In the introduction to a special issue of *Politique Africaine*, Banégas and Warnier (2001, 16) described the generalization of violence as a "normal" way of accessing power and as a modus of accumulation of wealth and prestige. This, according to these authors, made armed men increasingly esteemed and attractive social actors. As a symbol of easy money or of revenge by social cadets in a sclerotic social system, militiamen and their lifestyle are in this perspective especially attractive to young men. Thus, Banégas and Warnier (2001, 16) concluded that the militiaman might be a "new figure of success." However, Banégas and Warnier (2001, 16) did not supply empirical material for their conclusion.

Does the empirical evidence of the civil war in Sierra Leone support the claim that the militiaman is a "new figure of success"? To tackle this question, first the notion of "figure of success" is discussed. This notion is then used as a research guiding concept for a secondary analysis of statements by participants in the Sierra Leonean Revolutionary United Front (RUF) militia. There is hardly any empirical evidence that people joined this militia as a trajectory to wealth and power. Most people joined only "when war came." The benefits of "violent meritocratic patrimonialism" offered by the RUF thus did not appeal to people directly, but only when they were forced to choose between joining the RUF or unpleasant alternatives. To conclude, in Sierra Leone, militiamen and militiawomen do not represent a "figure of success" but are part of different forms of patrimonial social relations. There are elements of continuity and discontinuity of pre-war social relations in these forms of patrimonialism. Conceiving militias in this way leads us to understand why sides were switched during the conflict and the observation that after the conflict many fighters

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were still embedded in these relations that are mobilized for farming, mining, political rallies, and occasionally fighting in one of the region's conflicts. Regarding the latter, there is currently not much evidence that young people are attracted to this activity and prepare actively with the aspiration to become recruited. However, with the perpetuation of conflict in the region, this might change, and the regional warrior might become a "figure of success."

The Notion of a "Figure of Success"

To consider whether militiamen in Sierra Leone qualify as a "new figure of success," first this notion must be discussed. The emblematic "figure of success" is the "évolué" (Banégas and Warnier 2001). Through western education, "évolués" not only spoke and wrote colonial languages but also adopted European values and patterns of behavior. The educational diploma opened the doors to white-collar jobs within the colonial administration and economy, and thus to a privileged elite status within late colonial societies. The salary facilitated not only getting married (and/or having sexual relations) but also investing in material symbols such as a multi-story house with splendid furnishings, suits with ties, and cars. A corporal expression of status was the potbelly. The salary also led to investment in social relations, thus further enhancing power and prestige. This could then also be converted into a position with political power, which in turn would increase access to economic and other resources. Success is a polymorphic and dynamic phenomenon that is difficult to define (Banégas and Warnier 2001, 9).

The urban and occidentalized lifestyle of the "évolué" captured popular imaginaries, and beyond individual "évolués" a more general "figure of success" emerged. The assumed equation between formal education, salariat and social success increasingly motivated parents to send their (male) children to school and inspired children to work hard. The central characteristic of a "figure of success" is that a significant number of people aspire to become like those who represent it and act accordingly. There is a polyvocal and dynamic public discussion about the "figure of success," and some people reject it.

In addition to the "évolue," the officer and the chief were among the "figures of success" during the colonial period. All survived after independence. However, over the past 25 years African societies have undergone profound change at the social, economic, and political

structure levels and the level of individual practices and social imaginaries (Banégas and Warnier 2001, 5). Among the most important changes in the structural levels are the widespread economic crisis, structural adjustment, privatization, and economic liberalization. The resulting stop of the more or less automatic recruitment of school and university leavers into the civil service considerably devaluated the "figure of success" of the "évolué." It has adapted rather than disappeared but is less central than before (Künzler 2007).

In a context of increasing struggles and conflicts about resources and power, the representation of not only power but also that of legitimate accumulation changes. Economic resources are increasingly accumulated for private ends by representatives of public authority. Most and especially young people, however, suffer deprivation and marginalization in this economy that has become increasingly informalized. Further structural changes include increasing urbanization and domestic and transnational migration. These changes accelerate exchange, and transnational or even global influences increase in different areas.

On the level of individual practices, prolonged education of varying quality boosted aspirations but did not open access to jobs. Increasing individualization has resulted in a desire for emancipation by members of the younger generation, and has led to a rupture in the value system. Young people are exploring new levels of autonomy, expression, and identity construction (Havard 2001, 64).

One consequence of these multiple changes has been the diversification of moral references. The moral references increasingly include what Banégas and Warnier (2001, 8) called an "economic morality of ruse and shrewdness." These ongoing changes have created, expanded, and multiplied niches in which "new figures of success" can emerge and flourish. At the "interface of public and private, local and international, formal and informal, even licit and illicit" (Banégas and Warnier 2001, 7), new trajectories of social advancement have developed. These "new figures of success" are the consequences of more or less conscious innovation strategies by often rather young people in reaction to the conditions of their societies. Examples of these "new figures of success" include the pastor (Marshall-Fratani 2001), the development broker (Bierschenk, Chaveau, and Olivier de Sardan 2000), and the football star (Künzler and Poli 2012). As Banégas and Warnier (2001, 16) suggested, the militiaman might be another example. The question thus is whether a significant number of Sierra

Leoneans aspired to become part of a militia and saw this as a trajectory to social advancement.

Researching Sierra Leonean Militias

To answer this question, I initially attempted to conduct interviews and thus started fieldwork. This idea however was not feasible, as the conflict was too long ago, and the narratives of people talking about it were shaped by postwar experiences such as the humanitarian discourse of disarmament and reintegration, reactions from society to demobilization, and the current economic and social situation of former combatants (cf. also Coulter 2009, 95). Although this type of scripted account reveals a lot about contemporary discourses, I prefer to draw on information collected closer to the events and published by other authors.

The rereading of these sources is guided by the notion of a "figure of success" as a "sensitizing concept" (Blumer 1954, 7) and focuses on statements by members of the RUF militia about their participation. Central to the argument are not the accounts of the initial RUF members, but the motivations of those who later became members. These published accounts of course present only selected extracts of the empirical evidence, but as they were selected with closely related research questions in mind, they can be used as sources. As life stories, these "narratives neither represent nor re-present experience" (Coulter 2009, 19), but they express experiences as remembered and rationalized ex post. These accounts partly speak in a general language and use a strategy of othering and depersonalizing when talking about plundering and the use of gendered violence. However, the accounts frequently include information too nuanced and too self-incriminating for a smoothly scripted discourse such as a self-serving victimization account (Peters 2011, 32–33). The secondary analysis is thus a reasonable base for a disciplined-configurative case study.

Joining the RUF as a Trajectory to Wealth and Power?

When the RUF started attacking in 1991, the militia was accompanied by mercenaries from Burkina Faso and Liberian fighters from Charles Taylor's National Patriotic Front (NPFL), who had previously operated independently in Sierra Leone (Peters 2011, 143). Some RUF members had fought previously in the Liberian civil war. However,

the RUF members were probably outnumbered by the NPFL fighters who quickly became notorious for their abuses (Richards 2004, 5). According to Peters (2011, 19), these abuses made the RUF an organization which people mostly did not want to join voluntarily, even if there was at least initially some sympathy for its cause: "A common – if guarded – reaction among many non-elite Sierra Leoneans, still sometimes expressed today, is that 'but for the needless atrocities committed by the Liberians I too would have joined them willingly.'" He insisted that, nevertheless, some joined voluntarily or were encouraged by their family or friends to join, especially in the early phases of the civil war. A teacher explained his decision to join the RUF as follows:

> I joined [the RUF] voluntarily. That was on April 15th, 1991. It was when Pendembu was captured by the RUF. Upon entering they explained the causes what made them to fight. . . . After a week I joined because their ideology made sense to me. (Peters 2011, 21)

However, recruitment was not actively sought, let alone aspired to or prepared. Furthermore, most evidence about willing recruitment is only indirect and based on people talking about other people, as in these examples:

> Some were just saying, let us find these [RUF] people and join them. Because their major theme was to change . . . the system. Because that system was a rotten system . . . . (Peters 2004, 26)

> I was there when the war came. We hid in the bush for a few hours. Then we came out because people said that the rebels did not do anything. The rebels explained their purpose, their reason for fighting. Some of us joined voluntarily, there was no enforcement. (Peters 2011, 83)

The scarcity of direct evidence might also be due to a retrospective interest in avoiding admitting joining the RUF willingly. However, most people joined only "when war came" to them, and they did mainly so because they were forced to choose between joining the RUF or unpleasant alternatives (hunger or insecurity for them or their families, getting killed, abused, enslaved). This becomes obvious in

the following statements by fighters who described joining the RUF as their best option:

> But when I was just in secondary school this rebel war came to Sierra Leone and all the economic operations in the area stopped. Even the food we had to eat was not easy to get because we were under siege. . . . Then my friends and I decided to take up arms to fight, just to survive. (Peters 2004, 14f.)

> I was in my village when they attacked them. . . . Then I was given information that the RUF had a lot of food. So we were with all members of my family, we had no rice, so I decided to go to the town and I lived with them. (Brett and Specht 2004, 42)

> I didn't think there were other alternatives at that time because there was no way to rescue myself at that moment. . . . That was why we stayed on. They [the rebels] also warned us that if we tried to escape, we would be killed. (Brett and Specht 2004, 111)

> I myself was forcibly recruited in '93. Or let me say, I was captured by them and then, looking upon my situation and the past situation, I judged it better to join. (Peters 2011, 85)

The distinction between voluntary and compulsory was blurred, and there are "degrees of 'voluntariness'" (Brett and Specht 2004, 112). Considering experienced, threatened, or probable victimization, joining the RUF militia is mostly "a choiceless decision" (Coulter 2009, 146). "The RUF recruited the majority of its fighters in the first years of the conflict in 1991/92 and then again in 1996/97/98" (Humphreys and Weinstein 2004, 22). Forced recruitment was used to varying degrees during the civil war, depending on the changing fortunes of war and initially did not involve children. In qualitative interviews, former female and male fighters told vividly how they were abducted, mostly by strangers (e.g., Peters and Richards 1998, 201ff.; Maclure and Denov 2006, 124; Denov 2010, 97f.).[2] A quantitative survey of

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2   There is also evidence that during raids, younger members of the population were targeted for abduction, while other members of the population were encouraged to flee (Peters and Richards 1998, 208).

1,000 ex-combatants and 250 non-combatants suggests that this was the rule, not the exception: 88% of the RUF fighters interviewed said they were abducted (Humphreys and Weinstein 2008, 438). Keen (2005, 42) reported another survey where forced recruitment amounted to 72%, and Mazurana and Carlson (2004, 12) came to a similar conclusion.

There is of course a certain danger that these figures are too high because former fighters claimed forced recruitment because of social desirability or fear of recrimination. However, given the evidence, it is hardly realistic that a significant number of people deliberately and enthusiastically prepared for becoming part of the RUF. They did not dream of becoming militiamen or militiawomen, which thus hardly qualifies as a "new figure of success" in the Sierra Leonean context.

The immediate access to non-essential goods was not directly mentioned as a motive for joining the RUF. One rare example of indirect evidence is this statement by a RUF clerk: "[M]ost of the RUF fighters joined because of the opportunity of looting and because they did not want to work hard" (Peters 2011, 140). Participants were promised material benefits that included goods such as bicycles, building supplies, or food. Therefore, rank-and-file participants were surely not "worse off than the civilians in the same area" (Peters 2004, 15f.). However, based on the interviews, Peters (2004, 15) concluded that becoming rich was not a key motivation: "Few youth ex-combatants indicate that they expected to make huge profits out of the war and none indicate that lucre was a motivation to continue fighting." Bøås (2007, 47) agreed with this position: "[In] the beginning of the Sierra Leone civil war, 'get rich or die trying' does not seem to have been the main motivation for the young guerrillas." This is especially true for diamonds, which received a lot of international attention. The direct evidence does not support the assumption that they were important for rank-and-file militiamen and -women. The respondents in Humphreys and Weinstein's (2004, 26) survey "were not offered the promise of diamonds as an incentive to join the faction." There are of course "different logics of participation" (Humphreys and Weinstein 2008, 437) in the same civil war. Although prestige and resources might be the prime motivator for some participants, the evidence does not support the notion that joining the RUF militia was widely seen as a trajectory to wealth and power. If some members of the RUF turned into warlords, this was not what initially attracted them.

A "Violent Meritocratic Patrimonialism"

One important motivation for joining the RUF, mentioned in several quotations, was to improve personal security (Humphreys and Weinstein 2008, 449). The organization of the RUF changed considerably during the conflict and varied throughout the country (Peters 2011, 105), and can be described as a heterogeneous network of different combat groups led by higher commanders who were somewhat autonomous. Within these combat groups, there were "smaller groups comprising several household units" (Coulter 2009, 102). These household units were organized as patrimonial quasi-families. They included adult male and female fighters, captured children, and civilians and were headed by a commander. The later were mostly men, but also women could become commanders (Mazurana and Carlson 2004, 14).

A commander or a fighter offered dependent male or female members of the group some protection against (sexual) abuse and other forms of exploitation by (groups of) other fighters (Coulter 2009, 113; Denov 2010, 115). This functioning becomes obvious in the following evidence:

> I was a special boy in the bush. My commander loved me and I loved him. I would do anything for this commander because of my love for him . . . I tried to impress him. My commander protected me and would often tell me to stay behind and not go to battle. It would have been much worse for me if I didn't have the protection of the commander. (Denov 2010, 105)

> The rebels tried to make me forget about my family. They told me my parents were dead and that the commander should be my new dad . . . My commander took me wherever he went—this was to make me forget about my parents gradually. (Maclure and Denov 2006, 124)

The commander of the quasi-families or sometimes a commander's wife also distributed food and other resources in exchange for loyalty and obedience. Gendered participation was also expected in productive labor needed for the functioning of the group (e.g., mining, after 1993 increasingly rice farming), war-related activities (carrying, spying, fighting, pillaging, body guarding, etc.), and reproductive labor

(cooking, fetching water, collecting wood, etc.).[3] There were thus relations of mutual support and protection, but debts and obligations were not necessarily clear-cut. They frequently had to be negotiated. However reciprocal the relations within these quasi-families might have been, they were unequal, and disobeying commanders was generally punished severely (Denov 2010, 119; Peters 2011, 87). The commander as a patron had an interest in having many dependents, as they were a source of resources, prestige, and protection. Obviously, the notion of "fighters" is difficult (Coulter 2009, 126), as many members of militias performed different activities.

There are different ways people could rise in status within these units and thus get more access to food and other resources (Denov 2010, 112). The first way was to join the RUF: Civilians in the camp were worse off, subjected to hardship and slavery, and restrained from free movement (Peters 2011, 85f.). Marrying an important commander was another way of improving status (Denov 2010, 133). Status could also be improved by war-related activities such as fighting:

> Very violent and obedient soldiers were given positions as commanders. You needed to show enthusiasm, be very active during combat and terrorize and abduct civilians . . . I was very active in combat and also captured a lot of people, including children. This contributed to my elevation to the status of a [female] commander. (Denov 2010, 114)

> If you carried out amputations and were very brave in combat you were offered promotion . . . I became a commander and I had fifty children to command. As a commander, you got to choose the girl that you liked and wanted to be with. Girls were used as gifts. I had three wives. (Maclure and Denov 2006, 128)

Success in combat was thus also a way to get promoted and eventually achieve the status of commander. As the means to which success was based were less important, this system encouraged reckless behavior and abuses (Peters 2011, 161); the system sidelined the rules of conduct and the supervision of discipline. Being a commander

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3   Peters' (2011, 230f.) perception of an "only rudimentary division of labour" within the RUF is blind to gender differences.

meant the authority to dispose of not only food and other resources but also to command women and other combatants who were sometimes, in a reversal of the conventional societal order. Assigning sexual partners was an important aspect of patron-client relations: Close to a quarter of RUF respondents "admitted receiving wives/husbands after military operations" (Humphreys and Weinstein 2004, 27). This was evident in qualitative interviews:

> Once I became a commander, I could choose any girl that I wanted [as a wife] . . . If they weren't willing to have sex with me . . . I would force them . . . I felt good. (Maclure and Denov 2006, 129)

As this example shows, a number of participants in the RUF militia felt empowered and protected by the possession of a gun, at least after getting accustomed to it (Maclure and Denov 2006, 129). A gun allowed one to gain control and escape being a victim:

> The gun made everyone powerful. As long as you were armed even the older commanders were more careful in their treatment of you . . . When you had a gun, you felt that you were strong. (Maclure and Denov 2006, 129)

> I always felt powerful with my gun . . . When you have a gun, you can force anyone to do anything for you. . . . Otherwise who was going to listen to me as a small boy? If you were without a gun you were shit. (Maclure and Denov 2006, 129)

Depending on the changing fortunes of war, the RUF offered social services such as free education or free medical care in the main camps within the safe areas ("liberated zones") (Peters 2011, 121f.). In Zogoda, the main RUF base, life was "like a village, some people are cooking, others dancing or just talking" (Peters 2011, 98). The social organization corresponded in many ways to the pre-war social organization of families and society these camps replaced (Coulter 2009, 102).[4] This replacement was especially important for a third of RUF participants who "had lost at least one parent by the time the war

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4   Of course, the social organization differed between urban and rural areas and had many nuances.

started" (Humphreys and Weinstein 2004, 23). For others, the non-kin based relations in the camps offered what neither their kin nor the traditional communities or national government could provide any more.[5] There was some kind of mutual understanding of responsibilities between the commanders and the commanded that was based on pre-war social relations. However fragile and contested, this type of relations fits into what Max Weber ([1922] 1985) termed "patrimonialism." Since there are hardly any "modern" bureaucratic elements in these militia groups, "patrimonialism" is more appropriate here than "neopatrimonialism" (Médard 1991, 332). Dysfunctional pre-war forms of (neo-) patrimonialism were not revolutionized (as claimed by the RUF), but adapted within a context of violence.

As mentioned, promotion and thus social advancement were based on violent meritocratic achievement rather than on birth-rank order (gerontocracy), even if there was some sort of prerogative for those who joined the RUF early (Peters 2011, 96). Although my reading of the evidence is in accordance with Peters' (2011, 17) claim that the RUF offered "an alternative society to the conscripts, centered on meritocracy rather than gerontocratic . . . principles," I disagree with his statement that it was also an alternative to *patrimonial* principles. It can best be characterized as a "violent meritocratic patrimonialism" whose benefits did not appeal to people directly, but only when they were forced to choose between joining the RUF or unpleasant alternatives.

To conclude, there is hardly any empirical evidence that people joined the RUF as a trajectory to wealth and power. Most people joined this militia only "when war came." Militiamen and militiawomen do not represent a "figure of success" but are part of different forms of patrimonial social relations. There are elements of continuity and discontinuity of pre-war social relations in these forms of patrimonialism. There is more to a civil war than mere violence, and thinking of militias as adapted forms of patrimonialism that in different ways continue pre-war forms of social organization explains the functioning of these militias beyond violence. However, patrimonialism is inherently unstable. Dependents are potential rivals who

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[5] Some of this dysfunction predated the civil war. However, the war contributed. Destroying other patrimonial relations was partly a calculated RUF strategy (Richards 2004, 5).

aspire to become patrons themselves. Furthermore, they also quickly switch to another patron if this is deemed to be the better option. The civil war presented opportunities to move between patrons. This switching of allegiances can be well explained with a perspective focusing on patrimonialism and its changes.

This conclusion is corroborated by empirical data from other militias important to the conflict in Sierra Leone, mainly the National Provisional Ruling Council (NPRC)/Armed Forces Revolutionary Council (AFRC) and the Civil Defence Forces (CDF) militias. It is however not possible within the limits of this contribution to analyze them in more detail. Suffice it to say that there is hardly any empirical evidence that people joined the militias emerging out of the armed forces (NPRC/AFRC) as a trajectory to wealth and power or to attain the flamboyant life-style of some of the leading officers. These militias were also organized as quasi-families with gendered participation in productive and reproductive labor. Participants were woven into a "fabric of obligation and responsibility" for support and protection (Hoffman 2011, 130). Provision of food and other resources, settlement of conflicts, and other elements of social organization were organized in a patrimonial logic that again was based on violent merits rather than on the prerogatives of the birth order.

Beyond the Conflict: The Regional Warrior as an Emerging "Figure of Success"?

Pre-war forms of patronage networks continued to be an important feature of social organization throughout the war, at the same time they became militarized and thus adapted. A focus on different forms of patrimonial social relations is also useful to discuss the prospects beyond the conflict. There was continuity and discontinuity again after the war. Many participants in militias are still embedded in these relations or actively seek to mobilize them as the following statements show:

> For a few years after the conflict ended, I was still living with the people who first captured me. The commander got a house for us to live in. The commander was living there with this three wives and the radio-man (Communications person) from the bush. (Denov 2010, 150)

> I would really like to see the commander who recruited me . . . I don't know where he is . . . I think he might provide me with assistance now. (Denov 2010, 151)

The disarmament process solidified the patronage networks even further, as many participants in armed groups had to pass benefits on to their commanders to secure participation and thus continued to depend on them (Hoffman 2011). The focus on patrimonial networks also captures transnational aspects and the blurred peace-war divide. Commanders turned into patrons who deployed young men to various disarmament proceedings in the region (Hoffman 2011). Commanders used and still use militia and other ties to cover labor needs for themselves or for bigger patrons who contacted them because of their capacities to mobilize male bodies for various tasks. Among the examples are different forms of agriculture (Peters 2011, 178) and mining (Human Rights Watch 2005, 24) within the region. Examples of more violent tasks include body guarding and odd jobs related to intimidation and political rallies (field notes January 2008).[6] Participation in this kind of work was facilitated by unmet expectations of post-war employment and education opportunities, but also based on pressure by patrons. Life for dependents was qualitatively quite similar on both sides of the war-peace divide (Hoffman 2011, xii).

Occasionally, these networks were also used to recruit mainly male fighters for one of the region's conflicts. Cross-cutting earlier affiliations, fighters from all Sierra Leonean factions were engaged in the Liberian civil war, in Côte d'Ivoire, in Guinea, and, most likely, more recently also in Niger and Mali. As in all these conflicts there was a floating population of young fighters from different countries, some sources saw the emergence of a "regional warrior" as a vocation based on the economic opportunities that war offered (Human Rights Watch 2005, 1). There is some evidence for this:

> We thought things would be ok, but they went bad again. There was no food. It was the African way – I had to feed my parents. The commanders said there wasn't money to pay us, but that we could

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6   Before the civil wars, these were already options for young men to make a living, and they sometimes served different patrons at the same time.

pay ourselves, which meant looting. (Human Rights Watch 2005, 18)[7]

The number of these supposed "regional warriors" should not be overestimated, however (Bøås and Dunn 2007, 30). There is currently not much evidence that a significant number of young people seek direct recruitment within these networks. For the lack of such ambitions, the "regional warrior" is not a "figure of success." However, this might change with the perpetuation of conflict in the region and with the limited alternatives available to young men. For them, a patrimonial network that might also engage in violence helps them gain some control over life and basic economic security (Peters 2004, 21), and bears promises for future possibilities. Times of crisis and war make it easier to enter such a patrimonial network. However this is an immediate survival strategy to muddle through unstable times rather than a planned trajectory. The empirical evidence for Sierra Leone does not support the claim that militiamen or militiawomen are a "new figure of success." Militias are a form of social organization that at the same time continued pre-war forms of patronage and patrimonialism and adapted them. The picture of course might look different for other conflicts. In Sierra Leone, however, considering patrimonial social relations is central not only for disarmament, but also for the prevention of future conflicts.

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[7] In the late 1800s already, young men paid themselves with the spoils of their violent activities when they were hired at the regional level for using violence, settling disputes, and expanding influence (Hoffman 2011, 68f.). This, of course, is not confined to West Africa and includes those who today would be considered children.

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Choir on the Suburban Train: Creating a Sense of Solidarity among Black South African Train Commuters

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The train has carried a powerful meaning in the South African imagination since the 19th century and more recently so has the minibus-taxi. Both have entered deep into cultural, social and personal experience of migrating and commuting black South African and other Southern African nationals. It is richly reflected in various local poetic genres of oral literature, songs and their performances as well as scholarly literature (see for ex. Coplan 1994, Brown 1999 et al.). In my paper I am, however, not going to discuss these means of transport as topoi of poetic expression. Instead I will focus on a specific social phenomenon of regular music performances, which take place on suburban commuter trains (and partly in minibus-taxis) operating between the Mamelodi township and Pretoria, South Africa, and the related experience. I also mention the related social practices such as the founding of choirs and social clubs by its fellow commuters.

In his article "Public Transport and Private Risk: Zionism and the Black Commuter in South Africa" James Kiernan writes about strategies of what he calls the "management of risk" by holding religious services on the commuter train (Kiernan 1977). Although I partly draw on his ethnographic findings from the 1970s, I focus on the music performances in general and not necessarily related to Zionist religious groups. Kiernan's data might seem old to be used today, but as the social practice of commuting between townships and cities or city centres has witnessed no profound changes throughout all the political changes (in fact its patterns remain remarkably stable) and as there are, to my knowledge, no more recent ethnographic findings available I find his observations as a useful starting point. Dealing with the

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actual musically mediated experience of public transport commuters within the urban space nowadays still structured mostly by its inherited apartheid geographies I also try to add a few thoughts to the debate about life in contemporary African cities.

In my paper I mainly focus on experiences of participation and flow. I believe, it is, first, the *participatory quality* (Turino 2008, 23-65) of the train performance of commonly known (or at least familiar-sounding enough to join in) usually choral and often church-derived repertory, and, second, the *experience of flow* (Csikszentmihalyi 1990) felt in the course of the performance, which both enable the commuters to overcome the unpleasant feelings of and about the train environment experienced as hostile and often physically dangerous and, at the same time, establish a strong sense of mutuality and mutual solidarity. This experience apparently outlives the actual travel time and in some cases may give an impetus for the formation and maintenance of various kinds of social groups at home in the township and in the work place in the city, especially choirs and social clubs.[2] I suppose that these commuter train performances could usefully be conceptualized in Turner's terms *liminality* and *communitas* too, though in my paper I focus on the first two concepts only.[3]

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[2] From my experience in Mamelodi, social clubs are a sort of people's informal insurance and assurance societies. They are there to assist its members when in need. The clubs serve as fellowships of mutual trust where a small fixed amount of money is collected every month from all its members and then kept in order to provide for its members when needed. The celebration of its members' birthdays may become such an event when part of the accumulated wealth is distributed in the form of for example domestic equipment or other things considered needed by the honoured person. Interestingly, these clubs often consist of people travelling together as a group by the commuter train every day and they may also overlap with choirs or other groups formed on the train.

[3] The liminal situation of being not any more at home and not yet at work (and vice versa), moreover, mediated through the participatory music performance, constitutes an interesting moment of relative "stillness" – paradoxically, while on the move and in the course of performance – and an experience of stability, social equality, mutual solidarity and personal security, which is sometimes difficult to achieve either at one's home in the township or at the workplace with its power relations and enforced

This paper is part of my ethnomusicological dissertation project focused on individual experiences of poor amateur urban musicians in Mamelodi and Pretoria (see note one), among them a township dweller Samuel Kadiaka. His experience of being a commuter between Mamelodi and Pretoria for more than twenty years and that of being an active train musician, a train choir organizer and a member of a train-derived social club became an obvious point of departure for my description, analysis and interpretation here. Besides interviews we have made over the years I rely on my own and some others' observations and literature.

Betwixt and Between Mamelodi and Pretoria: Commuting in Afropolis

Migrancy between rural villages and urban labour centres in South Africa has been studied for decades already by dozens of scholars focused usually on social change (see for ex. Hunter 2009/1936, Mayer 1961 and 1980, Murray 1981, Bienart and Bundy 1987). The daily movement between townships (settlement areas allocated to the non-white population under apartheid and used as mostly black settlements until now) and the actual cities, or city centres, has entertained much less attention as it might have possibly escaped the rural-urban theoretical framework (for notable studies in this area see for ex. Wilson and Mafeje 1963, Ramphele 1993, Coplan 2008/1985, Nuttall and Mbembe 2008). Townships have usually been seen as already parts of cities and in some contrast to rural areas. Though they certainly are parts of the urban environment, it is difficult to classify townships solely in terms of either urban or rural, given the fact that its physical structures as well as social and cultural dynamics belong to both.

As it has been well summarized in an introduction to *Johannesburg: The Elusive Metropolis* (Mbembe and Nuttal 2008), when thinking about African cities we must move beyond the inherited modernistic understandings and frameworks as well as images of Africa where city is simply "impossible". Adopting the term "Afropolis", meaning

hierarchies. It was Turner himself who related his term cummunitas to Csikszentmihalyi's flow in one of his studies, although he clearly distinguished them from each other to understanding flow as a more individual experience than communitas (Turner 1974, 89).

African metropolis, and drawing on other studies from elsewhere in Africa the authors describe the African city in terms such as informality, invisibility of structures, constant destruction and regeneration, constant movement etc (Mbembe and Nuttal 2008, 1-36).

To make it more complex South African towns and cities inherited persistent, uncomfortable, and omnipresent apartheid geographies, which continue to constitute the basic structures and frameworks of the urban spaces. Notably, even the new urban constructions and infrastructures tend to perpetuate these old geographies, though on economic rather than ethnic or "cultural" bases (see for ex. Anton Harber's journalistic report about the post-apartheid township Diepsloot situated between Pretoria and Johannesburg, Harber 2011). Comparison between the old Metrorail commuter train and the new high-speed Gautrain ("Golden train") in Gauteng is a good case in point. The literal parallelism of its rail tracks and its passengers alike without a single intersection is striking and telling. Thus even today the unreliable and dangerous Metrorail trains remain the most widely used means of public transport for township dwellers, next to minibus-taxis. The quality of services provided by and on these trains and in related facilities has still been quite poor. Comparatively to the Gautrain the Metrorail system continues to be notoriously underfinanced.[4]

A lot of people prefer train to taxi for financial reasons as the train tickets, especially monthly fares, are considerably cheaper. The train commuters consist of employers working in the city within fixed hours during the day or students. Those whose working hours are not regular or those who work till late at night usually prefer minibus-taxis or otherwise privately organized transport. As I observed and discussed with a number of people, it generally applies that one does not use Metrorail, if one may afford more convenient kinds of transport. Issues of safety, reliability and comfort play the main role. The social prestige of using Metrorail (and trains in South Africa

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[4] An eloquent version of the most prominent commuters' complaints about the quality of Metrorail services is available in this blog by Koketso Moeti on *Thought Leader* blog website related to *Mail & Guardian* here http://www.thoughtleader.co.za/koketsomoeti/2013/03/28/the-disaster-that-is-metrorail/ and here http://www.thoughtleader.co.za/koketsomoeti/2013/09/03/prasa-stop-treating-us-like-cattle/ (accessed January 10, 2014).

generally, even the new Gautrain) is also rather low and there is a surprising agreement across the South African population that most people seem to aspire to the ideal of owning a private car. .

The morning rush starts very early for those travelling to work by train. According to the schedule the first trains leave Mamelodi at about 3:30 am and then go in approximately 30 minutes intervals till 5:30 am when the interval shortens to approximately 20 minutes till 8:30 am. Between 8:30 am and 3 pm the trains leave at hour long intervals. During the afternoon rush between 3 pm and 6 pm the trains leave from Pretoria every 20 minutes or so. Then the intervals lengthen to approximately 30 minutes till 7:30 pm and, finally, an hour till 8:30 pm when the last train leaves Pretoria station. There are no trains operating between 9 pm and 3:30 am. The trains operate also on Saturdays with fewer connections and on Sundays with yet fewer connections. The whole journey from Mamelodi (Pienaarspoort) to Pretoria (main station) takes approximately 45 minutes according to the schedule[5] but delays for all kinds of reasons are quite common. The point is that the Metrorail trains serve almost exclusively the commuting to and from work (or possibly school) leaving almost no connections for times of leisure. They still seem to be well integrated into the system of capitalist economy as it was established during apartheid. They continue to serve first of all as a means of transport for township dwellers as workers and labourers, not as people asking for a decent level of available public transport regardless of working days. The predicament of the apartheid economic system seems to cast long and unexpected shadows.

The Train as a Performance Stage: Musical Performance, Participation and Flow

When I as an international exchange student at the University of Pretoria I met Samuel Kadiaka early in 2006 he was a married man in his mid-forties, a father of several children by different women, a member of Zion Christian Church and at that time a gardener at the University of Pretoria. Though he had originally come from Ga-Mphahlele district in Limpopo province, he has since 1981 lived in

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[5]   "Gauteng Timetables, Pretoria – Pienaarspoort," Metrorail, accessed January 15, 2014, http://www.metrorail.co.za/Timetables.html.

Mamelodi from where he has commuted every working day to Pretoria-Hatfield by train (the train stop Rissik). He attracted me as a musician, as an accordion player and as a song writer. He performed for very different occasions and audiences and his music varied accordingly from his own songs to traditional songs to various churches' hymns. Shortly after we met it appeared that one of his more regular performance venues was the commuter train.

According to Samuel the train he commuted by early morning and in the afternoon might have been conceptualized as several performance stages in one – each carriage or its section used as a performance stage. When he talked about the different kinds of performances taking place there in 2006 he first situated himself and his individual performance in the centre and then moved on as an imagined observer to describe the situation in other coaches only to arrive back and point out his own interest and agenda – promotion of his recently recorded CD in a local studio. While evaluating the train audience's affection for his satirical song *50/50* about gender equality in today's South Africa he told me: "...people are listening [to me] inside my coach. In a different coach they are talking about Jesus... In other couches there are politicians [people discussing politics]; they are singing the politicians' songs... Other people are talking jokes, so that people can laugh... They know me from end to end so they will buy all over [the CD he had just recorded]. I do not do another man's music… It is me who composed the songs." (personal communication, March 28, 2006)

Samuel and the people he sang with always travelled in the second carriage and there they met, even though some of them got in and out at different train stops. The crowd of the daily travellers is a mix of people from Mamelodi's different parts (notably, most of them spoken about and know as "sections" and "extensions") working in different parts of Pretoria and around. I find it most interesting that people tend to form smaller or larger groups defined by various criteria on the train. Formation of these groups may be influenced by various factors. The people may live or work in the same area and thus use the same train stops, or they may even be employed by the same employer. If their working hours overlap, they may use the same train connections and so on. Though not exclusively, church affiliation, kinship or (the most often rural) place of belonging play a role too. In contrary to what one may presume when seeing the mass of commuters, these people are by no means an example of social atomization. In

fact, they form and belong to many different smaller or larger and often overlapping groups each united by some kind of shared common interest.

I believe that one of possible mediators of this micro-level social cohesion is an active participatory music performance. Here I find useful the well-known ethnomusicological approach towards music as an integral part of social life and as one of its mediators. It is important to understand that this approach widely used by ethnomusicologists and music anthropologists since 1960s has completely abandoned the 19th century European bourgeois view of music as an abstract and an autonomous aesthetic domain free of all meanings. It applied the concept of studying *music in culture*[6] and later *music as culture* as a specific kind of *cultural performance* (see for ex. Merrian 1964 and Seeger 2004/1987).[7] In this view music is no longer considered epiphenomenal but central to social action, functioning at its core and as its mediator (see for ex. Stokes 1994 and Friedson 2009). It is this approach I have taken up in my research.

In his book *Music as Social Life: The Politics of Participation* and ethnomusicologist Thomas Turino fruitfully distinguishes two fundamentally different kinds of music performance: *participatory* and *presentational* (Turino 2008, 23-65). He takes these spheres of music life as different, though not wholly separate, social fields driven by different social dynamics and values. It is important here that this distinction enables us to study *all* music making without the usual discriminatory apparatus based on problematic silent ethno-centric assumptions such as class, genre, ethnicity etc. Thus it becomes a useful analytic tool for studying musical performance from a different perspective.[8] I use these categories here as rather ideal types though.

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[6]   Merriam's anthropological concept for studying music suggests to do it on three analytical levels: „conceptualization about music, behaviour in relation to music, and music sound itself." (Merriam 1964, 32).

[7]   For a profound critique of the Eurocentric concept of music understood as an autonomous aesthetic domain see Bigenho 2008.

[8]   Turino reminds us that the present-day popular Western understanding to what music is has been shaped by the notion of music as a recording. This notion has been forced upon us by the recording industry to an extent that we tend to think of all music as a recording, as a commodity

The commuter train music performances by and large belong to the participatory kind.

As I mentioned earlier Samuel Kadiaka is a song writer and an accordion player. At the time of the research he carried his accordion to work almost every day in a huge plastic bag (not to put it on public display to avoid robbery) and while on the train he took it out and played and sang. There he performed his often autobiographically inspired songs dealing with a number of pressing and timely topics: street children (critique of unfaithful men and husbands who promise but do not fulfil), gender equality (proclaimed but not real: woman pays her bribe by her body), jealousy and slender (about spreading bad gossip in the neighbourhood), family relationships (the importance of paying respect to parents and elders), sickness (when one gets sick all friends turn away), cell phones and technology (how cell phones changed dating and love), peace (how to channel a political anger into a Zion Christian Church dance), unemployment (how unemployment ruins family relationships by changing family power structures) and so on. As a main source of inspiration he acknowledges newspapers (he has been a regular reader of the Sowetan and Daily Sun), conversations with people, his own observations and personal experience. He often reminded me that people love his songs because they understand them so well. He often said he wants to educate people, especially young people, about life and how to behave. And because, as he said, he wants them to enjoy the songs and not to get bored with moralising, he makes his songs the way the audience can laugh while being actually served a serious and often critical message.

In their already classic book on oral literature in Southern Africa Landeg White and Leroy Vail wrote about social criticism present in much of the oral and orally-derived literature, about a powerful social critique, which could never be spoken publicly but as a poetic genre it became acceptable (Vail and White 1991, especially 112-154). People

and ultimately as "the real thing". Embedded in the broader cultural system where quite peculiar concept of music evolved we tend to impose our ethnocentric pre-concept when studying other cultures. We thus tend to focus on professional or "good quality" music and, often commercially, well established musical genres and fail to include the rest, in our case the grass-root level of local music performance (Turino 2008, 23-65).

not only do not get offended, they enjoy the witty comments as part of a poetic form. I believe that it is the poetic genre of song what makes Samuel's performance not only digestible but much more. It helps to constitute a collective feeling of shared experience and possibly even that of the "fellowship of the flawed" and "cultural intimacy" as so well described by Michael Herzfeld in a different context (Herzfeld 2005/1997).

If we are to understand the inner workings of this experience, it is useful to remember the post-structuralist interpretation of cultural objects. It pays much closer attention to the reception, reading or listening, than to the supposedly original authors' intentions and the works (of arts) themselves. Seen from this perspective the ultimate meaning is never encompassed by a song as such. It is only when performed that the song activates the audience's imagination and common experience, the meanings may constitute in people's minds (and bodies) and the song starts to make (cultural) sense. In my view, this is what happens during Samuel's performance of his songs. It is not him who is the ultimate author, it is the whole audience who equally takes part in constitution of the meaning. We have to think of participation on a different level here.

Besides topical songs Samuel sings what he calls "gospel music". It does not differ in music style but its lyrics are always derived from some or another Biblical (usually Old Testament) story. According to his description the story is never told as a whole but only "touched upon" and left to the listeners to fill in the gaps. Its goal is similarly didactic. As a member of the Zion Christian Church he regularly performs the Church's songs too, either hymns (from *Lifela tsa Sione* Sesotho hymnbook printed for the needs of the Zion Christian Church in Lesotho's Morija Sesuto Book Depot) or church choruses. His simple arrangements, however, make them audibly and sonically undistinguishable from his other songs (the melodic line is kept but its rhythm and metre somewhat flattened and tempo usually changed, the timbre is that of his voice and the accordion), only the lyrics usually remain intact, though some strophes or phrases may be left out or repeated.

Many of the religious songs are shared by other churches, both so called indigenous or imported. It means that not only Zion Christian Church members are able to join in by singing additional voices and clapping, but virtually everyone may do so. Moreover, there areplenty of possibilities to participate and join in at different levels of advancement with regard to the degree of one's knowledge of the

particular song and individual musical abilities. These are the most essential qualities of his performance of these songs. These are the qualities, which enable and even welcome wide collective participation. No wonder then that Samuel describes founding a choir on the train as an easy thing to do and one of his choirs he referred to as "my choir" in 2008 had about 70 members.

When discussing the participatory music performance Thomas Turino uses a psychological concept of flow or optimal experience developed by Mihaly Csikszentmihalyi. Flow may be generally described as a state of balance between the difficulty of a task and our abilities or skills to successfully accomplish it. If the demands are too high we tend to loose motivation and become frustrated, if they are too low, we get bored. In the state of flow or optimal experience we are ideally concentrated and tend to lose sense of time, place and even of our own body. One of the typical activities often given as an example of a situation enabling the state of flow is music making (Turino 2008, 23-65).

It is generally accepted in ethnomusicology that collective music making such as dancing or choral singing reinforces the sense of mutuality and is able to enhance different kinds of social identity (Stokes 1994, 1-28). When we interconnect the concept of participatory music performance with the concept of flow, we are suddenly able to better explain how this is made possible. In order to successfully motivate people to participate in any music activity adequate challenges must be offered and, if needed, adjusted to people's individual abilities. In many musical performances in Sub-Saharan Africa this condition is usually met by the openness of musical forms in certain aspects, which invite individual contributions at various levels of accomplishment at the same time. These performances are generally very much socially inclusive. In other words, the power of such a performance does not lie in the participatory or collective performance only, but it is concurrently enhanced by the sense of enjoyment derived from the individual experience of flow and partly also from the creative participation in common understanding to the song's texts and contexts. In my opinion, this is the case of Sameul Kadiaka's train music performances too.

■

Conclusion. The Train as a Space and a Place of Cultural Performances

It has become clear that the commuter train is far from being just a means of transport. It is useful to think of it as a place and a space on more levels. It works as a social space, in which different and sometimes opposing social and individual agendas are played out face to face in the capitalist environment of the migrant and commuter labour system of today's South Africa. As we have seen, this system is largely experienced as dangerous and potentially harmful to its subjects. It is also an actual physically and sensually experienced place (in terms of the anthropology of the senses, see for ex. Herzfeld 2001, 240-253 or Howes 2003, 3-58) where or in relation with which various kinds of performances take place. As truly cultural performances they are culturally meaningfully attached to the actual sensual experience of the train's physical environment. Thus the performances may meaningfully work as Kiernan's "risk management" of situations, which we would refer to the last as too unpleasant or uneasy to stand still (Kiernan 1977).

During the course of the music performance a possibility of negotiation and of playing out various collective and individual agendas opens up. The performances thus play an important role in constructing and maintaining the participants' social selves as well as their collective social relationships in that these are actually mediated through and brought about by these performances. The people are making (cultural) sense of the situation, in which they involuntarily find themselves. The sense of shared experience, mutuality and solidarity is generated and mediated at different levels of the performance – its collective participatory nature, the individual bodily experience of flow / optimal experience during the performance, the shared cultural understanding to the poetic language of songs and certainly other levels.

In order to understand these processes more closely as to what role and how exactly the music plays, we would have to analyze the performances in detail. Though I only outlined some of the possibilities how to analyse and conceptualize the commuter train performance, I hope I have offered a useful insight into some aspects of this interesting micro-level social formation and into the experience of train commuting as mediated through a musical performance. The potential of thinking about South African commuter train as a place and

space generating various kinds of individual, social and cultural experiences (thought of as interconnected on many levels) has definitely not been exhausted though.

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Picture 1: **Metrorail (left) and Gautrain rail tracks between Sunny-side and Muckleneuk in Pretoria**

(2011) Taken by the author.

Picture 2: **Metrorail train during rush hours near Kempton Park**

(2007) Taken by André Kritzinger. Source http://www.railpictures.net/photo/201572.

Picture 3: Samuel Kadiaka wearing his Mamelodi Metrorail Choir T-shirt

(2009) Taken by the author.

Picture 4: Samuel Kadiaka performing songs from *Lifela tsa Sione* hymnbook at an event of unveiling thombstones in rural area in Limpopo

(2009) Taken by the author.

Strategies for the Future in Four Rural Communities of Senegal: The Role of Agriculture and Migration

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Introduction

Agriculture has been for a long time and still is the main resource of most rural communities in Senegal. Although translocal movement practices have always been present in the area as a way of accessing income sources alternative to agriculture, national and international migrations are increasing.

Therefore, the future role of agriculture in these communities and the influence of migration on the organization of local income sources are under discussion. This chapter aims to investigate the transformations that are affecting rural communities in Senegal and focuses on local perceptions of agriculture and migration as main sources of income.

The effects of migration have always been a disputed question. Optimistic neoclassical approaches consider that migration leads to balanced growth, while pessimistic historical-structural approaches believe that it produces unequal development.

Since the 1980s, alternative – neither pessimistic, nor optimistic - approaches have emerged.

The new economics of labor migration theory maintains the economic approach of classical theories, but shifts the focus from individuals to families and households. Migration is considered as a strategy of households to maximize income and minimize risks (Stark and Levhari 1982; Stark 1985; Taylor and Wyatt 1996).

The sustainable livelihood approach concentrates on the opportunities and abilities of households and on their access to material and

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social resources. Agency and structure are regarded as a continuum. Individuals and households interact with their environment through varying patterns of action. Adaptation and coping strategies are mobilized through *livelihood-assets* (i.e. resources and activities), which are the result of a dynamical vulnerability context and of political, economic and institutional determining factors (Carney 1998; Chambers and Conway 1991; Ellis 1998).

A transnational turn was introduced in migration studies in the 1990s. The focus shifted from classical migration forms (concentrating on the permanent relocation of individuals and families from one place to another) to repeated circular migration processes (through which people move from one place to the other and then back) and to pendulum movements (from work to home locations) (Fassmann 2008; Pries 2008; Steinbrink 2007). Attention is furthermore given to the resulting social networks.

Migration is no longer considered as a mere answer to economic, political and environmental factors, but also as a social product. Networks can be seen as personal relationships connecting migrants, former migrants and other persons in different locations: a tie based on kinship, friendship or a common provenance. This kind of social capital is also evaluated as significant for the decision to migrate (Bohle 2005; Bourdieu 1983; Massey et al. 1993).

Among the resources to which individuals and households in rural areas of Senegal have access, agriculture and – increasingly- migration are perceived as predominant. This differentiation of income sources permits households to maximize income and to minimize risks. The decision to migrate derives from individual and collective decisions and leads to a strong translocalism in the affected communities.

What effect does the growth of migration tendencies have on the resource context and especially on agriculture? Does this growth reduce or reinforce the importance of agriculture? Does it replace agriculture or do they continue to coexist?

This chapter is based on two fieldwork phases in Senegal that I conducted in three rural villages and in one community subject to rapid urbanization in 2012 and 2013.

Sambé (in the region of Diourbel), Guédé Chantier (in the region of S. Louis), Dindéfélo (in the region of Kédougou) and Yoff (in the region of Dakar) were chosen because each of them is representative of the specific climate and social zones in the country.

At Yoff – a community characterized by particularly strong traditional social and religious structures - rapid urbanization and international migration are producing considerable changes. The village of Guédé Chantier, located in the area of the Senegal River, was created by French colonials for the purpose of implementing intensive rice agriculture; although the surrounding area is subject to strong migration tendencies, the village has offered alternatives to its inhabitants for a long time, but things are now changing. Another area where intensive agriculture has been practiced for a long time is the groundnut basin, where Sambé is located: this poor area is particularly touched by internal migration. Dindéfélo, finally, lies in a region whose farming conditions are particularly favourable; however, tourism and migration are introducing the quest for alternative work opportunities.

The applied methodology included interviews, participant observation and a photographic work.

Individual interviews, group interviews and informal conversations were conducted with farmers, migrants, migrants' relatives, selected households and other persons playing a relevant role in the communities. The decision to live with local families for the entire duration of both fieldwork phases permitted a deep and continuous participant observation of everyday life. A participant photographic work was realized through the distribution of disposable cameras and the later discussion of the collected images.

Agriculture: A Changing Resource

Local agriculture has always been characterized by a precarious equilibrium.

As in the whole Sahel-region, water-scarcity plays an important role and rainfall-variability makes agriculture vulnerable (Hammer 2005, 34). Aridity and drought have always characterized the Senegalese ecosystem, but the situation has worsened since the 1970s.

While pre-colonial life-styles of the region have often been described as a human-ecosystem-symbiosis (Ibrahim 1991, 162), Hammer writes that the resource-use was not sustainable, but cyclically sustainable ("nicht nachhaltig, sondern zyklisch nachhaltig") (Hammer 2005, 38).

The mobile and flexible lifestyles of nomadic pastoralists were combined with the different stationary strategies of sedentary farmers. The collaboration between nomadic and sedentary groups not

only decreased land pressure, but it also produced advantages for both through the exchange of goods and services. The permission accorded to cattle herders to let their livestock pasture on the fields after the crop was particularly relevant, because it provided soil fertilization.

Locally differentiated farming practices like rain-fed agriculture and shifting cultivation permitted the maintenance of a precarious environmental equilibrium.

Since the beginning of the 20th century, however, , French colonial agricultural politics progressively initiated relevant transformations, leading from extensive to intensive land use practices. Millet, rice, corn and sorghum are now the primary food crops, while peanuts, sugar cane and gum arabic represent the primary cash crops (Ndiaye 2007, 1).

The population of Senegal has strongly increased in the last decades: in 2011 it was of 12.767.000 inhabitants (UNDP 2011), and it is expected to grow further. This population growth has increased pressure on the land, has produced land scarcity and has accelerated the abandonment of extensive agricultural techniques.

Starting from the 1970es, mobile pastoralism of nomadic groups in the north of Senegal has increasingly been replaced by half nomadic practices: a part of the family has become sedentary and switched to agriculture, while only young unmarried men still take care of the livestock and undertake seasonal transhumances (Krings 2006).

The abandonment of mobile life-styles and the contemporaneous intensification of land use have led to an increased use of resources, to soil degradation and to aridification.

In the analyzed communities, too, intensive agricultural practices have replaced the former extensive ones. The traditional farming activities were limited to three months a year, while the introduction of multiple harvests has extended the farming time. New seeds and plants have been opted for and chemical fertilizers and insecticides introduced.

These changes, which started in the period of the French colonial occupation (1659-1960), were sustained later on by support programs of the Senegalese government and of external institutions. These actors used to finance agricultural inputs and to buy a substantial part of the products at a price that allowed the maintenance of intensive agricultural practices, far more expensive than the former extensive ones.

After a significant reduction of state intervention in agriculture in the 2000s, farmers are now supposed to take charge of the majority of the farming expenses. They are also confronted more and more with the consequences of decades of intensive land exploitation in an environment whose precarious equilibrium is increasingly damaged.

Land degradation, pollution and aridification are often mentioned by farmers as consequences of intensive agriculture. After several accidents occurred, the consciousness of the risks for the health connected with the strong chemical products is growing, and so is the awareness of their negative effects on soil quality.

The farming conditions are perceived to be harder than before, the quality of soils is considered worse than it used to be and crops are described as increasingly diminishing. In case of bad harvests, all these factors – combined with environmental factors deriving from climate change – produce significant consequences and confront the farmers with the need for alternative income sources.

Whereas the awareness of the side consequences of intensive farming is spreading, its abandonment and the return to more sustainable practices is considered difficult due to several reasons. Population growth not only increases the food demand, but it also produces land scarcity and consequentially prevents crop rotation. Another adduced reason lies in the abandonment of the traditional collaboration with nomadic cattle-herders – because of the process of sedentarization that involved many of them – and the consequent lack of biological fertilizers that used to be provided by their animals. Many farmers, furthermore, consider bad soil quality to be irreversible and unrecoverable and chemical fertilizers as the only tool that can assure sufficient crops.

Reactions to these challenges vary. Some farmers sell a part of their livestock to finance their work on the fields; those who can access bank credit, take it; in some cases one or more family members move to other national areas or go abroad.

Due to high rates of interest, bank loans occasionally cause indebtedness and impoverishment of the borrowers. Furthermore, their granting is often submitted to conditions that imply the use of fertilizers and other chemical products and that bind farmers to the purchase of particular seeds and to specific selling conditions.

Because of all these problems, more and more young people perceive farming as a tiresome and an unsafe activity. Simultaneously, nevertheless, the idea of agriculture as a primary resource not only for

their own community, but also for the whole of Senegal, endures. The interviewed persons often underlined that although agriculture isn´t presently receiving the required support, appropriate politics or interventions could restore its primary role.

As a result of the present crisis in agriculture and especially in the event of bad harvests, many men of working age move from their villages to other - mostly urban - Senegalese areas or they go abroad. Their action not only provides the immediate nourishment of the households, but also resources to be invested in agriculture.

Migration as a Strategy of Income Differentiation

Nomadic or mobile strategies have always been practiced by a part of the population. At the same time a differentiation of the income sources – realized through a dislocation of one or more family members – allows the family to increase the opportunities of a higher income and of reducing the risks.

This dislocation limits the damage of bad harvests, as it occurred after the harvest season in 2013, when the number of men of working age migrating to urban areas increased significantly.

The destinations for migration tendencies are variegated, varying from - mostly urban - areas of Senegal to Western African countries or other continents.

Households with migrants often have further family members abroad or in other parts of Senegal: this differentiation allows them to maximize the benefits of migration and to reduce risks such as those resulting from economic crises.

In most cases, migrants are men of working age, who are supposed to provide help for the whole large household and to finance the resettlement of other - mostly young male - family members.

These movements often don't lead to a permanent relocation, nor do affected persons lose their status of community members. Migrants from the studied villages move circularly from one place to the other and then back, or they alternate periods in their home village with periods in other locations.

In the whole of Senegal, a strong resettlement from rural to urban areas has produced an urbanization rate of 3.32%. In the year 2011, 42.8% of the population lived in urban areas (UNDP 2011). Nevertheless, this does not imply an interruption of the relationship connecting migrants living in towns with their home village and with their family

members still living there. While many men temporally move to town leaving their wives and children with their large family, it often occurs that migrants working in urban areas return home during the harvest period to help with farming activities.

The decision to leave their wives and children – which in the case of transnational relocations is often due to legal reasons – allows migrants to move nimbly. At the same time it prevents the exposition of fragile family members to the difficulties and rubs connected with a new start or with an illegal situation. Furthermore, parents at home are provided with domestic help, children are permitted a Senegalese education, and the family isn't obliged to deal with different cultural practices and ways of social organization. This decision finally constitutes a facilitating factor at the moment of return.

Migration – particularly if international - permits not only an income maximization, but also represents an investment for the future of the family. While *bâtiments* (buildings in brickwork) are replacing traditional huts and represent the most apparent sign of the migrant's success, further positive consequences are the wider access to technology and media, to school education opportunities, to international contacts and to the chances connected with them. Not to be forgotten is also a rise of self-confidence and of social consideration.

Especially in families affected by international migration, a partial dependence from the outside world may arise. In this context, a significant role is played by mythicized images of migration experiences and of western living conditions and opportunities.

Such images occasionally lead to resistances in migrants to communicate the complex situation they have to face in their countries of destination and the difficulties they encounter in fulfilling the expectations of the family. The European economic crisis seems to be playing an important role, both in increasing these kind of difficulties among migrants and in modifying the mythicized images of migration experiences.

Conclusions

The aim of this chapter has been to investigate the local perception of migration and agriculture as the main income sources in rural communities in Senegal.

Among the sources of revenue to which households in rural areas have access, agriculture has always played a primary role, but it has steadily been complemented by other resources.

Whenever agriculture undergoes difficulties, the access to other sources of income is bound to increase. In the case of bad harvests, the households decide to send one or more of their members to different locations, so as to decrease living costs and to access income sources located elsewhere. This migration can be seasonal or permanent and it can be directed towards other (mostly urban) areas of the country or abroad.

Thus, migration is increasingly becoming a form of income sources differentiation, which allows a maximization of the benefits and reduces the risks.

The earnings achieved by the dislocated household members contribute to the direct sustenance of the family; furthermore, they help to solve other needs and to sustain and improve the access to further sources of revenue. A considerable part of this support goes to agriculture, which is still considered as very important. Therefore, migration doesn´t replace farming, but it contributes to sustain and maintain a system of diversified and translocal income sources, in which agriculture still plays a primary role.

Various differentiated resources constitute a flexible system that adapts not only to environmental, social and economic changes, but also to the varying needs of the households. This diversification is favoured by the extension of the widespread dispersion of household members.

Whereas for persons moving from rural to urban areas it is common to return to their home villages when they become older and exit the work market, the strategies for the future of international migrants are undergoing relevant changes.

A large part of the Senegalese *diaspora* has been living in Southern Europe and is now dealing with the difficulties of the European economic crisis. Since 2013, some migrants are beginning to return to their home country. It is still an open question, whether this return will be permanent or temporary. While some returned migrants prefer to reside in Senegalese urban areas and to work in commerce or in the formal sector, others are moving back to their home villages. For some, this decision results from the lack of resources to be invested in the establishment of new businesses in urban areas; others reconsider with appreciation the advantages of life style in their home villages.

In some cases, returned migrants introduce considerable changes in local agriculture through improved farming techniques, different plants and seeds, new farming groups or forms of funding that avoid the risk of indebtedness.

Although the partial return of international migrants is a very recent phenomenon, its effects will surely be relevant. Local mythicized images of migration are also changing, due to these returns and to the new diffusion of television programs dedicated to the difficulties Senegalese men and women are facing abroad.

Whereas in the former decade state intervention in agriculture had decreased, the new government (elected in 2012) announced its will to reinforce state support in agriculture. It remains to be seen whether this support will be effective.

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