

# AFRICA DEVELOPMENT AFRIQUE ET DÉVELOPPEMENT

Vol. XLIX, No. 1, 2024

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**AFRICA DEVELOPMENT  
AFRIQUE ET DÉVELOPPEMENT**

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*Africa Development* is a quarterly bilingual journal of CODESRIA. It is a social science journal whose major focus is on issues which are central to the development of society. Its principal objective is to provide a forum for the exchange of ideas among African scholars from a variety of intellectual persuasions and various disciplines. The journal also encourages other contributors working on Africa or those undertaking comparative analysis of the developing world issues.

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# Soft Power Diplomacy: An Analytical and Conceptual Contextualisation of Cuba's Peregrination in Africa<sup>1</sup>

Kekgaoditse Suping\* & Korwa Gombe Adar\*\*

## Abstract

For decades, and despite sanctions and turbulent relations with major international actors since the 1960s, Cuba has managed to assert itself in the international system. A small island with very limited natural resources, Cuba leveraged its international affairs on its provision of healthcare. This article investigates the role and impact of Cuban medical assistance in Africa. It proceeds from the premise that soft power has useful explanatory value in understanding the Cuba–Africa diplomatic intercourse. The article argues that despite its political ideology and limited political freedoms, Cuba established itself as a model and prominent player in the unique and consistent provision of healthcare and humanitarian assistance to the African continent, and in the development of Africa's healthcare systems, for more than sixty years. It has also offered community-based healthcare training, which most African countries consider to be more relevant and cost-effective than hospital-based training. Furthermore, the Cuban training gave African medical students a shift in perspective and orientation to focus on public service, not profit-making.

**Keywords:** Africa; Cuba; diplomacy; medical doctors; soft power; community-based healthcare

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## Résumé

Depuis les années 1960, et malgré les sanctions et les relations turbulentes avec les principaux acteurs internationaux, Cuba a réussi à s'affirmer dans le système international. Petite île aux ressources naturelles très limitées, Cuba a tiré parti de son entregent international dans la fourniture de soins de santé. Cet article examine le rôle et l'impact de l'assistance médicale cubaine en Afrique. Elle part du principe que le soft power a une valeur explicative utile dans la compréhension des relations diplomatiques entre Cuba et l'Afrique. L'article soutient qu'en dépit de son idéologie et de restrictions des libertés politiques, Cuba s'est imposé comme un modèle et un acteur de premier plan dans la fourniture unique et constante de soins de santé et d'assistance humanitaire au continent africain, et, depuis plus de soixante ans, dans le développement des systèmes de santé africains. Cuba propose également une formation en soins de santé communautaire de base, que la plupart des pays africains considèrent comme plus pertinente et plus économique que la formation en milieu hospitalier. En outre, la formation cubaine a permis aux étudiants en médecine africains de changer de perspective et d'orientation pour se concentrer sur le service public, sans recherche de profit.

**Mots-clés** : Afrique ; Cuba ; diplomatie ; médecins ; soft power ; soins de santé communautaires.

## Introduction

Cuba is a collection of small islands of about 109,884 square kilometres in the Caribbean, with a population of about 11 million people. Spain colonised Cuba in the fifteenth century, but following the Spanish-American War of 1898, Cuba became a US protectorate (Pérez 1998; Beede 1994; Schoonover and LaFeber 2005). By the 1940s, Cuba had gained minimal independence, but it soon faced political and social strife, which resulted in a coup that ushered in President Fulgencio Batista's corrupt dictatorship, in 1952 (Shapiro 1963; Guerra 2012; Beede 1994). Batista's oppressive rule led to his overthrow in 1959 by the 26<sup>th</sup> of July Movement led by Fidel Castro (Fernández 2009). The Castro movement introduced Communist rule to Cuba, which has existed since then (Castro and Ramonet 2007; Fernández 2009).

In the early 1960s, Cuba was of geopolitical and geostrategic importance to the Communist Union of Soviet Socialist Republics (USSR) due to the country's close proximity to the latter's global adversary, the United States of America (Scott and Hughes 2015; Pavlov 1994). The close ties between Cuba's communist government and the USSR sparked tension between



those two countries and the USA, resulting in a nuclear crisis in 1963 between the then superpowers – the USA and the USSR (Scott and Hughes 2015; Pavlov 1994; Bain 2005). Cuba was a place of contention between the Cold War rivals for more than two decades. The USA imposed sanctions on Cuba that would last more than half a century (Scott and Hughes 2015; Franklin 1997). Notwithstanding the sanctions, Cuba expanded its international co-operation by becoming a member of several international institutions and organisations, such as the United Nations, Non-aligned Movement (NAM), the G77, Organization of African, Caribbean and Pacific States (OACPS) and the Organization of American States (OAS) (Harris 2009). Furthermore, Havana utilised its limited natural resources to establish economic cooperation with other states through tourism and by exporting tobacco, sugar and coffee (Ritter 2004; Mehrotra and Jolly 1997).

Throughout the Cold War period, Cuba was actively involved in most liberation wars in Latin America, the Caribbean and Africa, supporting and promoting communist regimes and/or ideology. More importantly, Cuba became actively involved in international humanitarian activities. At the time of the revolution in 1959, Cuba established a strong healthcare system and trained thousands of healthcare workers who were sent to work in other countries throughout the world (Werlau 2013; Dominguez 1993). The deployment of Cuban healthcare workers and other professionals defined Cuba's foreign policy and asserted the country's role and impact in international affairs, especially global healthcare. The aggregate of Cuba's domestic and foreign policies can be summed up as high human development, health and education ratings, as well as international recognition for contributing to the World Health Organization's global call for 'health for all' (Blue 2010; WHO 2020; UNDP 2019).

This research makes a case for the effectiveness of soft power diplomacy using healthcare services to establish Cuba–Africa relations. It argues that although Cuba is a small state faced with political and economic challenges it has asserted itself in international affairs and contributed more specifically to the development and growth of Africa's healthcare services. In establishing relations with Africa, Cuba initially used hard and soft power. The test case of Cuba's hard power relations with Africa was the deployment of military personnel in Algeria in the early 1960s (Gleijeses 1996). Later on, Cuba played a significant role in the Angolan struggle for liberation and independence by providing military support and development aid (Grabendorff 1980; James III 2020). Cuba's involvement in Angola continued during the civil war that emerged and continued from 1975 until the early 2000s (Grabendorff 1980; Gonzales 2000). However, Cuba's

soft power in Angola in the form of ‘... development aid, is considered by most African states to be the most positive Cuban support’ (Grabendorff 1980:6). Although Cuba used hard power diplomacy in Africa, soft power proved more sustainable and beneficial to Cuba and the recipient African states (Grabendorff 1980).

Therefore, this article uses soft power and not hard power to analyse and contextualise Cuba’s trajectory in Africa, and raises the following arguments. First, Cuba provided successful community-based healthcare services training as an alternative to Western hospital-based healthcare services in Africa. Second, despite decades-long sanctions, Cuba internationalised its healthcare services, thus setting a model worth emulating by African states that are struggling to make themselves relevant in a globalising world. Third, Cuba’s soft power, which is core to the country’s foreign policy, was an effective diplomatic tool in that it transcended political challenges, and enabled Havana to collaborate with several countries across the world regardless of their geographical location and political ideologies. Fourth, Cuba’s international cooperation in healthcare services presents one of the rare cases of success by a leftist or communist regime in the developing world (Feinsilver 2006). Lastly, Cuba’s health-based diplomatic relations are an uncommon example of successful South–South cooperation.

### **Soft Power Diplomacy and Cuba’s Healthcare Nexus**

The concept of soft power is premised on the theory that it can bring about the desired objectives through persuasion or co-option without the use of force – otherwise known as co-optive force (Nye 2008). Attraction, as opposed to force, is fundamental in achieving desired goals based on inducement or co-option (Nye 2004). According to Nye (2004:15), soft power is ‘the ability to get the outcomes you want without having to force people to change their behaviour through threats or payments’. The concept is anchored on culture, values, ideology, institutions, technology and education. Furthermore, Nye (2008:95) argues that soft power is appealing because it has ‘... the ability to entice and attract’. Therefore, soft power establishes policies that tend to be attractive, legitimate and command a moral authority of some sort (Nye 2008).

Soft power is one of the effective paths to success as it wins hearts and minds and can produce desired policy outcomes (Nye 2019). Many countries, including Cuba, have used soft power to build and enhance their diplomatic relations with others. Culture, political values and foreign policies have individually and collectively enabled soft power diplomacy.

In Cuba's case, this includes its revolutionary experience. Specifically, Cuba emerged from its revolution prepared to support those countries mired in similar conditions, which made Africa one of the key destinations for Cuba's implementation of soft power medical diplomacy. Institutions increase the relevance of soft power by increasing others' perceptions of legitimacy (Nye 2019). In this context, it can be argued that soft power evolves and grows out of a nation's culture and institutions.

The hallmark of Cuba's soft power medical diplomacy was set by Ernesto Che Guevara, a key figure in the Cuban revolution, in his 1960 'On Revolutionary Medicine' speech (Offredy 2008; Whiteford and Branch 2009; Brotherton 2012). His concept of revolutionary medicine was premised on grassroots, people-driven, free medical care and was meant to revolutionise the healthcare system in Cuba. For Guevara, the right of access to quality medical care was as important as political rights; healthcare was a universal human right enshrined in the cardinal sovereign responsibilities of the state (Brotherton 2012). This idea culminated in the establishment of free medical care after the Cuban revolution (Porter 2006; Brotherton 2012). Healthcare thus was intertwined with the Cuban dual conception of the revolution, that is, medicine and politics.

Realising its relatively weak economy and political challenges, both of which were compounded by US sanctions, Cuba fixed on medical diplomacy to assert itself as a prominent player in international politics (Werlau 2013; Feinsilver 2010). The first implementation of this vision was when Cuba sent medical personnel to Algeria to replace the departing French doctors after the Algerian war of revolution against the French in 1963. Since then, Cuba has deployed medical personnel in other parts of Africa, setting the stage for medical diplomatic peregrination supplemented and consolidated by several complementary initiatives. These include:

- cooperation with medical institutions in
  - Ethiopia (1984), Uganda (1986),
  - Ghana (1991), the Gambia (2000),
  - Equatorial Guinea (2000), and
  - Guinea-Bissau (2004);
- training African medical students; and
- offering scholarships for African students to train in Cuban universities.

Thus, Cuba is now a force to reckon with in global healthcare and a leader in medical diplomacy (Feinsilver 1993; De Vos *et al.* 2009).

Cuba's relations with Africa were largely influenced by a common sociocultural background or heritage (Gonzales 2000). For instance, Cuba has a significant population of citizens with African ancestry (Lopez 2012; Gonzales 2000). Furthermore, during the Spanish rule of Cuba some Cubans were deported to African countries like Nigeria and Guinea because of their political sentiments (Castillo-Rodríguez 2016). In addition, like African states, Cuba was, for a long time, a colony and experienced a liberation struggle (Gonzales 2000; Grabendorff 1980). These were among the reasons for Cuba's decision to assist African countries in their struggle for liberation (Grabendorff 1980; Gonzales 2000).

### **Cuba's Medical Cooperation and Global Healthcare Services**

Cuba's footprint in healthcare has not been limited to Africa. Havana deliberately put in place a structural cooperation programme to export skilled healthcare workers to serve in various countries for at least two years (De Vos et al. 2007; Feinsilver 2010). At the inception of the internationalisation of Cuba's healthcare, Cuba sent more than 130,000 healthcare professionals to more than 102 countries (Kirk 2009). Since the 1960s, it has deployed more than 600,000 healthcare workers in more than sixty developing and developed countries across the world (De Vos et al. 2007; Blue 2010; Feinsilver 2006). It has sent medical professionals to almost all of Latin America, the Caribbean, Asia and Africa (De Vos et al. 2007). Its medical, diplomatic relations with liberal and socialist states demonstrate the ability of soft power to transcend political systems and challenges.

By 2007, Cuba had sent more healthcare professionals around the world than all the G8 countries combined (Kirk 2009). Havana had the largest number of 'medical diplomats' abroad – more than 42,000 healthcare workers, of whom 19,000 were physicians (Huish and Kirk 2007). Although the number of Cuban medical staff abroad declined from 50,000 in 2015 to 28,000 by 2020, Cuba's doctors are still in high demand across the world (*The Economist* 2020; Garrett 2010).

According to Walker and Kirk (2013), Cuba's role and impact on global healthcare go beyond medical cooperation to capacitation, in that it has established medical school training and collaboration with countries in Africa, Asia, Latin America and the Middle East (Walker and Kirk 2013; Kirk 2009). In focusing on the development of human capital, Cuba's healthcare system was indicative of effective medical cooperation based on a '... low-technology and low-resourced preventive-focused medical

model' (Walker and Kirk 2013:10). Cuba's medical model is not only cost-effective but is appropriate in developing countries because it emphasises a preventive and public or community-based approach rather than the curative approach that is affordable for only the privileged few (Kirk 2009; De Vos et al. 2007). This made it attractive to many developing countries that shared similar cultural traits.

Cuba's contribution to global healthcare has gone beyond medical cooperation and capacitation to humanitarian assistance. US sanctions and reservations about a socialist political system in a world dominated by pro-democracy states did not distract Cuba from offering international humanitarian assistance to countries affected by natural disasters across the globe. The Caribbean, and Latin American countries such as Chile, Honduras, Nicaragua and Haiti, have benefitted from Cuban medical assistance since the 1960s, during earthquakes, hurricanes and volcanic eruptions that have resulted in human casualties and impossible strains on their healthcare systems (Brouwer 2009; Briggs and Mantini-Briggs 2009). In 2005, following Hurricane Katrina in the US, Cuba offered humanitarian assistance to its long-term 'enemy' (Kirk 2009; De Vos *et al.* 2007) in the form of more than 1,500 medical doctors to attend to the affected American people. The US turned down the offer (Kirk 2015; Newman 2005).

Cuban medical diplomacy has reached as far as the Middle East and Asia in times of natural disaster, such as the 2004 tsunamis in Indonesia and Sri Lanka and earthquakes in Iran and Pakistan (Huish and Kirk 2007; De Vos et al. 2007; Akhtar 2006). It is worth noting that Pakistan and Iran have never been receptive to communism or socialism, but were grateful for humanitarian assistance from Cuba's socialist government. In addition, European countries such as Italy, Ukraine and Switzerland have benefitted from Cuban medical diplomacy (De Vos *et al.* 2007). Its resilience in outliving the collapse of communism and transcending geopolitical differences indicates the effectiveness of soft power and leadership in contributing to global healthcare.

### **Cuba's Medical Diplomats in Africa: Alleviating a Medical Personnel Shortage**

During and after their struggles for independence in the 1960s, several African countries benefitted from the deployment of Cuban health brigades to provide healthcare to people affected by the wars (Glejeses 1996). As Brouwer (2009) rightly observed, Cuba used healthcare as a weapon of solidarity to support some countries, especially those in Africa, in times of

need (Nzibo 1983). Cuban healthcare workers were sent to Guinea Bissau, Angola and Mozambique during their armed struggles for independence and subsequent civil wars in the late 1970s (Huish and Kirk 2007; Cohen 1994; Nzibo 1983). Cuba's healthcare assistance was welcomed by most African states as an alternative to the healthcare assistance offered by the Western countries, which had strings attached (Nzibo 1983).

After the liberation struggles, Cuba played a prominent role in developing Africa's healthcare systems and in providing access to healthcare in many African countries. Notwithstanding its own status as a developing country with limited resources, and the language barrier, Cuba deployed medical personnel in almost all the regions of Africa throughout the 1960s and 1970s. By 1982, Cuba had sent more than 2,692 healthcare workers, mostly doctors, to more than twenty-six African countries (Nzibo 1983). Angola, Ethiopia, Guinea Bissau, the Congo, Mali, Tanzania, Burundi, Uganda, Seychelles and Mozambique were among the beneficiaries (Nzibo 1983; De Vos *et al.* 2007).

One of Cuba's foreign policy objectives was ensuring Cuba's influence and presence in Africa through medical personnel (Nzibo 1983). According to the then-Cuban leader, Fidel Castro, his country's influence in Africa was not one of hard power or military in nature but was civilian, utilising soft power (Nzibo 1983). More importantly, Cuba was not deterred by its detractors, led by the US, who accused it of exporting revolution and internationalising communism (Nzibo 1983). By 2005, more than thirty African countries were hosting more than 1,290 Cuban physicians (De Vos *et al.* 2007; Feinsilver 2010), and more than 500 Cuban medical personnel were working in public health facilities in southern Africa – in Botswana, Lesotho, Namibia, Zimbabwe, South Africa and Mozambique (De Vos *et al.* 2007). The Gambia was the biggest African recipient of Cuban health aid, with more than 250 medical personnel by 2004 (Blue 2010; Feinsilver 1993).

Cuba's most recent health intervention was in South Africa in 2020, during Covid-19, when it sent medical personnel to assist that country (Jika 2020; Kapueja 2020). The South African government and some workers' unions welcomed the Cuban medical personnel. However, there were objections (NEHAWU 2020; Kapueja 2020). The media, professional medical organisations and the general public complained about the hefty budget for the Cuban medical personnel, the lack of consultation in employing them, and the lack of evaluation standards for their services (Kapueja 2020).

## **Cuba's Humanitarian Assistance to Africa**

In 2005, Fidel Castro established Cuba's international contingent of medical doctors specialising in disasters and serious epidemics, known as The Henry Reeve Brigade. The overall objective of the Brigade was international medical solidarity in major world healthcare crises (Cuba Solidarity Campaign 2020). The Brigade has assisted countries hit by hurricanes (such as Guatemala during Hurricane Stan), earthquakes (Indonesia, Haiti, Chile and China) and floods (Mexico) (Cuba Solidarity Campaign 2020). The effectiveness of The Henry Reeve Brigade resulted in it being awarded a prize for public health by the WHO in 2017 for medical assistance to more than 3.5 million people affected by disasters and epidemics in more than twenty-one countries (Cuba Solidarity Campaign 2020).

African countries, too, have benefitted from Cuba's Henry Reeve Brigade. In 2014, there was an outbreak of Ebola in West Africa, affecting Guinea, Sierra Leone and Liberia. In response to the epidemic, many countries closed their borders to people from those countries. As the disease rapidly spread in the three West African countries, the United Nations Secretary-General and the World Health Organization (WHO) Director-General appealed to the international community for assistance. Some Western states went as far as promising assistance and money (Kirk and Walker 2016), but Cuba was the first country to offer to send the largest contingent of medical professionals. 'In all, over 12,000 Cuban medics volunteered for the Ebola mission, with some reports stating that 15,000 had offered to go to West Africa' (Kirk and Walker 2016:17). Commenting on the inadequate response by most developed countries, the Director-General of WHO was quoted as saying:

Money and materials are important, but those two things alone cannot stop Ebola virus transmission ... Human resources are clearly our most important need. We need most especially compassionate doctors and nurses, who will know how to comfort patients ... (Kirk and Walker 2016:10)

After the Covid-19 outbreak in 2020, more than 3,700 Cuban medical personnel volunteered to assist in thirty-nine countries worldwide, treating more than 360,000 people (Cuba Solidarity Campaign 2020). Responding to Cuban medical assistance at the beginning of the pandemic, Stefania Bonaldi, the Mayor of Crema in Italy, said: 'We were shipwrecked and you succoured us without asking us our name or origin. After months of mourning, anguish and doubts, now we see the light' (Cuba Solidarity Campaign 2020). When countries throughout the world were focused on

ensuring maximum access to healthcare for their citizens, Cuba dispatched more than 300 medical personnel to some African countries to help fight the pandemic, with South Africa alone receiving 217 Cuban medical brigades (Agencia Cubana de Noticias 2021; Acosta 2020).

More importantly, as Kirk (2015) observed, Cuban healthcare is unlike that provided by any other state in the world since it targets marginalised populations and people in remote areas across the world, and thus broadens the scope of Havana's soft power medical diplomacy. Whereas some countries and organisations are accused of 'disaster tourism', in that their citizens go to disaster-affected areas 'to see' what happened and assess the degree of the damage, Cuban healthcare workers go in to offer much-needed medical assistance (Kirk 2015). Thus, Cuban soft power medical diplomacy has '... helped deliver preventative and curative care to a total of 1,931 million people around the world and save 8.2 million lives between 1960–2019' (Cuba Solidarity Campaign 2020).

### **Cuba's Healthcare Training and its Relevance to Africa**

Cuba's medical internationalism has created opportunities for some African countries to improve their own healthcare systems and lower the ratio of doctors to patients. Cuban medical training is appreciated by some as unique and the best way to achieve universal healthcare because it trains doctors who are willing to work under difficult conditions, especially in rural and disaster-affected areas (Sui *et al.* 2019). Cuban medical schools are among the most preferred in the world as a result of the country's long-term investment and strength in the medical sciences (Gott 2004; Dominguez 1993). The Cuban diplomatic missions play a critical role in the recruitment and registration of foreign medical students.

Cuba's model of medical training emphasises community-based healthcare rather than hospital-based healthcare, which is used by some developed countries like the United Kingdom (Wong and Wylie 2010; Feinsilver 1989). Community-based medical training is offered through community-based centres, such as primary healthcare facilities, instead of large hospitals (Wong and Wylie 2010; Feinsilver 1993). This model of training appeals to most developing countries, especially in Africa, because it equips healthcare givers with skills to assess socioeconomic and political factors that may contribute to the health of a patient (Wong and Wylie 2010). Furthermore, the model is credited as an effective preventive measure rather than a curative one focusing only on clinical treatment (Wong and Wylie, 2010; Walker and Kirk 2016).



Community-based training is also favoured by developing countries with limited resources because it develops medical students to be what Wong and Wylie (2010) call 'five-star doctors' capable of providing healthcare that is relevant, equitable, effective and of high quality. According to Wong and Wylie (2010), the 'five-star doctor' is a care provider, decision-maker, communicator, community leader and manager all at the same time, and thus is also cost-effective.

Cuban medical schools prepare students to be medical corps in communities different from theirs and to provide humanitarian medical services to disadvantaged communities (Motala and Van Wyk 2019). Graduates of Cuban medical schools are known to be willing to work in rural communities where there is more need for healthcare services, as is the case in most African states (Sui *et al.* 2019; National Department of Health 2011). Although Cuba's language is foreign to the countries to which it sends students, this has not been a disincentive in the quest for Cuban training, as most African states find Cuba's community-oriented medical training approach relevant to their healthcare systems (Sui *et al.* 2019; Mills *et al.* 2011; Bateman 2013). In some countries, like South Africa, where surveys and comparisons of Cuban-trained and South Africa-trained doctors were done, graduates from the former proved to be more competitive and confident in talking to patients and their relatives than those trained locally (Sui *et al.* 2019).

Cuban medical schools are also credited with providing medical training to disadvantaged students from around the world, including the US (De Vos *et al.* 2007; Sui *et al.* 2019), and with being affordable to students from African countries (Sui *et al.* 2019; Motala and Van Wyk 2019; Bateman 2013). South Africa, for example, has trained an average of 700 medical students per year in Cuba since 1996, even though it has some of the best medical schools (Sui *et al.* 2019; Human Resources for Health 2015; Hammett 2007), because these medical schools can be prohibitively expensive.

A further advantage of Cuban medical schools is that they promote gender equity by providing greater access to medical training for women from across the world. At the inception of the Latin American School of Medical Sciences (ELAM) in 1998, half the medical students were women (Blue 2010; Feinsilver 2006).

## **Cuba's Universal Healthcare Services: A Better Alternative to Neo-liberal Healthcare Services**

Cuba's revolutionary government established a universal healthcare system to ensure equal treatment and access to all (Wong and Wylie 2010). Since healthcare services were prominent in Cuba's statecraft, this enabled its medical internationalism. Whereas other countries embraced the dominant neoliberal approaches in their domestic and foreign policies, such as commodifying healthcare services, privatisation and social austerity, Cuba rejected these and made its healthcare a public good accessible to all (Feinsilver 2006; De Vos *et al.* 2007). With its efficient soft power, medical diplomacy and a healthcare system that even serves other countries, Cuba has invalidated the neoliberal view that efficiency and effectiveness can best be achieved through privatisation (De Vos *et al.* 2007; Navarro 2020). 'Cuban leaders consider health indicators to be measures of government efficacy ...' (Feinsilver 1989:1).

Through healthcare services, Cuba has asserted itself as a 'world medical power' (Feinsilver 1989). When other states were internally focused, Cuba found an opportunity to internationalise its healthcare system by creating a pool of health workers that was big enough for local healthcare needs and to be deployed in other countries, both developed and developing (Blue 2010; Feinsilver 1993). The Cuban medical personnel and African doctors who graduated from Cuban medical schools focus on the provision of healthcare to the public and less on profit-making, thus offering their services for the benefit of humanity (Feinsilver 2006). Through this approach, Cuba has been able to reduce the impact of sanctions and connect with other countries despite its lack of democratic credentials and the US's attempts to isolate it (Feinsilver 2010; de Vos *et al.* 2007).

Notwithstanding its rejection of the neoliberalisation of healthcare services, Cuba has continued to play a prominent role in world affairs, especially in the improvement of global healthcare, throughout the Cold War era and beyond. The collapse of the Soviet Union, a major sponsor of the Cuban revolutionary government and its initiatives, did not disrupt Cuba's medical diplomacy. Cuba's foreign medical assistance has paid dividends in restoring and strengthening its diplomatic relations with other states regardless of their political ideologies (Blue 2010; Feinsilver 2006). For instance, Cuba has provided medical assistance to some of its estranged neighbours in Latin America, the Caribbean and South America, such as Haiti, Guatemala, Honduras and Panama (Gibbs 2005; BBC 2009). By 2004 Guatemala, Haiti and Honduras had more than 1,000 Cuban medical

personnel working in their health systems (De Vos *et al.* 2007). Cuban medical diplomacy also eased tensions with its neighbours and averted the international isolation intended by US sanctions (Huish and Kirk 2007).

Consequently, Cuba has successfully integrated health and human security into its foreign policy and effectively established diplomatic relations that transcend political and economic ideologies (Huish and Spiegel 2008). Moreover, Cuba's cooperation with developing countries, especially in Africa, has provided an unusual, yet successful model of South-South cooperation (Hammett 2007; Blunden 2008). As Nzibo (1983) noted, Cuba is a model of success that is envied by many developing countries. The late Mozambican president, Samora Machel, once remarked that 'history will record in golden letters the internationalist example of Cuba as a major contribution to humanity's history ...' (Nzibo 1983:81).

## Conclusion

The US sanctions at the inception of Cuba's revolutionary government in the early 1960s posed a major threat to its socioeconomic development at a critical time when the country had just emerged from a dictatorship. However, Cuba's revolutionary government set itself clear objectives, among them being the provision of universal healthcare for its people. Healthcare services were, therefore, enshrined as a right in Cuba. Consequently, the Government of Cuba invested in the training of healthcare personnel. The Cuban healthcare system was community-oriented from the outset, thus guaranteeing access regardless of the location within Cuba. Moreover, the training of medical personnel in Cuba equipped them to effectively work and serve people in urban and rural areas, in and outside Cuba.

Cuba internationalised its healthcare model by expanding its medical success beyond its borders following the attainment of the Cuban dream captured in Castro's 1978 speech, '... predicting that Cuba would become "the bulwark of Third World Medicine," put a doctor on every block, become a "world medical power," and equal or surpass the United States in certain health indices' (Feinsilver 1989:1). Healthcare has played a prominent role in Cuba's foreign policy and has been a tool for solidarity with other developing countries, especially in Africa. African countries embraced Cuba's model and assistance in the development of their healthcare systems and as an alternative to Western hospital-based healthcare premised on neoliberal policies (Navarro 2020).

Cuba's soft power approach transcended its political and economic challenges and transformed Cuba into a 'world medical power' (Feinsilver 1989). Through its medical internationalism, Cuba has modelled some of

Africa's healthcare systems, established training cooperation with African medical schools (Kirk 2009), provided healthcare facilities, trained African medical personnel, offered medical scholarships and presented a relevant, cost-effective, community-based healthcare system that many African countries could adopt and relate to with ease. Cuba's journey in Africa through medical diplomacy can be summed up as an embodiment of resilience, vision, solidarity, selflessness and success of soft power diplomacy amid socioeconomic and political challenges both in Cuba and in the countries it has assisted.

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# Analyse de la diversification des recettes fiscales en Afrique : des implications pour les politiques publiques

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## Résumé

Les chocs économiques récents, notamment la pandémie de la COVID-19, ont illustré la fragilité des politiques publiques construites autour des sources de recettes concentrées. Le besoin de disposer d'une structure fiscale plus diversifiée constitue une préoccupation importante dans les pays en développement. Cet article analyse la diversification des recettes fiscales (DRF) de 39 pays d'Afrique, sur la période 2005-2019, en distinguant les pays riches en ressources naturelles des autres. Un indice de suivi de la DRF est construit. Les résultats indiquent que la valeur moyenne de cet indice pour l'Afrique se situe à 0,846, traduisant une performance insuffisante en matière de DRF. En outre, les facteurs qui déterminent la DRF sont analysés en employant la méthode bayésienne, la Méthode des moments généralisés (GMM) et la méthode des moindres carrés à variables dichotomiques et à biais corrigé (*Least Squares Dummy Variable Corrected* (LSDVC)). Les résultats montrent que le développement et la diversification économiques, la promotion du secteur industriel, des échanges commerciaux, de l'éducation, ainsi que le développement financier et celui de la digitalisation renforcent la DRF. En revanche, l'économie informelle, les ressources naturelles, la corruption et l'instabilité politique la détériorent. Ainsi, les pouvoirs publics devraient mettre l'accent sur la diversification économique, le développement de la digitalisation, la fiscalisation progressive du secteur informel et l'amélioration de la qualité des institutions, pour une diversification et une mobilisation accrues des recettes fiscales.

**Mots-clés :** diversification des recettes fiscales, diversification économique, assiette fiscale, secteur informel, données de panel, Afrique

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## Abstract

Recent economic shocks, including the COVID-19 pandemic, illustrated the fragility of public policies built around concentrated revenue sources. The need for a more diversified tax structure is an important concern in developing countries. This article analyses the Tax Revenues Diversification (TRD) in 39 African countries over the period 2005-2019, distinguishing between resource-rich and resource-poor countries. An index for monitoring TRD is constructed. The results indicate that the average value of this index in Africa is 0.846, reflecting weak performance in terms of TRD. Moreover, factors that determine TRD are analyzed using the Bayesian Model Averaging (BMA) approach, the Generalized Moment Method (GMM) and the Least Squares Dummy Variable Corrected (LSDVC). The results show that economic development and diversification, promotion of the industrial sector, trade, education, and financial development and digitalization enhance TRD, whereas informal economy, natural resources, corruption, and political instability inhibit TRD. Thus, the government policies should focus on economic diversification, digitalization development, gradual taxation of the informal sector, and improving the quality of institutions to diversify and increase tax revenue mobilization.

**Keywords:** Tax revenue diversification; Economic diversification, Tax base; Informal sector; Panel data; Africa.

## Introduction

Depuis plusieurs décennies, la mobilisation des ressources intérieures est demeurée un enjeu crucial dans les pays en développement (Bayale *et al.* 2023 ; Boly *et al.* 2020 ; Balima *et al.* 2020 ; Yohou *et al.* 2016). Elle fait souvent partie des objectifs de la politique fiscale dans ces pays. Ainsi, la nécessité de limiter la volatilité des recettes publiques par le recours à une structure diversifiée desdites recettes fiscales est apparue essentielle, afin d'assurer la prestation durable des services publics, conformément aux Objectifs de développement durable (Chebochok & Bayale 2023 ; Compaoré *et al.* 2020 ; FMI 2016 ; Budina *et al.* 2012).

Sur le plan conceptuel, la diversification des recettes fiscales (DRF) se définit comme un processus de modification de la composition de la structure des recettes et de sélection des instruments fiscaux qui minimisent les risques de volatilité des ressources internes (Siegel & Johnson 1995 ; Yan 2012).

Sur le plan théorique, l'analyse de la DRF se fonde sur la théorie moderne du portefeuille financier développée par Markowitz (1952, 1959), Modigliani & Miller (1958) et reprise par Sharpe (1964) puis par Fama & French (1995) dans le domaine de la finance. Elle stipule

que le risque associé à un portefeuille diversifié est plus faible. Appliquée aux finances publiques, cette théorie suggère que les pays présentant des structures diversifiées de recettes publiques, notamment fiscales, seraient moins sujets à leur volatilité, en cas de choc socioéconomique. De ce fait, la diversification permettrait aux pays de faire face à leurs dépenses publiques, en optimisant l'endettement.

Dans les pays africains, la mobilisation des recettes fiscales (RF) occupe une place importante dans les politiques publiques. À cet égard, la plupart des pays ont édicté des directives qui visent à promouvoir une forte mobilisation des recettes fiscales (directes et indirectes). Cependant, la transposition et l'application desdites directives sont souvent effectuées de manière incomplète (Banque mondiale 2019 ; Cariolle 2019). Il en résulte une sous-mobilisation des RF, rendant difficile l'atteinte des objectifs de développement par les pays.

En effet, selon les données du Fonds monétaire international (FMI) et de l'Organisation de coopération et de développement économiques (OCDE), le taux de pression fiscale (RF en pourcentage au PIB) moyen de l'Afrique, entre 2005-2019, s'est établi à environ 16,13 pour cent (contre environ 33,09 pour cent dans les pays de l'OCDE, sur la même période), avec des disparités entre les pays. Des pays comme l'Algérie, l'Angola, l'Afrique du Sud, le Botswana, le Lesotho, le Maroc, la Namibie, les Seychelles, etc., ont enregistré des ratios supérieurs à 20 pour cent, tandis que d'autres, le Nigeria, la République centrafricaine, la République démocratique du Congo, le Congo, la Libye, le Soudan, la Somalie, la Sierra Leone, etc., ont des ratios inférieurs à 10 pour cent. Les pays dont les taux de pression fiscale sont compris entre 10 pour cent et 20 pour cent comprennent, entre autres, l'Égypte, l'Éthiopie, le Kenya, le Ghana, la Côte d'Ivoire, le Cameroun, le Rwanda, le Sénégal, la Zambie, la Tanzanie (FMI 2021 ; OCDE 2021).

Au-delà de ces différences, une caractéristique commune à ces pays porte sur le recours important à une base fiscale étroite, essentiellement concentrée autour des taxes sur les biens et services et sur le commerce international. En moyenne, ces postes de RF ont représenté respectivement environ 39,61 pour cent et 27,38 pour cent du total des RF en Afrique entre 2005 et 2019, tandis que les autres composantes de la fiscalité directe et indirecte se sont établies respectivement à 26,89 pour cent et 6,12 pour cent sur la même période. Les pays riches en ressources naturelles, comme l'Algérie, l'Angola, le Congo, le Nigeria ou la Guinée équatoriale, ont obtenu plus de 59,73 pour cent de leurs RF des taxes sur les exportations de pétrole (FMI 2021). Ceux-ci sont donc exposés à des risques de volatilité des ressources. Cette sous-mobilisation des RF en Afrique tient, entre autres,

au fait que l'effort fiscal est essentiellement supporté par le secteur formel. Elle s'expliquerait également par les retards de mise en œuvre de politiques fiscales efficaces et les capacités limitées des administrations fiscales (Banque mondiale 2019).

Dans un contexte où les finances publiques des pays sont fragilisées en raison des chocs économiques, notamment les mesures liées à la gestion de la pandémie de la COVID-19, il paraît opportun que lesdits pays se dotent d'une stratégie de mobilisation des recettes qui contribue au besoin de consolidation budgétaire. Cette stratégie de mobilisation des recettes devrait davantage s'appuyer sur les options possibles en matière de diversification (élargissement de l'assiette fiscale, fiscalisation du secteur informel, etc.) de manière à renforcer la mobilisation des recettes intérieures et à réduire les niveaux d'endettement dans les pays. La DRF pourrait donc contribuer à renforcer la mobilisation des RF en Afrique et assurer une plus grande résilience aux risques ainsi qu'une disponibilité et une stabilité des ressources des pays.

Ainsi, l'objectif de cet article est de contribuer à cette discussion à travers une analyse de la diversification des recettes fiscales (DRF) dans les pays africains. De manière spécifique, l'article propose un indice de suivi de la DRF en Afrique et examine les facteurs susceptibles d'influencer la DRF. Pour ce faire, plusieurs approches économétriques, basées sur un panel de 39 pays d'Afrique couvrant la période 2005-2019 sont appliquées. Les résultats montrent que les sources de RF des pays africains ne sont pas assez diversifiées et que plusieurs facteurs structurels et institutionnels importants (diversification économique, fiscalisation progressive du secteur informel, digitalisation, corruption, etc.) devraient être pris en compte dans l'élaboration des politiques de diversification et de mobilisation accrues des RF dans ces pays.

Le reste de l'article présente successivement la revue de la littérature (section II), la méthodologie (section III), la présentation et la discussion des résultats (section IV) et la conclusion suivie des implications de politique économique (section V).

## **Brève revue de littérature**

### ***Mobilisation des recettes publiques : le rôle de la diversification***

La question de la diversification des recettes publiques, notamment fiscales, a suscité un intérêt de plus en plus important au cours de ces dernières années. Cet intérêt se justifie, en partie, par le fait que la diversification des sources de revenus publics présente de nombreux avantages, en particulier

la stabilité et la prévisibilité des flux de recettes budgétaires (Yan 2012). En effet, des recherches antérieures, qui ont analysé la structure des revenus de certains pays développés, ont montré qu'en général les pays ayant un niveau de diversification des recettes publiques intérieures plus élevé connaissent, en moyenne, un manque à gagner moins important pendant les récessions et les ralentissements économiques (Snyderhound 1994; Carroll 2005; Kilby 2014; Jordan *et al.* 2017; Compaoré *et al.* 2020).

À titre d'exemple, Carroll (2005) a examiné les niveaux de diversification des recettes publiques pendant les années 1990 et mesuré les performances budgétaires lors de la récession de 2001 aux États-Unis. En appliquant l'approche suggérée par Herfindahl et Hirschman (1964), l'auteur a constaté que les 25 États les plus diversifiés ont vu leurs revenus diminuer de seulement 2,7 pour cent entre 2001 et 2002, tandis que les 25 États dont les recettes étaient moins diversifiées ont vu leurs revenus publics diminuer de 4,7 pour cent.

Pour leur part, Jordan et Wagner (2008) ont examiné l'effet de la diversification des revenus publics sur la mobilisation des ressources intérieures, en particulier dans les villes de l'Arkansas, aux États-Unis. Ils constatent que les villes concernées dépendent fortement des recettes provenant des taxes foncières et des taxes de vente. Sous ce rapport, les auteurs montrent que les fluctuations économiques impactant la perception de ces deux catégories d'impôts affectent significativement les flux de recettes publiques mobilisés dans ces villes, suggérant ainsi l'importance d'une plus grande diversification des recettes publiques. En outre, Jordan *et al.* (2017) et Compaoré *et al.* (2020) confirment l'impact positif de la diversification sur les performances en matière de mobilisation de recettes fiscales. Les premiers (Jordan *et al.* 2017) montrent que la diversification des revenus réduit la volatilité des revenus publics aux États-Unis, sur la base d'une analyse de la composition des recettes publiques. Les seconds (Compaoré *et al.* 2020) aboutissent à un résultat similaire, en se basant sur un panel de pays développés et en développement, suivant l'approche proposée par Theil (1972).

La question de la diversification a été également examinée par Ebeke et Ehrhart (2012) et Botlhale (2021) dans les pays africains. Ebeke et Ehrhart (2012) montrent que l'instabilité des recettes fiscales dans trente-sept pays d'Afrique subsaharienne conduit à la réduction des niveaux de l'investissement et de la consommation publics, suggérant qu'une diversification des revenus des États concernés permettrait de stabiliser lesdites dépenses. De son côté, Botlhale (2021), en examinant la situation du Botswana, rappelle l'importance de la diversification de la structure du

portefeuille des RF, notamment dans le contexte de la crise sanitaire de la COVID-19, qui a limité la capacité des décideurs politiques à prélever des revenus indispensables pour non seulement contenir la propagation du virus, mais également faire face convenablement à ses conséquences économiques et sociales. Ainsi, la DRF devrait faire partie des réformes de la gestion des finances publiques en Afrique.

Toutefois, les travaux de Frumkin & Keating (2011) puis de Hung & Hager (2019) indiquent que nonobstant ses effets bénéfiques sus-évoqués, une diversification accrue des recettes publiques, notamment fiscales, pourrait occasionner des coûts administratifs supplémentaires non négligeables. En effet, les auteurs montrent que la recherche de nouveaux flux de recettes peut nécessiter, entre autres, de nouveaux systèmes de gestion et de nouvelles expertises qui entraîneraient des coûts administratifs supplémentaires.

### ***Déterminants de la diversification des recettes fiscales***

En ce qui concerne les déterminants de la DRF, à notre connaissance, deux études ont abordé cette question (Banque mondiale 2019 et Compaoré *et al.* 2020).

La première, portant sur la fiscalité en Afrique de l'Ouest (Banque mondiale 2019), a montré que la mobilisation des RF est relativement faible dans la plupart des pays d'Afrique de l'Ouest par rapport aux pays africains de référence (Afrique du Sud, Lesotho, Botswana, etc.). Cette sous-mobilisation des RF découlerait à la fois de la structure des économies et des politiques fiscales en vigueur dans ces pays. Par ailleurs, l'étude a révélé que la prépondérance du secteur agricole, l'importance du secteur informel et les rentes tirées des matières premières sont autant de facteurs qui n'encouragent pas la DRF dans ces pays.

La seconde étude (Compaoré *et al.* 2020) a analysé les déterminants de la DRF en se basant sur un échantillon de données qui porte sur les pays développés et en développement. Les auteurs constatent que dans la plupart de ces pays, la DRF résulte non seulement de la diversification économique, mais également de plusieurs facteurs macroéconomiques et institutionnels, entre autres, le niveau de développement économique, l'intensification des relations commerciales avec le reste du monde, la prépondérance du secteur formel, la stabilité politique et le contrôle de la corruption.

La littérature soutient donc l'idée selon laquelle une structure plus diversifiée des recettes publiques limite la volatilité desdites recettes et renforce la capacité d'une prise en charge adéquate des dépenses publiques par les États. Il en ressort également que les déterminants de la diversification des recettes fiscales sont à la fois d'ordre macroéconomique et institutionnel.

À notre connaissance, aucune étude similaire à celles disponibles dans la littérature sur ces questions n'a été menée au niveau africain. Cette étude comblerait ce vide dans les connaissances empiriques existantes à travers l'analyse de la DRF dans les pays africains.

## **Méthodologie**

### ***Sources des données***

L'analyse de la DRF en Afrique requiert des séries de données désagrégées et longues sur les différentes composantes des RF. Pour cette raison, les données sont collectées auprès du Fonds monétaire international (FMI). Les données sur d'autres variables ont été extraites du World Development Indicators (WDI) de la Banque mondiale (BM) et de l'International Country Risk Guide (ICRG). En raison des contraintes de disponibilité de données granulaires sur les différentes composantes de RF, l'étude couvre 39 pays africains<sup>2</sup>, sur la période 2005-2019. Le choix de la période d'étude (2005-2019) et de la composition de l'échantillon se base donc sur la disponibilité des données.

### ***Démarche méthodologique***

La première étape de cette étude propose un indice pour apprécier et suivre la DRF des pays africains. Cet indice est construit en utilisant les données relatives aux décompositions plus fines des recettes disponibles. Il permet de disposer d'un outil de suivi des progrès de ces pays en matière de DRF. Pour ce faire, l'étude a eu recours à la littérature, qui propose plusieurs approches de construction des indices de diversification. Il s'agit, entre autres, des indices proposés par Shannon-Wiener (1949), Simpson (1949), Herfindahl et Hirschman (1964) et Theil (1972). Si les indices de Herfindahl et Hirschman (1964) et de Theil (1972) sont les plus utilisés dans la littérature, dans le cadre de la présente étude, l'indice de diversification de Theil (1972) est utilisé en raison de sa robustesse et de sa stabilité, quel que soit le niveau de désagrégation (Banque mondiale 2014; Cadot *et al.* 2011; Compaoré *et al.* 2020).

Les valeurs de l'indice de diversification des recettes fiscales (IDRF) proposé se basent donc sur l'approche de Theil (1972). Celles-ci sont calculées pour chaque pays africain. Suivant Giri *et al.* (2019) qui ont analysé la diversification des exportations des marchés émergents et des économies en développement, la spécification de l'équation de calcul de cet indice se présente comme suit :

$$IDRF_i = \frac{1}{n} \sum_{k=1}^n \frac{Tax_{ik}}{\mu} \cdot \ln \left( \frac{Tax_{ik}}{\mu} \right) \quad (1)$$

où  $IDRF_i$  représente l'indice de Theil d'un État  $i$  pour une année donnée;  $Tax_{ik}$  réfère à une sous-composition spécifique  $k$  (impôt sur les sociétés, taxe sur les biens et services, etc.) de l'État  $i$ . Dans l'équation 1, la moyenne de la sous-composante fiscale considérée est  $\mu$  définie comme suit :

$$\mu = \frac{1}{n} \sum_{k=1}^n tax_k \quad (2)$$

En effet, l' $IDRF$  est une mesure de la diversification. Plus sa valeur est élevée, plus les sources fiscales sont concentrées, ce qui correspond à un niveau plus faible de DRF. Dans la présente étude, la construction de l' $IDRF$  repose sur les six catégories d'impôts et taxes suivant le Manuel des statistiques des finances publiques (MSFP) 2014 du FMI, à savoir :

- i. les impôts sur le revenu, les bénéfices et les gains en capital ;
- ii. les impôts sur les salaires et la main-d'œuvre ;
- iii. l'impôt sur le patrimoine ou propriété ;
- iv. les taxes sur les biens et services ;
- v. les taxes sur le commerce extérieur et les transactions internationales et
- vi. les autres recettes fiscales<sup>3</sup>.

Ce choix est essentiellement basé sur la disponibilité des données.

La deuxième étape de l'étude se charge d'identifier les principaux facteurs (macroéconomiques et institutionnels) susceptibles de déterminer la DRF en Afrique, sur la base d'un modèle économétrique sur données de panel. Les régressions économétriques relient l' $IDRF$  aux variables explicatives sélectionnées. La spécification du modèle de régression se présente comme suit :

$$IDRF = \gamma_i + \beta_i X_{it} + \mu_{it} \quad (3)$$

où  $IDRF$  est l'indice de diversification des  $RF$ ;  $\gamma_i$  l'effet spécifique pays et  $X_{it}$  un vecteur de  $k$  variables explicatives  $x_1, x_2, \dots, x_k$ , déterminants potentiels de la DRF. Selon la littérature disponible (Gupta 2007; Yohou *et al.* 2016; Banque mondiale 2019; Balima *et al.* 2020; Bayale 2020 et Compaoré *et al.* 2020; Chebochok & Bayale 2023), celles-ci comprennent les facteurs qui reflètent



la structure économique des États, l'environnement macroéconomique (intérieur et extérieur), le contexte politique et institutionnel ainsi que leur état de développement. De manière spécifique, il s'agit, entre autres, du PIB par habitant, des valeurs ajoutées industrielle et agricole, de la diversification économique, du poids du secteur informel, du développement financier, de l'ouverture commerciale, des revenus des ressources naturelles, de l'investissement (formation brute du capital fixe), des investissements directs étrangers (IDE), de l'éducation, de la digitalisation, de l'aide publique au développement, de la corruption et de la stabilité du gouvernement.  $\mu_{it}$  est le résidu suivant une distribution normale  $N(0,1)$ .

### ***Stratégie d'estimation***

Après construction de l'indice de suivi de la DRF, une stratégie d'estimation en deux étapes est appliquée pour analyser les déterminants de la DRF. La première phase consiste à appliquer un filtre probabiliste sur les déterminants potentiels de la DRF proposés par la littérature économique, afin de retenir les variables les plus pertinentes. Pour ce faire, un modèle bayésien (Bayesian Model Averaging) a été utilisé. Inspirée de la théorie des probabilités de Bayes (Bayes 1763 ; Laplace 1774) et appliquée de nos jours dans le domaine des sciences exactes, notamment dans la physique, la médecine et l'intelligence artificielle, cette approche classe les variables par ordre d'importance par rapport à leur pouvoir explicatif. L'étude a adopté l'approche de Zeugner et Feldkircher (2015), qui propose une nouvelle version des packages d'implémentation du Bayesian Model Averaging en données de panel. Elle a été employée dans le cadre des régressions analysant les déterminants de la croissance, de la diversification des exportations et des énergies renouvelables (FMI 2017 ; Giri *et al.* 2019 ; Bayale *et al.* 2021).

S'agissant de la deuxième phase, une approche économétrique est basée sur un modèle à effet fixe. Toutefois, afin de contrôler les questions d'endogénéité découlant, notamment, de la causalité inverse entre les variables du modèle, est appliqué l'estimateur des moments généralisés (GMM) introduit par Arellano et Bond (1991) et Blundell et Bond (1998). Cet estimateur tient compte des effets fixes inobservés, des variables explicatives endogènes et de la présence d'hétéroscédasticité et d'autocorrélation (Blundell & Bond 1998).

Par ailleurs, pour une analyse plus approfondie, l'étude est menée sur deux sous-échantillons de l'Afrique : pays riches et pays non riches en ressources naturelles. À cet effet, l'estimateur de correction de biais LSDVC est appliqué. Cette technique d'estimation est appropriée pour les données de panel dynamique pour les échantillons de petite et moyenne tailles,

en référence à Bun et Kiviet (2003) et à Bruno (2005), qui ont montré que l'estimateur LSDVC est efficace dans les conditions où le nombre d'individus du panel (N) et la période de l'étude (T) sont relativement petits ou moyens. Dans le processus d'estimation, les valeurs retardées des variables, notamment de l'IDRF et des RE, ont été introduites pour contrôler les variables omises dans le modèle d'analyse.

## Résultats et discussions

### *Faits stylisés relatifs à la DRF*

La présente sous-section met en évidence les principales tendances qui se dégagent de l'IDRF. Avant d'analyser ces résultats, il conviendrait de préciser que plus l'IDRF est élevé, plus la structure de diversification des sources fiscales est faible. Les résultats obtenus montrent que la valeur moyenne de l'IDRF pour les pays africains considérés s'établit à 0,846. Celle-ci traduit le niveau insuffisant de DRF de ces pays. Toutefois, l'Afrique du Sud (0,193), l'Égypte (0,327), les Seychelles (0,399), São Tomé et Príncipe (0,415), le Maroc (0,416) et le Botswana (0,443) enregistrent des IDRF moyens relativement plus faibles (figure 1 ; tableau 1). Cela signifie que ces pays présenteraient une structure de recettes fiscales relativement diversifiée. En revanche, la Centrafrique (1,495), le Mozambique (1,468), la Guinée équatoriale (1,397), le Malawi (1,394), le Burundi (1,353), Madagascar (1,351) et le Burkina Faso (1,344) enregistrent les IDRF les plus élevés. Il en découle que les structures de sources fiscales pour ces pays sont relativement les moins diversifiées.

Ces différences pourraient s'expliquer, entre autres, par les structures hétérogènes des économies étudiées (différents niveaux de diversification économique), la dépendance de certains pays à l'égard des revenus des ressources naturelles (notamment le pétrole), l'efficacité des réformes fiscales mises en œuvre dans certains pays. À titre d'exemple, le Cap-Vert fait partie de ces nombreux pays qui ont mis en œuvre plusieurs réformes fiscales. Ces réformes ont porté, par exemple, sur l'unification des impôts sur le revenu. Ces réformes ont augmenté la collecte des recettes fiscales, à travers l'amélioration du fonctionnement de l'administration fiscale, notamment ses capacités institutionnelles. Elles ont aussi permis d'adopter les technologies de l'information, principalement un système de gestion financière intégrée qui a été développé et instauré au niveau national et municipal. Par ailleurs, les hétérogénéités observées seraient imputables au fait que la plupart de ces pays sont confrontés à des obstacles structurels, notamment des conflits et le terrorisme, rendant plus difficile la collecte des recettes par les administrations fiscales.

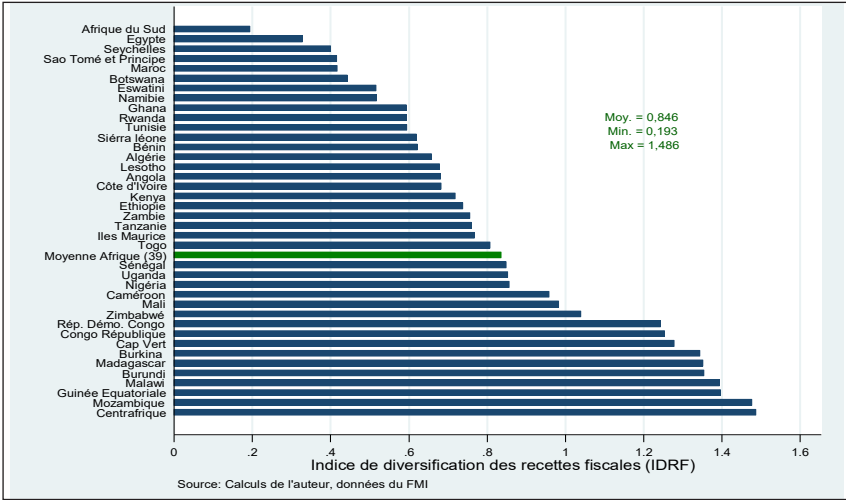


Figure 1 : État de la diversification des recettes fiscales (IDRF) en Afrique 2005-2019

L'analyse de l'évolution de l'IDRF entre 2005 et 2018, illustrée par le tableau 1, indique une baisse de l'indice d'une sous-période à une autre pour presque tous les pays, suggérant une tendance à la diversification des sources fiscales au fil du temps. L'IDRF moyen est passé de 0,938 (2005-2009) à 0,849 (2010-2014) et à 0,751 (2015-2019). En effet, la plupart des États ont procédé à la mise en œuvre des réformes fiscales, dont le Programme de transition fiscale (PTF), et à l'imposition des nouvelles niches fiscales (le foncier, le secteur agropastoral et le secteur informel). À titre illustratif, les pays de l'Union économique et monétaire ouest-africaine (UEMOA) ont adopté, en 2006, un programme de transition fiscale basé sur le transfert progressif de la fiscalité de porte vers la fiscalité intérieure. Ce programme visait à soutenir la croissance par un allègement des prélèvements fiscaux sur le capital et le travail, et à promouvoir le financement du développement sur ressources propres. En dépit de ces efforts, les pays devront poursuivre l'exploration des pistes d'amélioration de leurs niveaux de diversification des recettes fiscales. En effet, plusieurs pays développés et émergents peuvent être cités comme référence en la matière. À titre illustratif, le Japon (0,053), la France (0,160), l'Angleterre (0,167), les États-Unis (0,188) et l'Afrique du Sud (0,192) enregistrent des IDRF plus faibles que la moyenne mondiale (Compaoré *et al.* 2020).

Tableau 1 : Classement des pays africains et évolution de l'IDRF 2005-2019

Ordre	Pays	2005-2009	2010-2014	2015-2019
1	Afrique du Sud	0,241	0,179	0,159
2	Égypte	0,445	0,305	0,231
3	Seychelles	0,478	0,416	0,304
4	São Tomé-et-Príncipe	0,542	0,403	0,299
5	Maroc	0,545	0,402	0,301
6	Botswana	0,497	0,451	0,382
7	Eswatini	0,627	0,514	0,405
8	Namibie	0,646	0,502	0,402
9	Ghana	0,656	0,608	0,514
10	Rwanda	0,677	0,607	0,495
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
31	République du Congo	1,305	1,262	1,192
32	Burkina Faso	1,398	1,352	1,281
33	Madagascar	1,405	1,363	1,287
34	Burundi	1,408	1,362	1,291
35	Cap-Vert	1,437	1,384	1,312
36	Malawi	1,447	1,422	1,314
37	Guinée équatoriale	1,458	1,403	1,329
38	Mozambique	1,545	1,454	1,406
39	Centrafrique	1,602	1,472	1,412
-	Moyenne Afrique (39)	0,938	0,849	0,751

Source : Construction des auteurs, à partir des données du FMI

Avant de procéder aux analyses statistiques et économétriques, l'étude propose une analyse graphique de la relation entre l'IDRF et le taux de pression fiscale (TPF) des pays de l'échantillon d'étude. En effet, il ressort de la figure 2 que, sur la période 2005-2019, le ratio RF/PIB est négativement corrélé à l'IDRF. Les pays ayant un IDRF faible enregistrent généralement des TPF relativement élevés (Lesotho, Afrique du Sud, Seychelles, Botswana, etc.). En revanche, d'autres pays réalisant des performances insuffisantes en matière de mobilisation des RF ont des IDRF élevés (la Centrafrique, le Mozambique, la Guinée équatoriale, la RDC, etc.). Cette relation suggère

que la DRF est importante pour accroître la mobilisation des RF en Afrique. De ce fait, elle prouve à suffisance la nécessité pour ces pays de se doter d'une stratégie de mobilisation des recettes publiques intérieures basée sur la diversification des recettes fiscales.

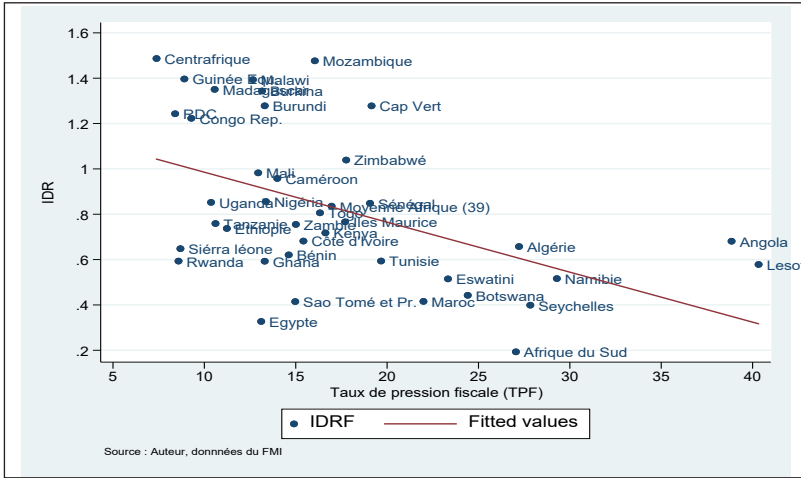


Figure 2 : Corrélation entre l’IDRF et les taux de pression fiscale en Afrique 2005-2019

**Analyse des résultats de l’approche bayésienne**

Les résultats de l’approche bayésienne en données de panel sont présentés dans le tableau 2. Ceux-ci montrent que le PIB par habitant, la valeur ajoutée du secteur industriel, la diversification économique, la digitalisation, les poids du secteur informel, la corruption et le développement financier sont des déterminants importants ( $PIP > 90\%$ ) de la DRF qui doivent être inclus dans le modèle d’analyse. Outre ce premier groupe de variables, des PIP élevées ( $PIP > 50\%$ ) sont également obtenues pour la stabilité du gouvernement, l’ouverture commerciale, l’éducation et les revenus des ressources naturelles. Ces variables sont également importantes pour expliquer la DRF dans les pays africains.

L’examen des coefficients moyens postérieurs associés aux variables indique que le PIB par habitant, la valeur ajoutée du secteur industriel, la diversification économique, la digitalisation, le développement financier, l’ouverture commerciale et l’éducation ont non seulement des PIP élevées, mais contribuent également à diminuer l’IDRF. En ce qui concerne l’investissement, les IDE, le solde budgétaire, la dette publique, le service de la dette et la population, ceux-ci exercent également une

influence négative sur l'IDRF. Toutefois, leurs probabilités d'inclusion sont relativement faibles. S'agissant de l'économie informelle, de la corruption, de l'instabilité politique, des ressources naturelles, du secteur agricole et de l'aide publique au développement, ces variables ont des coefficients positifs. Elles ne favorisent donc pas la diversification des recettes fiscales dans les pays africains.

**Tableau 2** : Présentation des résultats de l'approche bayésienne

Variables	PIP	CMP	ETP	SPC	ORD
PIB par habitant	1,000	-0,001	0,029	0,000	3
Valeur ajoutée du secteur industriel	1,000	-0,258	0,068	0,000	1
Diversification économique	1,000	-0,465	0,154	0,000	6
Indice de digitalisation	0,998	-0,288	0,105	0,000	12
Poids du secteur informel	0,992	0,242	0,837	1,000	15
Corruption	0,984	0,059	0,034	1,000	18
Développement financier	0,913	-0,356	0,209	0,000	4
Stabilité du gouvernement	0,858	0,183	0,127	1,000	19
Ouverture commerciale	0,736	-0,145	0,109	0,000	5
Éducation	0,678	-0,311	0,259	0,000	16
Revenus des ressources naturelles	0,502	0,321	0,578	0,999	10
Investissement	0,381	-0,224	0,486	0,000	7
Valeur ajoutée du secteur agricole	0,339	0,000	0,000	1,000	2
I pays (indice pays)	0,169	0,495	0,139	0,993	20
Aide publique au développement	0,142	0,075	0,246	0,985	8
Investissements directs étrangers	0,135	-0,058	0,199	0,000	13
Solde budgétaire	0,129	-0,198	0,725	0,020	14
Dettes publiques	0,126	-0,107	0,421	0,072	9
Service de la dette	0,101	-0,021	0,121	0,045	11
Population	0,091	-0,005	0,109	0,335	17
<b>Espace du modèle</b>					<b>524 288</b>
<b>Nombre d'observations</b>					<b>585</b>

Source : Estimations des auteurs, à partir des sources de données évoquées dans la sous-section sur les sources des données

Note : PIP = probabilité d'inclusion postérieure  
 CMP = coefficient moyen postérieur  
 ETP = écart type postérieur  
 SPC = signe postérieur conditionnel et  
 ORD = ordre de compilation de variables pendant les simulations

En définitive, suivant Bayale et Kouassi (2022) et Cazachevici *et al.* (2020), seules les variables dont les PIP sont supérieures à 50 pour cent sont considérées dans le modèle de base. Toutefois, les autres variables portant sur les investissements et la valeur ajoutée du secteur agricole pourraient être prises en compte, afin de tester la robustesse des résultats estimés (tableaux 4 et 5, colonnes 2 et 3).

Les estimations présentées dans le tableau 2 ci-dessus ne peuvent être interprétées au sens habituel de la dérivée partielle du modèle de régression. Dans la sous-section ci-après, il est fourni des estimations de l'effet direct qui décrivent comment les changements des variables explicatives sélectionnées affectent le niveau de la DRF.

### ***Résultats de l'approche économétrique***

#### *Analyse descriptive*

Les résultats des analyses descriptives sont présentés dans le tableau 3. Il ressort de ces résultats que les économies africaines disposent d'un secteur informel important; celui-ci représente, en moyenne, 39,78 pour cent du PIB, sur la période 2005-2019. En outre, l'indice moyen de diversification économique s'établit à 3,96. La valeur de cet indice indique que ces économies sont faiblement diversifiées. En moyenne, il est constaté que les secteurs agricole et industriel contribuent respectivement à 18,75 pour cent et 27,51 pour cent du PIB des pays africains. Par ailleurs, sur la période de l'étude, le PIB par habitant moyen est évalué à 1 609,61 dollars US. Il s'agit d'un indicateur du niveau de développement économique. Il ressort également de cela que les États africains dépendent des revenus des ressources naturelles (13,45 pour cent du PIB).

En ce qui concerne les variables institutionnelles, l'étude prend en compte les indices d'instabilité politique et de corruption. Les valeurs moyennes respectives de ces indicateurs sont de 8,51 et 2,07. Celles-ci indiquent que la qualité des institutions dans ces pays est relativement faible par rapport aux pays de référence mondiale (les États-Unis, l'Angleterre, la France, etc.). Lesdits pays devront poursuivre les efforts d'amélioration de la qualité de leurs institutions, les questions de fiscalité ne pouvant pas être adéquatement traitées sans un renforcement de la qualité des institutions.

Tableau 3 : Statistiques descriptives des variables du modèle

Variables	Moyenne	Écart type	Minimum	Maximum
Indice de DRF	0,84	0,13	0,19	1,49
PIB par habitant	1609,61	59,47	377,56	7582,95
Valeur ajoutée du secteur industriel	27,51	3,78	12,75	29,89
Diversification économique	3,96	1,53	1,81	4,97
Indice de digitalisation	0,34	0,07	0,03	0,46
Poids du secteur informel	39,78	7,66	23,74	57,86
Corruption	2,07	0,72	0,00	4,00
Développement financier	29,02	27,16	1,61	112,67
Stabilité du gouvernement	8,51	1,56	4,49	11,00
Ouverture commerciale	42,89	35,47	6,25	314,56
Éducation	45,99	24,73	6,49	109,44
Revenus des ressources naturelles	13,45	13,26	0,03	68,77
Investissement	22,32	11,03	2,09	65,74
Valeur ajoutée du secteur agricole	18,75	9,52	9,89	49,73

Source : Estimations des auteurs, à partir des sources de données évoquées dans la sous-section sur les sources des données

### *Analyse des résultats économétriques*

Le tableau 4 présente les résultats des estimations des déterminants de la diversification des RF en Afrique. Ces résultats laissent apparaître que le niveau de développement économique, la valeur ajoutée industrielle, la diversification économique, la digitalisation, le développement financier, l'ouverture commerciale et l'éducation favorisent la DRF. Les coefficients associés à ces variables sont négatifs et statistiquement significatifs. En revanche, le secteur informel, les ressources naturelles, la corruption et l'instabilité politique ont un effet néfaste sur la DRF en Afrique.

En effet, la diversification économique et le développement économique sont propices à une structure plus diversifiée des recettes fiscales. Ils contribueraient à l'élargissement de l'assiette à travers la création ou l'expansion des activités de production dans l'économie. En analysant les déterminants de l'effort fiscal dans les pays en développement, Gupta (2007) trouve que ces facteurs structurels paraissent importants pour accroître les performances fiscales des économies en développement. Concernant le secteur industriel, son effet positif sur la diversification de l'économie



pourrait provenir du fait que l'industrie est l'un des secteurs de l'économie où les transactions se déroulent dans un environnement relativement plus formel. De ce fait, la taxation des activités du secteur industriel devrait se révéler plus facile. En analysant les déterminants de la mobilisation des RF en Afrique de l'Ouest, la Banque mondiale (2019) trouve que le développement économique, la diversification des économies et le secteur industriel seraient des facteurs qui amélioreraient la mobilisation des recettes fiscales.

Pour ce qui est de l'ouverture commerciale, les résultats indiquent également qu'une intensification des échanges commerciaux contribue à la diversification des ressources fiscales. En effet, une plus grande ouverture de l'économie suppose une intensification des échanges commerciaux, ce qui devrait contribuer à l'élargissement de la base, s'agissant des taxes, sur le commerce international (Chebochok & Bayale 2023 ; FMI 2020).

En ce qui concerne l'éducation (capital humain), celle-ci est essentielle pour la diversification des recettes fiscales. L'éducation contribuerait à la diversification des recettes par le renforcement du civisme fiscal et des compétences des administrations fiscales (OCDE 2020).

Au titre de la digitalisation, les résultats indiquent que celle-ci participe significativement à la déconcentration des recettes fiscales. Elle favorise donc la diversification des recettes fiscales. Cela signifie que la digitalisation numérique constitue un levier important de performance des administrations fiscales en Afrique. En discutant des initiatives de diversification des revenus au Botswana dans le contexte de la COVID-19, Bothale (2021) trouve que la diversification des revenus publics doit être fondée non seulement sur les réformes de la gestion des finances publiques, mais également sur la digitalisation de l'économie du Botswana. Ces résultats semblent se vérifier pour la plupart des pays africains.

S'agissant du développement financier, son effet favorable sur la diversification des recettes fiscales s'expliquerait par le fait qu'un système financier plus profond pourrait faciliter l'augmentation de l'accès aux ressources, conduisant à un accroissement des activités économiques. Ainsi, le développement financier contribuerait à l'élargissement du portefeuille des flux de recettes fiscales (Balima *et al.* 2017).

En revanche, les résultats suggèrent que le secteur informel ne favorise pas la diversification des recettes fiscales. Un secteur informel plus important rend plus difficiles l'identification des contribuables et l'évaluation de leur conformité, compliquant les démarches visant à inclure les contribuables dans le filet fiscal (FMI 2020). En outre, les revenus des ressources naturelles ne favorisent pas la DRF. Cela suggère que les pays disposant de plus

grandes dotations en ressources naturelles sont moins incités à diversifier leur structure de sources d'imposition. En effet, la plupart des pays riches en ressources naturelles ont tendance à compter surtout sur la manne des ressources. Ces résultats corroborent ceux du FMI (2018), qui montre que les pays riches en ressources naturelles déploient un effort fiscal relativement faible par rapport à ceux ne disposant pas de ressources naturelles.

Tableau 4 : Résultats de base des déterminants de la RF en Afrique

Variables	Effets fixes (EF)			GMM		
	(1)	(2)	(3)	(1)	(2)	(3)
Indice de DRF (-1)	-	-	-	0,709***	0,711***	0,708***
	-	-	-	(0,194)	(0,197)	(0,195)
Ln (PIB par habitant)	-0,264***	-0,268***	-0,263***	-0,291***	-0,293***	-0,304***
	(0,061)	(0,067)	(0,060)	(0,039)	(0,042)	(0,041)
Valeur aj. secteur industriel	-0,098**	-0,097**	-0,099**	-0,083**	-0,081**	-0,084**
	(0,041)	(0,048)	(0,044)	(0,039)	(0,038)	(0,035)
Diversification économique	-0,167***	-0,169***	-0,163***	-0,161***	-0,159***	-0,158***
	(0,086)	(0,077)	(0,081)	(0,074)	(0,071)	(0,076)
Indice de digitalisation	-0,207***	-0,211***	-0,209***	-0,205***	-0,208***	-0,212***
	(0,044)	(0,045)	(0,042)	(0,041)	(0,044)	(0,048)
Poids du secteur informel	0,034**	0,032**	0,036**	0,031**	0,033**	0,035**
	(0,019)	(0,018)	(0,017)	(0,012)	(0,015)	(0,018)
Corruption	0,061**	0,064**	0,062**	0,063**	0,065**	0,064**
	(0,029)	(0,030)	(0,028)	(0,028)	(0,031)	(0,027)
Développement financier	-0,182***	-0,183***	-0,181***	-0,179***	-0,180***	-0,181***
	(0,039)	(0,040)	(0,032)	(0,031)	(0,029)	(0,031)
Stabilité du gouvernement	0,792**	0,789**	0,792**	0,759**	0,768**	0,782**
	(0,251)	(0,263)	(0,255)	(0,261)	(0,258)	(0,261)
Ouverture commerciale	-0,003***	-0,002***	-0,002***	-0,003***	-0,002***	-0,003***
	(0,001)	(0,000)	(0,000)	(0,001)	(0,000)	(0,000)
Éducation	-0,038**	-0,037**	-0,039**	-0,038**	-0,034**	-0,035**
	(0,015)	(0,012)	(0,013)	(0,011)	(0,010)	(0,014)
Rev. ressources naturelles	0,156*	0,158*	0,157**	0,157*	0,161*	0,159**
	(0,092)	(0,092)	(0,078)	(0,096)	(0,098)	(0,075)
Investissement	-	-0,132	-0,138	-	-0,136*	-0,133
	-	(0,258)	(0,249)	-	(0,091)	(0,162)

Valeur aj. secteur agricole	-	-	0,057	-	-	0,061*
	-	-	(0,034)	-	-	(0,039)
Constante	0,012	0,015	0,013	0,017	0,016	0,014
	(0,026)	(0,030)	(0,023)	(0,028)	(0,031)	(0,027)
AR (1) [Prob > Z]	-	-	-	0,019	0,015	0,012
AR (2) [Prob > Z]	-	-	-	0,258	0,361	0,459
Test de Sargan (Prob > Chi2)	-	-	-	0,823	0,768	0,643
Test de Hansen (Prob > Chi2)	-	-	-	0,658	0,534	0,461
Nombre d'instruments	-	-	-	12	17	11

Source : Estimations des auteurs, à partir des sources de données évoquées dans la sous-section sur les sources des données

Note : Les écarts types sont entre parenthèses (\*\*p < 0,01 ; \*p < 0,05 ; \*p < 0,1)

En ce qui concerne les variables institutionnelles considérées dans la présente étude, il s'ensuit que la corruption et l'instabilité politique détériorent la diversification des recettes fiscales. En effet, elles entravent la capacité des administrations fiscales à jouer pleinement leur rôle de collecte de recettes fiscales. Par exemple, les conflits et le terrorisme rendent plus difficile la mise en œuvre efficace de politiques fiscales. Ainsi, des défaillances institutionnelles pourraient nuire aux performances fiscales (Gupta 2007 ; Compaoré *et al.* 2020). Les autres variables du modèle (le secteur agricole et l'investissement) n'ont pas de coefficients statistiquement significatifs. Ainsi, l'interprétation des signes et des valeurs de ces coefficients n'a pas un intérêt majeur.

Dans l'ensemble, les résultats obtenus corroborent la littérature économique. En particulier, Compaoré *et al.* (2020), examinant la diversification des recettes fiscales d'un panel de 127 pays, montrent que la diversification économique, le PIB par habitant, l'ouverture commerciale favorisent la diversification des recettes fiscales, tandis que le secteur informel, l'instabilité politique lui nuisent.

### *Analyse de sensibilité et de robustesse*

Pour une analyse plus approfondie, nous portons l'étude sur les pays riches et non riches en ressources naturelles en suivant la classification de la Banque mondiale en la matière. Le tableau 5 présente les résultats des régressions à partir de l'estimateur LSDVC.

Ces résultats sont conformes aux analyses susvisées. Il en résulte que les facteurs favorisant la DRF dans les pays africains analysés sont, entre autres, le développement économique (PIB par tête), le secteur

industriel, la diversification économique, l'adoption de la digitalisation, le développement financier, l'ouverture commerciale et l'éducation. En revanche, l'économie informelle, la corruption, l'instabilité politique augmentent la concentration des recettes fiscales. Ces facteurs ne sont donc pas favorables à la DRF des États africains. Ces résultats sont conformes à ceux du modèle de base du tableau 4 par rapport à l'effet et à la significativité de toutes les variables explicatives, à l'exception de la variable portant sur les revenus des ressources naturelles.

En effet, l'influence de cette variable est uniquement significative (statistiquement) pour les pays riches en ressources naturelles. Ce résultat suggère que les ressources naturelles ne favorisent pas la DRF en Afrique. Ces résultats corroborent ceux trouvés par Ndikumana et Abderrahim (2010) qui constatent que les pays riches en ressources naturelles ne tirent pas parti de cet avantage pour diversifier leurs économies afin d'élargir l'assiette fiscale.

La littérature économique montre que les pays africains riches en ressources naturelles sont généralement moins diversifiés que leurs homologues moins riches en ressources naturelles et que les pays riches en pétrole ont des économies encore plus concentrées (BAD 2007). En outre, le FMI (2018) a montré que ces pays, tirant des recettes de leurs ressources naturelles, mobilisent peu de recettes non attribuables aux ressources naturelles. Ils sont donc relativement peu performants en matière de recouvrement des impôts et des taxes. En conséquence, ces pays riches en ressources naturelles subissent de fortes baisses des dépenses publiques globales en période de ralentissement économique, comme l'illustre le cas des pays exportateurs de pétrole pendant ces dernières crises (FMI 2018; Ndikumana & Abderrahim 2010).

**Tableau 5 :** Déterminants de la DRF selon la disponibilité des ressources naturelles

Variables	Riches en ressources naturelles			Non riches en ressources naturelles		
	(1)	(2)	(3)	(1)	(2)	(3)
Indice de DRF (-1)	0,802*** (0,216)	0,795*** (0,203)	0,798*** (0,197)	0,719*** (0,195)	0,718*** (0,198)	0,723*** (0,196)
Ln (PIB par habitant)	-0,261*** (0,059)	-0,263*** (0,062)	-0,265*** (0,061)	-0,288*** (0,034)	-0,291*** (0,038)	-0,289*** (0,035)
Valeur aj. secteur industriel	-0,095** (0,042)	-0,096** (0,043)	-0,098** (0,041)	-0,087** (0,038)	-0,082** (0,039)	-0,089** (0,038)
Diversification économique	-0,168*** (0,057)	-0,169*** (0,053)	-0,167*** (0,051)	-0,157*** (0,075)	-0,158*** (0,073)	-0,157*** (0,074)

Indice de digitalisation	-0,208***	-0,212***	-0,209***	-0,207***	-0,213***	-0,219***
	(0,044)	(0,042)	(0,043)	(0,042)	(0,044)	(0,047)
Poids du secteur informel	0,036**	0,034**	0,035**	0,031**	0,032**	0,034**
	(0,018)	(0,016)	(0,017)	(0,012)	(0,013)	(0,015)
Corruption	0,066***	0,068***	0,065***	0,061**	0,063**	0,062**
	(0,019)	(0,021)	(0,019)	(0,030)	(0,032)	(0,029)
Développement financier	-0,185***	-0,182***	-0,183***	-0,179***	-0,182***	-0,183***
	(0,036)	(0,033)	(0,031)	(0,030)	(0,029)	(0,032)
Stabilité du gouvernement	0,792**	0,788**	0,791**	0,758**	0,762**	0,760**
	(0,258)	(0,261)	(0,259)	(0,261)	(0,259)	(0,258)
Ouverture commerciale	-0,002***	-0,002***	-0,002***	-0,003***	-0,002***	-0,001***
	(0,000)	(0,000)	(0,000)	(0,001)	(0,000)	(0,000)
Éducation	-0,031**	-0,030**	-0,032**	-0,036**	-0,034**	-0,033**
	(0,014)	(0,011)	(0,013)	(0,011)	(0,012)	(0,011)
Rev. ressources naturelles	0,152**	0,158**	0,157**	0,154	0,156	0,149
	(0,029)	(0,023)	(0,019)	(0,171)	(0,172)	(0,091)
Investissement	-	-0,134	-0,136*	-	-0,135*	-0,132*
	-	(0,195)	(0,089)	-	(0,193)	(0,092)
Valeur aj. secteur agricole	-	-	0,058	-	-	0,059*
	-	-	(0,047)	-	-	(0,048)
Constante	0,025	0,029	0,031	0,036	0,038	0,041
	(0,032)	(0,034)	(0,029)	(0,029)	(0,042)	(0,039)
<b>Nombre d'instruments</b>	<b>8</b>	<b>11</b>	<b>10</b>	<b>9</b>	<b>12</b>	<b>11</b>

Source : Estimations des auteurs, à partir des sources de données évoquées dans la sous-section sur les sources des données

Note : Les écarts types sont entre parenthèses (\*\*p < 0,01 ; \*p < 0,05 ; \*p < 0,1)

## Conclusion et implication de politique économique

Cet article a analysé la diversification des recettes fiscales (DRF) sur un échantillon de 39 pays en Afrique, couvrant la période 2005-2019. Les analyses se sont essentiellement basées sur les données du FMI, de la Banque mondiale, de l'International Country Risk Guide (ICRG).

En effet, les valeurs de l'indice de Theil (1972) proposé pour examiner la DRF des pays africains laissent apparaître que les sources de recettes fiscales desdits pays ne sont pas assez diversifiées, l'indice moyen de diversification ressortant à 0,846, sur la période de l'étude. Toutefois, l'analyse de

l'évolution de la DRF de ces pays au cours de cette période montre un effort de diversification progressive de leurs structures de recettes fiscales. Malgré cette progression, le niveau moyen de l'indice demeure supérieur à celui des pays de référence mondiale comme le Japon, la France, l'Angleterre et les États-Unis, suggérant la nécessité de poursuivre des efforts en la matière.

Le papier a également identifié les principaux facteurs (macroéconomiques et institutionnels) susceptibles de déterminer la DRF en Afrique. Les résultats indiquent que le développement économique, la valeur ajoutée du secteur industriel, la diversification économique, la digitalisation, le développement financier, l'ouverture commerciale et l'éducation favorisent la DRF, tandis que le poids de l'économie informelle, les revenus des ressources naturelles, la corruption et l'instabilité politique la freinent.

En outre, les résultats mettent en évidence l'effet négatif et significatif de revenus issus des ressources naturelles sur la mobilisation des RF dans les pays qui en dépendent. Pour ces pays, l'accroissement des revenus publics (notamment hors ressources naturelles) passe par la mise en œuvre des stratégies de diversification des recettes fiscales.

Au regard de ces résultats, des implications de politique économique ont été dégagées afin de permettre aux pays de renforcer les dispositifs de mobilisation des ressources intérieures en Afrique. Celles-ci s'articulent notamment autour des quatre points principaux suivants.

- La diversification des économies africaines : celle-ci renforcera leur résilience face aux chocs sectoriels et extérieurs. En effet, en promouvant de nouvelles activités au sein des économies africaines, la diversification économique offre d'importantes opportunités en matière de diversification des recettes fiscales.
- Le développement de la digitalisation : il contribuerait à augmenter considérablement les moyens pour recueillir, conserver et traiter des volumes importants de données fiscales. La digitalisation peut conférer aux administrations fiscales un accès rapide à des informations plus fiables et améliorer leur pouvoir d'action. Elle réduit les coûts pour ces dernières et pour les contribuables. Elle peut également renforcer l'assiette de l'impôt en réduisant l'utilisation d'espèces (promotion des paiements électroniques) et en facilitant l'analyse de chaînes de transactions afin de lutter contre la corruption et la fraude.
- La fiscalisation progressive du secteur informel : ce dernier constitue une source potentielle pour élargir la base imposable et accroître l'effort fiscal dans les États. Les autres sources potentielles de recettes qu'il conviendrait d'explorer concernent, entre autres, le foncier, les secteurs agropastoral et minier, les droits d'accise, les télécommunications et la rationalisation des exonérations fiscales importantes;

- L'amélioration de la qualité des institutions : la problématique de la fiscalité ne peut être adéquatement appréhendée si elle ne prend pas en compte les questions relatives à l'amélioration des institutions. Les pays africains devront bâtir des institutions efficaces et modernes axées sur la lutte contre la corruption et la promotion de la stabilité politique, conditions préalables à la réussite des réformes fiscales.

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## Notes

1. Auteur correspondant.
2. L'Algérie, l'Angola, le Bénin, le Botswana, le Burkina Faso, le Burundi, le Cap-Vert, le Cameroun, la République centrafricaine, la République démocratique du Congo, la République du Congo, la Côte d'Ivoire, l'Égypte, la Guinée équatoriale, l'Eswatini, l'Éthiopie, le Ghana, le Kenya, le Lesotho, le Madagascar, le Malawi, le Mali, le Maroc, le Mozambique, l'île Maurice, la Namibie, le Nigeria, le Rwanda, São Tomé et Príncipe, le Sénégal, les Seychelles, la Sierra Leone, l'Afrique du Sud, la Tanzanie, le Togo, la Tunisie, l'Ouganda, la Zambie et le Zimbabwe.
3. En conséquence, l'indice de Theil qui en résulte varie entre 0, indiquant une diversification parfaite et 1,8, équivalent à  $\ln(n)$ , avec  $n$  faisant référence au nombre de catégories fiscales considérées. Cette valeur maximale traduit une dépendance à l'égard d'un seul type d'impôt ou taxe.

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# Randomised Control Trials as a Dead End for African Development

Seán Mfundza Muller\*

## Abstract

Randomised Control Trials (RCTs) have been presented as a method for identifying interventions that will improve the lives of residents of economically poorer countries. I argue that RCT-driven development policy is unlikely to achieve even its narrower objectives and, instead, is likely to hinder the attainment of long-term economic and social development objectives in African countries. The article examines two fundamental methodological problems: first, that proselytisers of this approach, despite claims to the contrary, have not addressed the challenge of extrapolating from experimental results to policy interventions; second, that while the use of RCTs is framed as an objective scientific approach to policymaking, it systematically smuggles in the ideological and other biases of the researchers involved. These claims are illustrated with three sets of examples: controversial studies that involved cutting off water to poor households in Nairobi and randomising exposure to a Christian missionary programme in the Philippines; studies on civil servant absenteeism in Kenya and India cited in the 2019 Nobel award; and two case studies from South Africa pertaining to labour market and educational interventions where RCTs distorted the policy process with negative consequences. The conclusion is that the RCT approach is a dead end for African development.

**Keywords:** African development; development economics; epistemic hierarchy; evidence-based policy; randomised control trials

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## Résumé

Les essais contrôlés randomisés (ECR) ont été présentés comme une méthode permettant d'identifier les interventions qui améliorent la vie des populations des pays économiquement pauvres. Je soutiens qu'il est peu probable qu'une politique de développement axée sur les ECR atteignent ces objectifs, même les plus restreints d'entre eux, et qu'elle risque plutôt d'entraver la réalisation des objectifs de développement économique et social à long terme dans les pays africains. L'article examine deux problèmes méthodologiques fondamentaux : premièrement, malgré les affirmations contraires, les prosélytes de cette approche n'ont pas relevé le défi de l'extrapolation des résultats expérimentaux aux interventions politiques ; deuxièmement, même si le recours aux ECR est présenté comme une approche scientifique objective de l'élaboration de politiques, il intègre systématiquement les préjugés idéologiques et autres des chercheurs impliqués. Ces affirmations sont illustrées par trois séries d'exemples : des études controversées qui impliquaient de couper l'eau aux ménages pauvres de Nairobi, et de randomiser l'exposition à un programme missionnaire chrétien aux Philippines ; des études sur l'absentéisme des fonctionnaires au Kenya et en Inde citées dans le prix Nobel 2019 ; et deux études de cas de l'Afrique du Sud concernant des interventions sur le marché du travail et l'éducation dans lesquelles les ECR ont faussé le processus politique, avec des conséquences négatives. La conclusion est que l'approche ECR est une voie sans issue pour le développement de l'Afrique.

**Mots-clés :** développement africain ; économie de développement ; hiérarchie épistémique ; politique fondée sur des données probantes ; essais contrôlés randomisés

## Introduction

Randomised Control Trials (RCTs) are purported to be an important tool in reducing world poverty and contributing to economic and social development. On close scrutiny, the basis for that claim turns out to be remarkably weak. Worse, and in marked contrast to the hype about this methodological approach, there are substantive reasons to believe that the use of RCTs is likely to be *harmful* to the long-term prospects and well-being of African people and African countries. In reaching this conclusion, the article brings together a number of different strands of prior work.<sup>1</sup> The first section discusses some fundamental methodological limitations of RCTs and the resultant intellectual inconsistency of the proponents of this approach. This shows how the 'randomista' project is flawed even on its own terms. The second section then discusses how pre-existing views

and biases, whether ideological or about how social and economic processes work, contradict the framing of RCTs as a neutral scientific endeavour. The third section illustrates these arguments by critically analysing three sets of examples: controversial recently published studies on missionary programmes and economic outcomes in the Philippines and cutting off water to poor households in Nairobi in order to encourage payment for services; studies on civil servant absenteeism in Kenya and India cited in the 2019 Nobel Memorial Prize award; and two brief case studies from South Africa relating to labour market and schooling experiments. The final section brings these together to make the case that RCT-driven policy is a dead end for African development.

### **An Overview of Methodological Limitations**

RCTs are a method for obtaining quantitative estimates of causal effects. Their use for this purpose in medicine, most particularly in pharmaceutical trials, is well known. The deployment of RCTs to address social and economic questions is not a new phenomenon but the scale and influence of the approach in development economics in recent decades is without precedent. Although medicine is often cited as providing justification for this approach elsewhere, there is significant contestation about the merits of the evidence hierarchy in medicine that is created by denoting RCTs as a 'gold standard' of methodological approaches (Concato, Shah and Horwitz 2000; Rothwell 2005; Cartwright 2007). The application of such methods outside the narrow domain of pharmaceutical research and regulatory processes is also far from straightforward. And there are various respects in which such experiments in social and economic domains may be unethical (Baele 2013; Ziliak and Teather-Posadas 2016; Abramowicz and Szafarz 2020; Hoffmann 2020).

If we were to put ethical arguments aside, which will be the case for the remainder of this article, one could argue that RCTs are 'mostly harmless' (Angrist and Pischke 2009) as a different methodological emphasis in intellectual inquiry. That line of argument, however, is undermined by the fact that the use of RCTs in economics has been accompanied by, or premised on, assertions of methodological superiority in the policy realm and a deliberate effort to obtain influence over policy decisions (Banerjee 2007; Banerjee and Duflo 2009; 2011). Such a project seeking policy influence was recently awarded the 2019 Nobel Prize in economics (Nobel Media 2019); its proponents are referred to as 'randomistas' (Ravallion 2009, 2018; Deaton 2010).

The basic argument of the randomista project goes something like this:

- Reliable, quantitative estimates of causal effects are needed to make the right policy decisions.
- The assumptions required by other methods to obtain such estimates are implausible.
- Simple analysis using an RCT can identify the effects of policy interest without requiring prior knowledge.
- Therefore RCTs herald a ‘credibility revolution’ (Angrist and Pischke 2010) in economics and should be prioritised by policy-makers seeking simple answers to important questions.

Although there is nothing in this argument that pertains specifically to development or developing countries, its greatest influence has been on research related to the challenges faced by such countries and their people. On the face of it, that is because the primary proponents of the approach had the problems of developing countries as their intended focus; the institutions they subsequently created, such as the Abdul Latif Jameel Poverty Action Lab (J-PAL), the International Initiative for Impact Evaluation (3ie), Innovations for Poverty Action (IPA) and the Development Impact Evaluation unit (DIME) at the World Bank, inherited that emphasis. A more critical perspective suggests that the approach gained greatest influence in development also because of the role of the aid industry and the relative inability of developing countries to resist such overtures.

Every component of the randomista argument outlined above is contested and has been the subject of substantive methodological criticism – see the surveys by Deaton and Cartwright (2018) and Muller (2014, 2021). Here I will mention one fatal contradiction at the core of advocating RCTs for development policy. Even if RCTs do actually identify the causal effects they seek to, direct policy relevance requires going from that empirical finding in an experimental population to recommending an intervention in a broader population that is the one policy-makers are concerned with.<sup>2</sup> The main obstacle to doing so is that the causal effect of an intervention rarely, if ever, exists in isolation: it depends on the characteristics of the people and the context in which it is implemented. Or in other words: the causal effect of an intervention depends on its *interaction* with other factors. Those factors may vary across populations and geographical space, so that within and across countries the causal effect is different. Furthermore, they may vary across time, so that even in the experimental population there would be a different outcome at some point in the future.

While this is quite intuitive and was pointed out by the first authors to systematically consider the problem in relation to social experiments (Cook and Campbell 1979), it presents a serious dilemma for randomistas. If the

causal effect depends on other factors, then to extrapolate it to a different population requires knowing what the relevant factors are and having data to see how they differ across the two populations. But a key component of the methodological argument in econometrics in favour of RCTs is that assumptions about causal structure are not credible and that RCTs offer 'simple' answers to policy questions.

The above counterargument can be formalised (Muller 2015) to show that by simply asserting (rather than establishing) that the results of RCTs apply to broader populations, the randomistas endorse an assumption with the exact same structure as the one they reject when it comes to non-experimental methods. At best this is intellectually inconsistent, at worst it is fundamentally dishonest – either way it constitutes a fatal flaw at the heart of the randomista project (Muller 2020).

The extent of the problem has not been seriously or adequately acknowledged – as is reflected in the continued policy recommendations and promises about policy relevance made by randomistas. However, defenders of the approach have cited a number of indirect solutions to the problem.

Muller (2021b) provides a comprehensive itemisation of these defences and explains why none of them succeed. One purported solution of particular interest here is that practitioners of randomised trials use their 'expertise' to assess when and whether experimental results can be applied in other populations. The invocation of qualitative expertise, not least within the broader stance of randomistas in which they imitate 'rigorous scientific practice', is particularly notable given the historical disdain shown by economists towards qualitative methods and claims based on individual experience rather than 'data', 'models' and 'formal analysis'. But it also does nothing to resolve the intellectual contradiction, since if qualitative expertise can be used to decide prospects of extrapolation why could it not also be used to decide the prospects of identifying causal effects? Doing so would render not just RCTs redundant but also econometric methods more broadly.

Proposing the qualitative expertise of randomistas as a solution to the extrapolation problem also draws attention to another dangerous characteristic of their project: not only are RCTs placed at the top of a hierarchy of evidence, but randomistas seek to place *themselves* at the top of a hierarchy of knowledge (an 'epistemic hierarchy'). Both these dimensions of the randomista project are especially salient given the history of African economic and social development, in which foreign experts of a certain type imposed policies with little regard for local circumstances or local expertise. Many such experts were economists or were implementing neoclassical economist-derived theories of development.

## Ideologically Infused Experiments

The privileging of economists' views over others with arguably greater expertise is therefore hardly a new phenomenon – in the past it has led to accusations of 'economics imperialism' within the social sciences. However, the promise of simple answers based on 'scientific experiments' combined with a well-funded push for influence (Bédécarrats, Guérin and Roubaud 2019) marks the randomista project as possibly even worse in this respect than its predecessors. In recent times, and likely in response to such criticism, the randomista project has made a concerted effort to present itself as being locally driven or locally informed. The popular and policy literature it has produced seeks to emphasise consultation with local organisations and governments in selecting interventions and the role of such institutions in implementing experiments. Yet the corresponding academic literature, which is the ultimate source of the randomista authority, reflects little local influence and there has been no independent corroboration of other claims.

Being at the top of a hierarchy of expertise is a sure way of securing policy influence, but there is no *prima facie* reason to believe that an academic in the United States running an RCT has more knowledge of a local health system than, for instance, a competent doctor who has worked in that system for decades. Linked to this is a further epistemological problem with RCTs, which has received little attention but is profoundly important for developing countries seeking to determine appropriate strategies and trajectories for social and economic development.<sup>3</sup> The problem is this: *the very choice of an intervention on which to base an RCT is itself the result of a pre-existing conception of how the world works and how it should work.*

Consider the following example. A policy-maker in the Busia district in Kenya is concerned about learning outcomes in state schools because a relatively small proportion of children attain basic competency in literacy and numeracy. The policy-maker asks a randomista at J-PAL for assistance in improving outcomes, and the randomista, naturally, proposes that an RCT or multiple RCTs be run to establish 'what works'.<sup>4</sup> But where does the intervention that will form the basis for the RCT come from? In other words, how does the randomista decide on what is worth trialling by experiment?

One approach might be to try something that appears to have worked elsewhere. But this approach is questionable, since under the full absurdity of the randomista approach nothing can be said to have worked unless it is verified by the results of an RCT. Thus, in the base case the randomista must draw an intervention from the set of interventions they believe might



work.<sup>5</sup> From a purely methodological perspective this is interesting because one of the main methodological arguments made within neoclassical economics for the randomista project was premised on scepticism of ex ante causal knowledge (Angrist and Pischke 2010). Yet the mere choice of an intervention imposes researcher beliefs in at least three respects:<sup>6</sup>

1. In determining the set of interventions that may work in theory
2. Determining the subset of 1. that are considered practically feasible
3. Prioritising the possibilities in 2. in order to reach a single intervention or, at best, a handful of interventions.

To continue with the schooling outcomes example, suppose that either the policy-maker or researcher has evidence of high teacher absenteeism and this is deemed to be a likely cause of poor outcomes. What experimental intervention might one institute? A researcher who considers public employees in developing countries to be inherently lazy may favour a punitive incentive system based on increased monitoring. If that is practically infeasible because of resistance from teachers or other stakeholders, a reward-based system may be the next best option. On the other hand, a researcher who believes that underresourced and low-quality work environments negatively affect motivation may propose an intervention that substantially increases aggregate school resources.

Notice that each researcher's preferred experimental intervention may not be even in their counterpart's set of possible or theoretically effective interventions. That will also carry over to interpretation of the results of any RCT. The first researcher may interpret RCT evidence of ineffectiveness of a resource-based intervention as merely confirming what they already expected, whereas the second may interpret it as reflecting the fact that increases in school resources may take time to have an impact. Similarly, the second researcher may interpret the ineffectiveness of an incentive-based intervention as reflecting the fact that absenteeism is caused by other factors, whereas the first may interpret it as reflecting a need to alter the design of the incentive mechanism.

The concern, then, in the present context of RCT-driven development efforts is that materially important subjectivity is being smuggled into policy recommendations in developing countries through notionally objective experimental analysis. A possible response to this concern is to cite randomistas' claims, in some of their policy literature, that they select interventions from the set *proposed* to them by local partners. As has already been noted above, there is no independent corroboration of these kinds of claims about the interactions between these (mostly North American)

researchers and their local counterparts. And the types of interventions randomistas typically implement have a distinctly economic flavour – as is discussed further in the next section.

Even if it were true that such interventions were selected from a set of possibilities identified by local organisations, this may not improve matters much. There are two likely reasons. First, a self-selection effect: organisations with whom randomistas establish medium-term relationships of the kind needed for such experiments are likely to share various aspects of the latter's outlook. Second, if the range of possible interventions considered by local organisations is sufficiently broad, the mere act of selecting one will play the greater role in determining the character of the intervention.

The broader point is that, contrary to the manner in which randomistas portray these studies, there is nothing neutral about RCTs: the interventions chosen for testing are the outcome of decisions by researchers conducting experiments and the institutions that fund them. The experimental interventions will, therefore, reflect preconceived notions of how the world works and what solutions should be considered plausible. Where policy is determined on the basis of findings from such studies, the reliance on such experiments imposes unwarranted blinkers on development policy. Or, to phrase the matter in the foundational terms (Robbins 1932) of modern neoclassical economics, randomistas purport to be doing positive economics and thereby conceal deeply normative aspects of their empirical work and policy recommendations.

### **Illustrative Examples from the Nobel Award and South African Case Studies**

The preceding sections emphasised two particular problems with the randomista approach to development – that context-dependence undermines extrapolation and that RCTs smuggle in pre-existing conceptions of appropriate policy under the guise of science. This article now considers some specific examples to illustrate more concretely these abstract points and the dangers of the randomista project for African (and other developing) nations. The first is two very recent controversies pertaining to an experiment that cut off water to non-paying residents of poor areas in Nairobi, and another that randomised exposure to Protestant missionaries in the Philippines. The second is a strand of work by the 2019 economics Nobel winners on absenteeism among civil servants in developing countries. Finally, two case studies from South Africa are discussed, where the randomista approach has had and continues to have a harmful influence on the policy process, decisions and the allocation of resources.

***Recent controversies: less water, more missionaries for the poor in developing countries***

Despite the increasing sophistication in which the problems of the randomista approach have been cloaked, it is not hard to find new examples to illustrate the troubling attitudes that lie behind such experimentation. Only two that have been recently prominent are discussed below, but there are many similarly concerning examples.

In 2020, researchers published a working paper in the National Bureau of Economic Research (NBER) series which presented the results of an experiment that involved entirely cutting off the water supply to residents of poor areas ('slums') in Nairobi to increase payment rates (Coville *et al.* 2020). The NBER is a North American-based, invitation-only research institution focusing on empirical work in economics. Although its working papers are not peer-reviewed and the ability to publish therein is based first and foremost on professional networks rather than substantive merit, according to Google Scholar the working paper series is the most-cited single outlet in economics.

After the working paper's publication, controversy erupted on social media that called into question the ethics of cutting off water to poor, vulnerable people and communities. A response by three of the authors (Coville, Galiani and Gertler 2020) sought to emphasise the role of the local water authority, essentially seeking to exculpate themselves of responsibility through a claim of local agency. The authors insinuated that the idea to disconnect non-paying households or compounds was that of the local authority and, furthermore, that their role in proposing an experiment with alternative approaches effectively reduced the extent of disconnections over the period studied.

The study falls squarely within the randomista network: one of the authors worked for DIME, the study received funding from J-PAL and DIME (among others) and its international ethical clearance was provided by the 'Innovations for Poverty Action International Review Board'. Exemplifying a point made above, the authors' subsequent elaboration of context seeks to emphasise the role of local partners yet such information was wholly absent from the original NBER working paper. Aside from failing to establish that claim credibly, much as the broader literature fails in this domain too, the authors also neglected to elaborate on their role or that of the World Bank as the lender. They summarise the situation as follows (Coville *et al.* 2020:1):

These interventions grew out of a policy crisis faced by the Nairobi City Water and Sewerage Company, and a 6-year engagement between the utility and research team. To help expand access to water and sanitation services, the Kenyan Government had used support from the World Bank to subsidise and greatly expand physical connections from housing compounds to the water and sanitation system and achieved near universal levels in urban slums. On the measure of increasing access, the programme was highly successful. However, a culture of nonpayment became rampant.

Given the role of the World Bank as financier – on terms left unspecified – and the fact that one of the authors worked at the Bank, it seems plausible that the ‘6-year engagement’ referred to may not have been voluntary on the part of the utility nor one characterised by equal power relations.

The discussion of the institutional challenge faced by the water utility, both in the working paper and in the subsequent response to criticism, is remarkably unsophisticated. The crux of the argument was that since the water utility’s revenue was inadequate to meet its supply and maintenance costs, the extreme act of cutting off water entirely to non-paying poor households was warranted. The rationale being that if the utility’s broader service provision was undermined then more poor households would be harmed in the long run by allowing the situation to continue. However, nowhere in the study do the authors consider ability to pay, the moral and legal rights of citizens to access a certain basic quantity of clean water, or the role of public subsidies. Given that these are among the predominant concerns in the literature on utilities that provide public services (whether privately or publicly operated), their omission reflects, at best, shoddy scholarship. More than that, it illustrates the points made above: how the prior beliefs of researchers and funders distort the perceived set of options available and thereby impose normative beliefs that have marked consequences for welfare and distributional consequences.

In the face of scathing public criticism, the working paper in question was withdrawn, though without providing clearly stated reasons for doing so. A revised version was published a year later (Coville *et al.* 2021) with a new title – ‘Financing municipal water and sanitation services in Nairobi’s informal settlements’ rather than ‘Enforcing payment for water and sanitation services in Nairobi’s slums’ – and with a seven-page appendix that addresses ‘ethical considerations’. The later version now includes numerous Kenyans in the acknowledgements section. The appendix also claims that disconnections were considered only after it was ascertained that alternative measures had been tried or the utility had ruled out alternatives (such as prepaid meters). Nowhere does the revised version acknowledge that any of the changes were made in response to criticism. It is debatable whether

such ex post rationalisations and elaborations should be treated as credible, not least since there was no obstacle to including such information in earlier working paper versions. It is perhaps also notable that the appendix reveals that an earlier study design intended to estimate the elasticity of demand for sanitation services was rendered infeasible because of high take-up rates – much research time and effort would therefore have been lost had the authors not found another experiment to run.

In the same year, a paper was published in the discipline's top-ranked *Quarterly Journal of Economics* in which the researchers sought to examine whether religiosity has an effect on social and economic outcomes (Bryan, Choi and Karlan 2020). Specifically, the study examined whether randomised exposure to the programme of a particular (Protestant) Christian missionary organisation (International Care Ministries) led to an improvement in social and economic outcomes. The programme reportedly 'consists of three components – Protestant Christian theology, values and character virtues ... health behaviors ... and livelihood (i.e., self-employment) skills ... taught over 15 weekly meetings' (Bryan *et al.* 2020). The paper examines a range of primary and secondary religious and economic outcomes, assessed six months and thirty months after the end of the programmes. The headline finding is that 'Six months after the programme ended, treated households have higher religiosity and income ...'. On that basis, the paper concludes with the claim that, 'this church-based programme may represent a method of increasing non-cognitive skills and reducing poverty among adults in developing countries'.

Again, the institutional associations of the authors place them squarely within the randomista project, in that they had affiliations to IPA and J-PAL. This paper had also first appeared in the NBER working paper series two years earlier (Bryan, Choi and Karlan 2018) but had not generated much controversy at the time. Furthermore, the content of this paper also reflects a major scholarly failing. The authors locate their study in relation to the Western debate that relates to Max Weber's proposition about the advantageous nature of the 'Protestant work ethic'. At best the relevance of that debate for the economic development of presently less wealthy countries needs to be established. At worst it is of little or no relevance even to questions of religiosity and economic outcomes in such countries because the primary context Weber had in mind was so different: a subset of European countries in the sixteenth and seventeenth centuries. In either case, what is unarguable is that the authors omit entire literatures on historical and current missionary activity in developing countries. Furthermore, the catalogue of such historical experiences contains numerous examples in

which missionaries played a pivotal role in facilitating the exploitation of the ancestors of current residents of developing countries. Indeed, although there are certainly nuances that merit attention, compelling cases have been made that in some contexts Christian missionary activity was one of the sources of subsequent economic ‘underdevelopment’ (Rodney 1972).<sup>7</sup>

In addition to this blatant failure to properly or even-handedly locate the intervention that the paper studies in its appropriate historical context, the conclusion has little support from its actual findings. The finding that the income of participants increases is not corroborated by any of the other measures of economic outcomes or perceptions of relative economic status. In the body of the paper the authors acknowledge that ‘it is possible that the income result is a purely random Type I error’ – a statistically significant finding that is spurious and arises from testing a large number of alternate hypotheses. Although the authors go to some lengths to dispel this possibility, they are unable to do so convincingly. Furthermore, the income effect is no longer statistically significant after thirty months. An impartial assessment of the empirical findings may quite reasonably conclude that there are no consistent, significant effects of the missionary programme – in stark contrast to the authors’ conclusion.

These papers illustrate not only ethically questionable conduct but also the kind of researcher perspectives that inform the selection and design of experimental interventions. Despite the prestige of the authors and the outlets in which these papers were published, some may nevertheless wish to argue that these examples are exceptions to the norm. In the first subsection below, this article seeks to pre-empt such arguments by demonstrating how one subset of studies cited in the 2019 Nobel Memorial Prize award also exemplifies the criticisms outlined above. In the second subsection, this article discusses two detailed examples from South Africa, which pertain to schooling and labour market outcomes and which illustrate how RCTs can lead to deeply flawed policy processes, a waste of effort and the misdirection of public resources.

### ***Nobel researchers and ignoble civil servants: absenteeism, monitoring and contract teachers***

The 2019 Nobel award identifies a number of noteworthy components of work by the recipients of the award (Abhijit Banerjee, Esther Duflo and Michael Kremer), one of which is ‘a series of papers in the early 2000s, [wherein] Duflo and Banerjee, along with their various co-authors, began a systematic exploration of how to address teacher absenteeism’ (Nobel Media 2019:17). The three papers concern:

1. An experiment that started in 2003 and ran for thirty months using camera-based monitoring and financial incentives (salary bonuses or deductions) in fifty-seven, single-teacher 'nonformal education centres' run by the local NGO Seva Mandir, in Udaipur, Rajasthan, India (Duflo, Hanna and Ryan 2012).
2. An experiment in which Seva Mandir monitored assistant nurse midwife attendance, linked to financial incentives (wage 'fines and punishments'), at public rural health subcentres in Rajasthan (Banerjee, Duflo and Glennerster 2008).
3. An experiment that assigned additional contract teachers, who were paid one-quarter of the usual compensation, to 140 primary schools in three districts of the Western Province of Kenya in 2005 and 2006, funded by the World Bank and implemented by the NGO International Child Support (Duflo, Dupas and Kremer 2015).

Each of these studies could be the subject of a detailed critique, but for present purposes this article focuses on their troubling commonalities. It draws also on the framing of the broader research agenda by Banerjee and Duflo (2006) and the Nobel Committee (Nobel Media 2019).

A first concern is that none of these studies seeks to establish the *reasons* for, or causes of, civil servant absenteeism. This is rather bizarre given that the intention is to test interventions that will resolve the problem. Of course, it is not impossible that one might find solutions to a problem without understanding its causes. But for intellectual and practical purposes it would seem prudent to make some effort to consider what lies behind the policy problem that one intends to 'solve'. One possible explanation for this remarkable omission is that the authors of these studies already had a belief about the causes of absenteeism, which they elected to leave implicit. A hint as to what these beliefs might be is provided by some of the adjectives used to describe absenteeism, such as 'delinquency' and 'shirking' – suggesting a view that absenteeism is caused by laziness or disregard for public service obligations.

In addition to the failure to consider reasons for absenteeism, there is a corresponding failure in the ostensible reasons provided for caring about absenteeism. Although it would be quite acceptable to simply begin with the premise that absenteeism is a problem in and of itself, whatever the reasons for it, the authors of these studies seek to go further. For instance, the ostensible motivation for the nurse incentive scheme was that free proximate public rural health facilities were not being utilised by the very poor (Banerjee *et al.* 2008:487–88). Yet the authors did nothing to actually establish their hypothesis that the reason for non-use of these

services, in favour of private providers, was absenteeism of the staff at the centres: they simply segue from speculation to strong assertions with little actual substantiation.<sup>8</sup>

A second concern relates to the nature of the interventions that were considered and implemented by the authors of these studies. The obvious commonality between all three is: monitor and incentivise. To many mainstream neoclassical economists this may appear unobjectionable, but only because they share an approach in which any problem that pertains to individual behaviour ought to be addressed by the behavioural toolkit of their discipline. This approach can be found in models of individual behaviour, such as principal–agent models and models of individual utility maximisation. In these models of human beings as ‘homogenous globules of [selfish] desire’ (Veblen 1898), it simply may be assumed that civil servants will seek to shirk their responsibilities.<sup>9</sup> And if one assumes that shirking is the consequence of such individual considerations, it follows in the economic worldview that one ought to institute systems that monitor and incentivise (punish and reward).<sup>10</sup> Yet on inspection one discovers that the authors of these studies have done nothing to justify their focus on individual decisions relative to the structural causes of absenteeism.

In an approach characteristic of the entire randomista literature, such structural factors are given a paragraph of consideration in one overview study. Banerjee and Duflo (2006:129–30) belatedly note that it is:

... worth recognizing that the working conditions faced by the providers in many of the studies reported here are hardly ideal and that this might partly explain why providers do not always respond to the incentives ... [in some of the circumstances faced by an auxiliary nurse-midwife in rural Rajasthan] most people would probably be tempted to stay at home at least occasionally. ?

But the authors then go on to say that the fact that teachers in the camera experiment responded to incentives shows that ‘at least for them, improving attendance is within reach’. Yet this argument still fails to give structural concerns their due. It may be that the threat of withholding up to 50 per cent of a teacher’s meagre salary is sufficient to compel them to attend classes more regularly, but that proves nothing about the reasonableness of such a demand. It may only prove that the desperation of the teacher for that amount causes them to overcome the obstacles to attendance. Whether such a teacher is capable of then delivering a good education and whether such a situation is sustainable, is an entirely different matter. And both those considerations are crucial for the ultimate objective, which is improving the educational experience and outcomes of the residents of developing countries.



A third concern is that the thrust of all these studies is to downplay the significance of resources for service delivery and the societal outcomes of this in the countries in question. This is concerning because it is not, in fact, warranted by the analysis that has been conducted. Consider, for instance, the following line of argument in relation to the nurse monitoring scheme:

[the results] show that ensuring that nurses come to work is a low priority for the local health administration and that incentive systems are quickly undermined if there is insufficient political will to enforce them. Given this, resources don't seem to be the main limitation and so pumping more money into the system without attendant reform to reduce absenteeism, as is currently planned under the recently launched National Rural Health Mission, will not solve the underlying problem. (Banerjee *et al.* 2008:488)

The logic in this argument does not hold up to scrutiny. As we have seen, the authors did not establish the reasons for absenteeism. Furthermore, they did not establish why there was insufficient will to enforce the mechanism they had created. An entirely plausible hypothesis is that absenteeism is high because of low salaries and under-resourced facilities that create poor working conditions. Of course, like the authors' own version, this is speculation. But it is least as plausible as the authors' own interpretation and yet has diametrically opposite policy implications. The difference between the two positions seems to arise entirely from the *ex ante* beliefs of different researchers and the wholesale omission of structural factors by the randomistas. It is in this sense that randomistas seek, wittingly or unwittingly, to impose their unsubstantiated prejudices on development policy through supposedly scientific methods.

### *Two illustrative examples from south africa*

As a final set of illustrations, two specific examples from South Africa are described below: the misleading use of an RCT to make the case for an employment tax incentive; and the contribution of RCTs and their proponents to the continued neglect of systemic contributors to poor education outcomes.

#### *The employment tax incentive: using an rct to distort the policy debate<sup>1</sup>*

In the mid-2000s the South African government invited a group of economists, subsequently known as 'the Harvard Panel', to advise on the country's economic policy (Center for International Development 2008). One proposal that emanated from this initiative was for an employment tax incentive for firms, which was aimed at reducing the extraordinarily high

national unemployment rate (Levinsohn 2008). Underlying the proposal was a conceptualisation of unemployment as resulting, at least to a significant degree, from the price of labour being too high. That view had long been contested by trade unions, leading to a polarised situation involving academics siding with different vested interests: one side framed unions as seeking to privilege their members at the expense of the unemployed, while the other side framed business as seeking to destroy collective action in order to better exploit workers. Unsurprisingly, the proposed tax incentive was opposed by trade unions.

The original analysis that had proposed the incentive acknowledged that the question of how responsive employment is to wages is an empirical one and that therefore more evidence was needed to substantiate any incentive and determine its characteristics. Although there was some evidence that the National Treasury and the academics involved already believed that an incentive was desirable, two studies were conducted in order to inform the decision: one was a computable general equilibrium (CGE) analysis (Burns, Edwards and Pauw 2010) and the other a randomised trial of a wage subsidy voucher given to job-seekers.<sup>12</sup> The randomised trial was conducted by academics with links to the National Treasury and funding support from 3ie. The ‘policy influence plan’ submitted to the funder (Unknown 2011) shows that the researchers anticipated unions as an obstacle to the impact of their findings – clearly expecting a positive result.

The working paper with the details of the study and its findings was published only after Parliament had approved the Employment Tax Incentive Bill (Levinsohn *et al.* 2014a). However, prior to this decision the local researcher who was running the experiment published a number of articles in the popular press arguing for the adoption of the incentive based on the positive findings of the study (Rankin 2012, 2013). The National Treasury also cited the study in its presentation to Parliament. Yet parts of the full working paper that was published later are more cautious about what can be claimed and scrutiny of the study details shows that the RCT provides little, if any, insight into the core policy question.

Among the reasons why the claim that the RCT findings supported the implementation of the national incentive was false are: that the voucher intervention bore little resemblance to the intended incentive; the experimental population was not nationally representative; additional evidence from within the experiment itself (Levinsohn *et al.* 2014a) did not support the claim that a lower wage was the mechanism behind the higher employment rate of voucher-holders; and any positive effect could have been the consequence of a competitive effect among workers that would disappear when the intervention was scaled up.

This example illustrates the points made in the preceding sections. The policy claims based on the RCT were not appropriate given the study's limitations. Furthermore, the researchers showed a clear bias in favour of the policy. One even worked for a consultancy company that provided services to labour brokers who would benefit directly from the incentive.<sup>13</sup> Yet by leveraging the dubious scientism and epistemic authority associated with the randomista project, an RCT was used to endorse a policy that committed the government to billions of Rands of tax incentives for the private sector with little discernible impact on unemployment, and reduced public resources further during a period of fiscal consolidation.

*RCTs and selective denial of systemic contributors to poor education outcomes*

In addition to and overlapping with the studies of absenteeism discussed above, many of the studies cited in the 2019 Nobel award concern educational experiments. The vast majority of these are concerned with interventions that either do not materially increase resources available to schools, or – as in the hiring of low-paid contract teachers – do so in a manner that undermines the wages or power of incumbent teachers. This follows a longer tradition in the economics of education of denying or downplaying the relevance of fiscal resources (on the basis, incidentally, of econometric findings that are not credible by randomista standards).

Given that South African academic economics is arguably a largely imitative enterprise (Muller 2017), it is unsurprising that both these stances have been reproduced in that community. The researchers who currently dominate the education policy space in South Africa produced a report on 'binding constraints in education' that, remarkably, did not list resources as a binding constraint (Van der Berg *et al.* 2016). This is even more remarkable since South Africa is regularly ranked the most unequal country in the world, with high rates of unemployment, poverty and violence and an education system for black South Africans that until 1994 was infamously designed to produce 'hewers of wood and drawers of water'.

The justification for this remarkably extreme position is two-fold. First, one of the authors previously claimed that South African education expenditure was high relative to other countries (Van der Berg 2007) and therefore resources could not be a cause of poor outcomes. Second, in studies done using non-experimental econometric methods the authors and their collaborators apparently failed to find evidence that resources had a significant impact on outcomes. The view that resources are unimportant dovetails with a negative view of teachers, school management and trade unions – that it is not the inequities bequeathed by apartheid

that cause poor educational outcomes but the inefficient management of adequate resources.

RCTs fit neatly into this stance since, as has been the case internationally, they focus attention on non-structural issues, resource optimisation and deficit models of developing country civil servants. Unsurprisingly, then, these researchers and their similarly minded collaborators in the Department of Basic Education have taken enthusiastically to these methods – even though acceptance of the randomista claim about credibility would render much of their prior work non-credible. Examples include poorly thought-out interventions such as randomly sending study guides to schools in one province and then fishing for statistical significance (Taylor and Watson 2015), along with somewhat more carefully considered larger-scale projects to test teacher training or early grade reading interventions.

While the small group of researchers conducting these studies claim that the extrapolation problem is ‘[not] serious enough to call the method into question’ (Fleisch 2008:10), the accompanying analysis suggests an inadequate grasp of the fundamental problem. It perhaps bears mentioning that, given the current enthusiasm for RCTs, adopting this research method serves both the researchers’ academic publishing aspirations and desire for policy influence, regardless of whether it serves the public interest.

What has been particularly striking about the recent turn to RCTs in South African basic education policy is that educationalists and civil society activists who championed reading interventions for decades were ignored by government. But economists with little, if any, direct knowledge of the education system who advocated early grade reading interventions on the back of ‘scientific’ experiments rapidly got to the point of having their recommendations reproduced word for word in the president’s State of the Nation Address.<sup>14</sup>

Linked to this is a broader phenomenon in which researchers who enhance their epistemic status using RCTs are also given more authority to inform policy using different methods on separate policy questions – in areas where other researchers may have greater, longer-standing knowledge and expertise. This further compounds an arguably distorted epistemic hierarchy in which academics and others who draw expertise from research are given almost all the weight assigned to non-political inputs, whereas ‘experts of practice’ – such as teachers – are ignored except to the extent that their expertise is filtered through the former’s research, analysis and anecdote. And all of this, as with the employment tax incentive RCT that misled the public and policy-makers, occurs under the broader narrative of ‘evidence-based policy’.

## Randomised Control Trials as a Dead End

The focus of this article has been on presenting a methodological critique of the randomista project broadly on its own terms. It is possible of course to approach the project from a number of other, different, critical angles. One is to argue that the project's failures and limitations may be traced to a fundamental flaw in its motivating question, as summarised in the Nobel award: 'understanding why some countries are poor [requires] empirically identify[ing] important sources of inefficiency and policies to address them' (Nobel Media 2019:6). The glaring error of presumption therein is that national poverty and cross-country inequality are driven by 'inefficiency' as opposed to a host of other structural and historical factors.

A notable thread running through these and other papers is the contrast that is drawn between government as an implementing agent and non-governmental organisations. The thrust is that a range of interventions in global South countries are effective when implemented by non-government institutions and involve non-public servants or temporary employees in the public service. Analogous conclusions have been drawn by other researchers in the same methodological genre as the randomistas (Bold *et al.* 2018). But while these studies present such findings as novel and insightful, the extent to which they are is questionable.

Many, perhaps most, public institutions in developing countries can be characterised as under-resourced, under-capacitated bureaucracies overwhelmed by their socioeconomic obligations, with corresponding, stultifying institutional cultures that have become embedded over time. That smaller organisations, which can select their own commitments and be funded accordingly, sometimes perform better than the state is not especially surprising. Nor, more importantly, is this an especially useful observation. The broad implication, if one takes these studies at face value, is that where possible one should seek to bypass the state in order to stimulate development, reduce poverty and so forth. Yet such a conclusion verges on incoherence.

- What would it mean to scale up private initiatives to fulfil public duties? Where would sufficient and sustainable resources come from if not the public purse?
- If resources come from the public purse, how would private organisations be held duly accountable?
- And once proper accountability is imposed for public duties and resources, in what sense would these organisations differ from the state bureaucracy they were purported to replace?

The proponents of RCT-led development have largely side-stepped such difficult questions by simply avoiding the implied endpoint of their own studies. Instead, they propose either policies that seek to outsource public functions at the margin or to introduce monitoring and incentive systems that remake public institutions in the image of crude neoclassical economic models populated by selfish utility maximisers.<sup>15</sup>

The conclusion that arises from the preceding methodological analysis is that the main problem with the randomista project for those concerned with development is not its methodological intolerance (Harrison 2013) *per se*. It is that an undue emphasis on RCTs for policy purposes is methodologically unsubstantiated, smuggles in ideological and epistemic bias, distracts from important questions and in doing all this diverts scarce intellectual and societal resources and political will towards projects that will rarely deliver on even their narrow promises. The randomistas appear to be driven by a 'missionary zeal' (Bardhan 2013) and by the belief that they are the chosen ones to save the denizens of developing countries from poverty with an 'incredible certitude' (Manski 2011) about their findings that is not warranted. The combination of these factors poses a real danger to developing countries that have limited capacity to resist a well-resourced, externally-driven project to determine their policies across a wide range of areas.

Compounding this, as noted by many critics, is that the randomista project focuses both research and policy on narrow questions and interventions that lend themselves to RCTs, rather than on those that are most important for developing countries. The deliberate pursuit of medium- and long-term structural change through a process of learning, which has characterised the development paths of most now-wealthy nations, is outside the scope of the randomista project. So while there has been an attempt by randomistas to frame their stance as one of hope rather than pessimism regarding the prospects of major improvements in developing countries, this is disingenuous. The randomista project is premised, mostly implicitly but occasionally explicitly, on a fundamental pessimism about developing countries achieving the economic improvements of developed countries.

The randomista project can be seen as an extreme manifestation of imperialistic tendencies among economists, premised on dubious claims about economics as a scientific activity. In that light, it is notable that even those who have endorsed the proclamation of a 'credibility revolution' have been silent about what this implies for all past policy advice by economists. If indeed it is true that RCTs are required for credible causal estimates then all past policy claims by economists who have used the implausible

assumptions of other methods must have been inappropriate at best, or harmful at worst (Muller 2023). The zealotry of the randomista project manifests in the argument that the hubris of economists who preceded it was fundamentally flawed but ‘this time is different’. Close scrutiny of the project suggests otherwise. This time may be worse.

For all the above reasons, this article adopts a stronger stance than that of many critics of RCT. Not only will the widespread adoption of and reliance on this method fail to yield the benefits promised by the randomista project, it is likely to hinder the attainment of long-term improvements in the prospects and wellbeing of the residents of developing countries. This remains true even as the external drivers of the project seek to nurture local adherents to, and notionally independent proselytisers of, the methodological ideology. The neglect of structural issues, even at the institutional level, in favour of myopic efforts to tweak individual behaviour is not only unlikely to make a dent in the large-scale challenges faced by developing countries, but in many cases the resultant proposals can be shown to be implausible and inadequately substantiated for even the narrow problems they identify. Properly located, methodologically and epistemically, RCTs should play at most a small role in informing the policy decisions of developing countries. If given the authority and power sought by the randomistas, RCTs will be a dead end for African development. Whatever factors have hindered the attainment of greater progress in African countries since independence, there is no reason to believe that RCTs will address or circumvent them. The challenge for African countries remains to set out, as other countries have done historically, an alternative path to the new missionary complex that has been spawned by the randomista project.

## Notes

1. For the sake of brevity and exposition references are kept to a minimum; more extensive references can be found in other works (Muller 2014, 2015, 2020), which the present article builds on with an eye to concerns particularly related to African development.
2. This problem is widely referred to as the problem of ‘external validity’, following Cook and Campbell (1979) who contrasted it with the problem of identifying a causal effect (‘internal validity’). It is also referred to, among other names, as the ‘generalisability’ or ‘transportability’ problem.
3. There are some cogent critiques of popular conceptualisations of the notion of ‘development’ but the term is used here in a broad, relatively unobjectionable manner to refer to improvement in the wellbeing and prospects of those within a country – without requiring any particular presumption of what improvement might mean. The term ‘developing countries’ is used in a similar vein.

4. If the randomistas were to propose some other approach presumably they would also need to suggest that someone else, who is actually an expert in that approach, be consulted.
5. In some places, randomistas have made much of their consultation with local partners in deciding which intervention to test. Aside from the fact that there is little independent evidence of this, it is quite clear even in such accounts that the researchers do not agree to run interventions that they believe are unlikely to be effective. Furthermore, the nature of, and rationale for, the vast majority of interventions is evidently economic in nature.
6. This point, and the subsequent education example, is elaborated on in greater detail in Muller (2022).
7. Many such accounts are outside the methodological paradigm of neoclassical economics, which is often the basis (implicitly or explicitly) for excluding them from consideration in such analyses. Within the mainstream economics literature, the econometric challenges in inferring causal relationships between missionary activity and economic development remain the subject of debate (Jedwab, Meier zu Selhausen and Moradi 2022).
8. The authors also do not establish whether the absence of nurses from their offices on the days they were supposed to be there meant they were not in fact working (Banerjee, Duflo and Glennerster 2008:492, fn3).
9. In fact, there is nothing about even the neoclassical model that requires the assumption of selfishness and that assumption has been relaxed in theoretical work over the years. Nevertheless, the assumption of selfishness and maximisation of pecuniary interests and non-work time has been the workhorse of empirical analysis in the mainstream of the discipline since at least the middle of the twentieth century.
10. The resonance with Foucault's 'Discipline and Punish' is somewhat interesting given that all the work considered concerns public institutions.
11. The discussion in this subsection is an abbreviated version of Muller (2021).
12. The nature of CGE studies is such that they effectively assume the answer to the primary question ('Would a publicly funded reduction in the wage causally increase employment?') and model the sensitivity of outcomes to other assumptions; in that sense they are rather uninteresting, and unhelpful, for making the main policy decision.
13. <https://web.archive.org/web/20130621010241/http://prophet.co.za:80/People.aspx>
14. And it is perhaps no coincidence that the dominant demographic in the former group were black women whereas the latter were predominantly white men trained at the university that was the intellectual heart of apartheid.
15. In other instances, some randomista initiatives seek to engage with governments to influence them on a range of fronts, whether to implement experiments, to rely on the results of experiments as a primary evidence base for policy, or to implement or change policies in response to experimental results. Of course, this simply returns us to the more fundamental question as to why randomistas should be given special epistemic status in the policy domain.



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# African Feminism and the Recognition of Cohabitation Under Customary Law

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## Abstract

Cohabitation is the co-residence of two persons, as if they are husband and wife, with or without children. The phenomenon, which is becoming increasingly common is, however, not recognised as a valid family form in African customary law. The result is that many Black women in these unofficial relationships are without legal protection, particularly with respect to property rights and the rights to equality, human dignity and freedom. This article argues that the concept of African feminism presents possibilities for policy-makers to bridge the gap between women's rights and the prescripts of tradition. Furthermore, it offers solutions for closing gaps in the law that have been created by contentious issues in the legal requirements for a valid marriage, such as payment of bride wealth and the waiver of some marriage rites.

**Keywords:** African customary law; cohabitation; equality; feminism; marriage; South Africa

## Résumé

Le concubinage est la cohabitation de deux personnes, comme si elle étaient mari et femme, avec ou sans enfants. Ce phénomène, qui devient de plus en plus courant, n'est cependant pas reconnu dans le droit coutumier africain, comme une forme familiale acceptable. Il en résulte que de nombreuses femmes noires engagées dans ces relations non officielles sont sans protection juridique, notamment en ce qui concerne les droits à la propriété et à l'égalité, à la dignité humaine et à la liberté. Cet article soutient que le

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concept de féminisme africain présente des possibilités qui permettent aux décideurs politiques de combler le fossé entre les droits de la femme et les prescriptions de la tradition. En outre, il propose des solutions aux lacunes de la loi créées par des questions controversées sur les conditions de validité juridique d'un mariage, telles que le paiement de la dot et la dérogation à certains rites de mariage.

**Mots-clés :** droit coutumier africain ; cohabitation ; égalité ; féminisme ; mariage ; Afrique du Sud

## Introduction

How does the non-statutory regulation of cohabitation in South Africa affect the rights of Black women under African customary law? Cohabitation is generally regarded as the co-residence of two parties in a marriage-like relationship, with or without children (Odimegwu *et al.* 2018:111). It shares social dynamics with marriage, such as emotional dependence, a common household, shared financial responsibilities and child-rearing. It also resembles a universal or permanent life partnership, which is an express or implied agreement between two people to live together in a permanent relationship without entering into marriage.<sup>1</sup> However, unlike a permanent life partnership, cohabitation does not always involve an agreement to live together permanently. The rapid pace of socioeconomic change induces many Africans to share accommodation, financial expenses and the burden of raising children without a formal marriage ceremony under statutory law or customary law (De Wet and Gumbo 2016:2653). Literature shows that cohabitation may be undertaken as a choice in anticipation of marriage or even as an alternative to it (Posel and Rudwick 2014:282), with varying internal and external motivating factors (Odimegwu *et al.* 2018:119). The internal factors include a desire to be closer together, a sign of emotional commitment and a means of 'trailing' the relationship to gauge the parties' compatibility for marriage. The external factors include the increasingly high cost of accommodation in cities and the need to reduce the financial responsibilities of children's upbringing.

Furthermore, people sometimes find themselves in cohabitation relationships due to a lack of knowledge, which manifests either as a presumption of marriage or half-measured compliance with marriage laws. As shown in the *Sengadi v Tsambo* [2018] ZAGPJHC 666; [2019] 1 All SA 569 case,<sup>2</sup> the long-standing nature of a relationship often leads partners into believing that they are legally married. In this instance, the court stated that cohabitation for an extended period of time creates a presumption that

a valid marriage exists between the parties. In any case, the power dynamics of social relationships contribute to why some women find themselves in cohabitation relationships. For example, under customary law it is up to a man to initiate a marriage. The first step is usually to conduct investigations into the suitability of the parties for marriage. The second step is to send delegates to his intended bride's family to negotiate the bride wealth, which is commonly referred to as *lobola*. Where the investigations produce negative results or the families fail to reach an agreement on *lobola*, the parties may resort to cohabitation (Diala 2019). Given cultural constraints, therefore, it is incorrect to assume that women have the full right to exercise a choice to get married. As a historically disadvantaged group with strained socioeconomic agency (Bannister 2016:6), women enter relationships with limited bargaining power because they are often financially dependent on their partners. Essentially, their choice is between cohabiting with a partner who provides for their basic needs or leaving the relationship on account of their partner's refusal to marry them and protect their legal rights. These multifaceted problems motivated this article.

The article is founded on a two-fold argument. First, cohabitation exposes Black women to human rights violations because it is not acceptable under indigenous African laws. Second, there is a need for a shift of emphasis from the traditional customary versus state law dichotomy to a focus on substantive issues of equality and fairness in legal policies relating to cohabitation. Even though cohabitation is not acceptable under indigenous African laws, customary law is a recognised source of law in South Africa. It stands parallel with other sources of law, such as legislation and the colonially imposed common law. For example, section 15(3) of the 1996 Constitution of South Africa provides that legislation may be enacted to recognise traditional and religious marriages and systems of family or personal law under any tradition or religion. Section 30 of the Constitution grants cultural rights by affirming that everyone has the right 'to participate in the cultural life of their choice', subject to the Constitution. Section 211(3) demands that 'the courts must apply customary law when that law is applicable, subject to the Constitution and any legislation that specifically deals with customary law.' The phrase 'subject to ...' indicates primarily the supremacy of the Constitution and, secondarily, the coexistence of different normative orders in the Republic. This has implications for cohabitation and the protection of women's rights.

Since cohabitation is not recognised in customary law, the practice exposes Black women to various violations of their human rights. These violations include the denial of their rights to maintenance and property

inheritance, as well as their lack of social legitimacy, as noted in the case of *Sengadi v Tsambo*. Many demeaning customary law marriage practices are yet to be reconciled with constitutional values of equality, human dignity and freedom. Some notable examples are mock abductions of the bride (*Ukuthwala*) as seen in *Jezile v S* 2015 (2) SACR 452 (WCC); the demand for women to feign indifference to suitors; and the mandatory handover of the bride to the groom's family as a validating sign of marriage, as seen in *Mabuza v Mbatha* (1939/01) [2002] ZAWCHC 11. In addition, the crucial right to citizenship, which we discuss later, is also threatened by customary law's exclusion of cohabitation from its recognised forms of family life. This issue is evident in the court's finding in *Sengadi v Tsambo* regarding the correct interpretation of the requirement for a valid marriage in section 3(1) (b) of the Recognition of Customary Marriages Act 120 of 1998 (RCMA). The court's finding in *Sengadi* is at the heart of a socio-legal tension—that is, a presumption of marriage in cohabiting couples, which goes against most societal practices in African communities.

Given that the non-recognition of cohabitation in African customary law is demeaning and discriminatory to women, African feminism stands to blaze the trail in transforming the law to overcome gender biases in traditional societies. Still an emerging field, African feminism aims at the emancipation of Black women from historical issues that undermine their rights to equality and human dignity (Mekgwe 2006:16). In private law, it rejects the traditional customary law versus state law dichotomy, focusing instead on substantive fairness in the cultural issues that affect women. African feminism thus emphasises female autonomy. However, it does not deny traditional or customary values. Indeed, it accommodates foundational values of customary law, such as the importance of children, reasonable family involvement in marriage negotiations and the kinship ties that underpin marriage. As Steady explained, African feminism emphasises 'female autonomy and co-operation; nature over culture; the centrality of children, multiple mothering and kinship' (Steady 1981:21). In this sense, African feminism distinguishes itself from Western ideas of feminism by focusing on the peculiarities of the African situation. For example, it rejects the sharp gender binary that marks Anglo-American feminism, such as separatism from men and universalist views of human rights. Thus, it 'questions (some) features of traditional African cultures without denigrating them, understanding that these might be viewed differently by different classes of woman' (Mekgwe 2006:16). This culturally relativist approach to human rights is useful for understanding the rights of cohabiting women under African customary law.



African feminism is valuable to the discourse on cohabitation because it realises that the rights of African women deserve a movement that speaks solely to their context. It recognises that many Black women are not only women but also developing world citizens (Mekgwe 2006:18). By so doing, it encompasses the racial, gender and cultural oppressions faced by African people. While questioning oppressive traditional practices and institutions, the African woman must not forget that she lacks access to decent housing, clean water, education and land tenure (Emecheta 1982:116–117). African feminism thus centralises gender as an ‘organising principle of life’, emphasising the role of power in social relations and how the exercise of this power influences gender issues (Ige 2014:106). This feature enables certain aspects of traditional practices to be questioned without necessarily discarding them. In intimate relationships such as cohabitation, for example, African feminism may be used to highlight how the gendered nature of power precludes women from enjoying their full citizenship rights.

### **The Position of Cohabiting Women Under Customary Law**

It should be noted upfront that customary law is one of the sources of law in South Africa, alongside common law, legislation, international law and judicial precedents. All these sources are subject to the Constitution. Section 2 of the Constitution states that any laws and conduct that are inconsistent with the Constitution are invalid. Customary law has also been firmly recognised by judicial precedents. For example, in *Alexkor Ltd and Another v Richtersveld Community and Others* 2003 (12) BCLR 1301 (CC), the court stated:

While in the past indigenous law was seen through the common law lens, it must now be seen as an integral part of our law. Like all law it depends for its ultimate force and validity on the Constitution. Its validity must now be determined by reference not to common-law, but to the Constitution (para 51).

Many judicial decisions, such as *Motsoatsoa v Roro and Another* [2011] 2 All SA 324 (GSJ), *Shilubana and Others v Nwamitwa* 2008 (9) BCLR 914 (CC) and *Bhe and Others v Khayelitsha Magistrate and Others* (CCT 49/03) [2004] ZACC 17, explore various aspects of customary law marriages. For example, *Motsoatsoa v Roro* concerned an application for posthumously registering a customary marriage. The applicant and the deceased had co-resided for four years prior to the death of the deceased. The parents of the applicant and the deceased had entered into an agreement that the handover of the bride would not happen until the full payment of *lobola* was made. Since this did not happen, the bride was not handed over, implying that the marriage was

not properly concluded at the time the applicant's partner died. However, at the time of death, *lobola* negotiations had already advanced and part of the sum had been accepted. The court referred to an article authored by Bekker and Maithufi (2002) in finding against the application. It ruled that the conclusion of a customary law marriage consists of a series of events that ought to be fulfilled entirely. Accordingly, the court found that the handover of the bride cements a customary law marriage and thus sets it apart from cohabitation (*Motsoatsoa* para 20). This judgment illustrates an openness to recognise cohabitation, as shown in the discussion below.

### **Analysis of Sengadi v Tsambo (40344/2018) [2018] ZAGPJHC 666**

The RCMA came into effect on 15 November 2000 and brought about some certainty regarding the recognition of monogamous and polygamous marriages concluded in terms of African customs. It defines a customary marriage as 'a marriage concluded in accordance with customary law', whereas customary law is defined as the 'customs and usages traditionally observed among the indigenous African peoples of South Africa and which forms part of the culture of those peoples' (Rautenbach 2018:84, RCMA sec 1). Section 3(1) of the RCMA provides for the requirements of a customary marriage as follows:

For a customary marriage to be entered into after the commencement of this Act to be valid –

(a) the prospective spouses –

(i) must both be above the age of 18 years; and

(ii) must both consent to be married to each other under customary law; and

(b) the marriage must be negotiated and entered into or celebrated in accordance with customary law.

Before we analyse the case in question, we describe the stages of marriage in African customary law as given effect by the RCMA. The process of marriage in African customary law involves three main stages: betrothal, negotiation and integration (Sibisi 2020: 96). The idea that the conclusion of a customary marriage consists of a series of events is laid out clearly in *Sila v Masuku* 1937 NAC (N&T) 121. The court stated that the process of marriage is gradual. It includes, inter alia, a change in the woman's status from maiden to wife, her departure from her family's ancestral group and her introduction to a new ancestral group (Rautenbach 2018:90).

The process starts with betrothal, which is also known as *go beeletša* or *go kgopela sego sa meetse* in Bapedi culture. Here, the families are acquainted and the intention to marry is made clear to the bride's family. The second

phase is the negotiation of the *lobola*. This step is not expressly stated as a requirement in the RCMA but it is a requirement in the customary law of many communities. The third phase is when the bride leaves her family home to be introduced to her husband's family and ancestors. Cohabitation may occur at any time between these phases. The requirement in section 3(1)(b) of the RCMA is twofold, containing elements of both negotiation and celebration. As will be noted later, this requirement is the basis of the contention in the case of *Sengadi v Tsambo* and the subsequent appeal in *Tsambo v Sengadi*.

In the South Gauteng High Court sitting at Johannesburg, the applicant in this dispute sought to be declared the customary law wife of the deceased and to be granted the permission to bury him. The applicant and the deceased had cohabited for three years prior to their customary law marriage on 28 February 2016. The applicant claimed that on the day of the negotiation of the *lobola*, part of the money agreed upon by the families was paid and the balance was to be paid in two instalments. On the same day, a marriage celebration took place between their families in which the couple wore matching attire for the occasion. After this, the applicant and the deceased continued with their co-residence. All of this, according to the applicant, was done in compliance with section 3(1) of the RCMA. The respondent based his contestation of the above claims on the fact that the applicant was never handed over to the deceased's family as a bride. He referred to this handover (*go gorosiwa*) as a crucial part of concluding a customary law marriage in the Setswana culture. According to the respondent, their custom requires *go gorosiwa* to be done, during which a lamb or goat would be slaughtered and the newlyweds would be smeared with the animal's bile to signify their union. The animal would then be consumed by the families in a subsequent celebration. Mokgoathleng J considered these competing claims against the facts of the case.

Firstly, Mokgoathleng J discussed an article by Sipho Nkosi (2020), which argued that the handover of a bride may be formal or symbolic. In the article, Nkosi explained that symbolic handover usually takes the form of the father or guardian of the bride slaughtering an animal, which is exactly what the respondent explained in his contention (Nkosi 2020: 68). On the basis of this discussion, Mokgoathleng J found that there was a tacit waiver of the *go gorosiwa* custom because of the symbolic handover of the bride (*Sengadi* para 19). The respondent retained the traditional view of marriage celebrations. However, the respondent failed to consider that the deceased, a well-known and sought-after entertainer, was equally subject to the customary laws of his community.

Secondly, Mokgoathheng J found that the respondent was incorrect in saying that a customary law marriage does not come into existence if handing over is not done, even if the requirements of section 3(1) of the RCMA had been complied with. This is because 'customary law is dynamic and adaptive' (*Sengadi* para 22). However, Mokgoathheng J again relied on the opinion of Nkosi, in which he stated that section 3(1)(b) of the RCMA is open to many interpretations as different communities practise the custom of handing over a bride differently. Also, in discussing *MMN v MFM and Minister of Home Affairs* (474/11) 2012, the judge stated that the legislature does not prescribe hard and fast rules in section 3(1)(b) of the RCMA. In this way, it defers to people's current customary law practices, also generally referred to as living law (Ozoemena 2015:978). According to the court, these requirements are met when customary law celebrations are conducted in accordance with the applicable customs. Tswana customs are applicable in this case and they require *go gorosiwa* to be done. Thus, a purposive approach to section 3(1)(b) of the RCMA is intended to allow families and custodians of customary law to decide what celebrating and/or entering into a customary marriage entails for them specifically. While we agree with the court's finding in this regard we disagree with its reasoning, because the court finds that a symbolic handover was done but goes on to rely on Nkosi's explanation of symbolic handing over that does not correlate with what happened on the day of the supposed marriage.

Upon appeal, Molemela JA agreed with the decision of the High Court that a presumption of marriage took place because the bride's family did not object to the parties cohabiting and failed to claim a fine from the groom's family (*Tsambo v Sengadi* (244/19) [2020] ZASCA 46 at para 27). Essentially, the Supreme Court of Appeal (SCA), by affirming long stay in cohabitation as a presumption of marriage, gives effect to the foundational values in the Constitution on the right to equality, dignity and freedom. The SCA acknowledged the role of the respondent's mother in accepting the *lobola* on behalf of the family and that by so doing there was consent by the families on the fulfilment of the requirements for a valid customary marriage, as shown in the case of *Mabuza v Mbatha*. In other words, the SCA gave expression to the evolving nature of customary law and its customs and traditions to include symbolic handover. It is our argument that an opportunity exists currently to accommodate cohabitation as a form of family relationship in South Africa.

### ***Cohabitation and bridal integration***

Sibisi (2020:90) presents two schools of thought on the place of cohabitation in the judicial determination of bridal integration and validity of a customary law marriage. One view argues that integrating the bride into the groom's family is variable. Thus, the couple or the families may waive it. The other view argues that integrating the bride into the groom's family is an indispensable requirement. For this view, cohabitation is a sign of integration. These conflicting schools of thought indicate the uncertainties that surround the conclusion of customary marriages, which the court addressed in *Mbungela v Mkabi* [2019] ZASCA 134. Here, the court stated that courts must be aware of the flexible nature of customary law and the role it plays in people's lives. Section 3(1)(b) of the RCMA typifies this flexibility of customary law because it essentially gives families and custodians discretion to determine what satisfies the requirements of negotiation and celebration in their respective cultures.

The conclusion of a customary law marriage is not a one-off event, as it involves a series of preliminary steps. The essentials of these steps are *lobola* and the integration of the bride. The school of thought that insists on the indispensable character of bride integration agrees that *lobola* fulfils the 'negotiation' part of section 3(1) of the RCMA. But it also argues that *lobola* on its own cannot conclude a customary marriage (Sibisi 2020:96). For example, in Bapedi culture, the families exchange gifts, slaughter an animal, *phasa badimo*,<sup>3</sup> counsel the bride and give her a new name. Thereafter, they share a feast. These are all means to one end: integrating the bride. This is followed by co-residence. As Bekker observed, 'it is not the essential requirements that can be waived but rather the rituals associated with the essential requirements' (Sibisi 2020:97). This seems to imply that Pedi families may agree to waive *phasa badimo* and the slaughtering of an animal.

Arguably, there is no one requirement in section 3(1)(b) of the RCMA that outweighs another (*Mkabe v Minister of Home Affairs* [2016] ZAGPPHC 460). Since they are all equally important, none of them can be waived. Himonga and Moore conducted a study in which married participants emphasised how important it is to conclude a customary marriage with *lobola* (Himonga and Moore 2005, cited in Bakker 2018:6). The participants believed that in the absence of a *lobola* agreement, the relationship would amount to cohabitation. From their views, we can infer that the same holds in respect of the other requirements. Failure to integrate a bride into the groom's family would mean that the third requirement of celebration was not met; the intended marriage would not come into existence and the parties would remain cohabitants rather than married partners.

In the foregoing context, the SCA judgment in *Tsambo* followed a similar approach to *Mabuza*. The gist of the *Mabuza* judgment is that handing over and/or integration of a bride is the last step in concluding a customary marriage. This step may contain a series of events. In *Tsambo v Sengadi*, before he died the deceased was in the vicinity of the negotiation and subsequently appeared in formal attire for celebration accompanied by specific forms of greetings which signified the integration of the bride into the family. The substance of integration as a vital step in the conclusion of customary marriage therefore was deemed to have taken place in the present case. That society and customary law have evolved are evidenced in *Tsambo v Sengadi*, where both families supported the couple in consummating their customary marriage through negotiation, celebration and consequent cohabitation.

### ***Implications of the statutory non-recognition of cohabitation***

In precolonial African societies, families used to produce wealth together through farm parties, hunting groups and iron works (Diala 2018:102). This group production of wealth made it easy for marriage formalities to be completed. In any case, *lobola* was paid with livestock and farm produce that was produced jointly by the family (Diala 2020). When European colonialism arrived, it displaced this communal production of wealth with work in mineral resource mines, service in colonial armed forces and work in the colonial civil service, known as ‘white collar jobs’. The resultant industrialisation/urbanisation and independent income caused rural–urban migration and diffused the close-knit nature of the extended family. Today, many Africans live in cities far away from their relatives in towns and villages. Inevitably, urbanisation brought problems, such as the high cost of accommodation, school fees and other expenses that affect women and children. Unsurprisingly, to overcome these problems, many Black women found themselves in cohabitation relationships.

Scholars describe this relationship as ‘the co-residence of unmarried partners, who live like husband and wife with or without children’ (Odimegwu *et al.* 2018:112). Nevondwe and Odeku add that cohabitation can be identified by means of three main elements: intimacy, factual cohabitation and a measure of stability and/or durability (Nevondwe and Odeku 2004:775). Even though cohabitation and marriage share some structural similarities, the former is heavily frowned upon in traditional African societies.

The South African Law Reform Commission (SALRC) acknowledged the problematic nature of cohabitation during its consultations for the

adoption of a single marriage statute and its review of matrimonial property laws. Citing an academic source, Revised Issue Paper 34 of the SALRC stated: ‘The lack of a statutory remedy to claim a share of partnership property outside of valid marriages is a problem with significant gendered consequences, potentially leading to the social and economic vulnerability of women (and often children) when intimate relationships end’ (Bonthuys 2017:263). Although the general opinion from the SALRC’s consultations is for the legal protection of partners in domestic partnerships, the problem is the extent to which the cohabiting couples qualify for protection. In this respect, policy-makers classify cohabitation as unregistered domestic partnerships.

In its 2006 Report on Domestic Partnerships, the SALRC considered various factors that are relevant for determining whether the parties concerned are in an unregistered partnership (South African Law Reform Commission 2006: Project 118). These include the duration and nature of the cohabitation relationship, the nature and extent of the parties’ public profession of their relationship, the degree of their financial dependence or interdependence and their arrangements for financial support for themselves and children of the relationship. Other factors include their ownership, use and acquisition of property, their degree of mutual commitment to a shared life, the manner in which they care for and support children born of their partnership, how they perform household duties and how third parties, including their families, perceive the seriousness of their relationship. Ultimately, the SALRC appears willing to recognise relationships as life partnerships ‘where the parties cohabit and have assumed permanent responsibility for supporting each other’ (South African Law Reform Commission 2019: Project 144). It remains to be seen if this willingness will translate into statutory action by the legislature. While we do not argue for the state to impose on traditional perceptions of cohabitation, it will be interesting to see whether, if ever, these legislative changes would affect the socioeconomic power dynamics between cohabitants.

The statutory non-recognition of cohabitation is not exclusive to South Africa. In Ghana, for example, negative perceptions regarding cohabitation have the potential to seriously impact the dignity of women. Obeng-Hinneh and Kpoor conducted a study to document the experiences of cohabitants in Ghana (Obeng-Hinneh and Kpoor 2021:1). They concluded that cohabitants face two-pronged pressure, from their families and religious institutions, especially churches. In rural communities, female cohabitants are ostracised from culturally significant events. In fact, some of them are called *kwasiabou*, which means ‘fool’. The same happens in churches where

cohabitants are not allowed to occupy leadership positions, lead worship in the church or participate in holy communion (Obeng-Hinne and Kpoor 2021:9). Christian cohabitants are also precluded from performing naming ceremonies for their children born out of wedlock. This ceremony is usually conducted by the church pastors, who assume the role of family head and name new-born babies while simultaneously 'presenting' them to God. The exclusion of cohabitants from naming ceremonies and other religious, cultural and communal activities negates the rights of women to equality, freedom and human dignity, which the African Charter on the Rights of Women promotes. It also contravenes other international instruments, such as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

Other than their derogatory treatment in society, cohabiting women are also at risk of unprotected property rights. Section 25(1) of the South African Constitution protects persons from the deprivation of property. It further prohibits laws from permitting the arbitrary deprivation thereof. The purpose of this provision is to protect people's moral and legal rights to secure enough property to lead dignified lives (Currie and De Waal 2013:533). Women usually suffer a deprivation of property when a cohabitation relationship ends. This deprivation is because women often enter cohabitation relationships with limited bargaining power in terms of social and financial status. Accordingly, their shared household is usually provided by the male partner. As a non-owner cohabitant, women often lose their access to and occupation of the household in the event of the death of their partner (Bannister 2016:4). In this manner, we see that the lack of recognition of cohabitation in customary law increases women's vulnerability.

Another right that remains at risk for cohabiting women is the right to social security. For our purposes, social security may be regarded as a form of assurance of decent livelihood through economic sustenance (Currie and De Waal 2013:600). In rural communities, the most common form of sustenance and livelihood is owning or having access to crops and livestock. If a cohabitation relationship ends, the woman will more often than not be divested of her access to these properties. Certain other problems arise in the case where the relationship ends as a result of the man's death. In the context of a valid customary marriage, the wife is entitled to send a delegate to the *lekgotla* of her community to request a burial plot at the community gravesite. If the custodians of customary law in that particular community do not accept (or recognise) the validity of the relationship, the woman will forfeit that entitlement along with other burial rights. The minimal



protection afforded to cohabiting women overlaps with their unequal status in the hierarchy of customary family laws. As a result, they continue to experience property insecurity that can be cured only by a transformation of laws and social attitudes towards cohabitation.

### **African Feminism as Transformation**

The previous section examined the socio-legal impact of cohabitation on women and how the interpretation of the statutory requirements for a valid customary law marriage affects the legal status of couples. In this section, we highlight the relevance of African feminism in improving the lot of women regardless of their chosen family formation.

Firstly, we need to appreciate the uniqueness of African feminist jurisprudence. There is an obvious relationship between Western and African feminist movements, because both aim at enhancing the status of women. However, African feminism is unique because the struggle against gender oppression is coupled with other forms of oppression in Africa, such as racism, slavery and poverty (Guy-Sheftall 2003:31). As noted above, African feminism is distinct in its rejection of an anti-men position. Instead, it seeks men as allies in developing social spaces that are free from oppression (Guy-Sheftall 2003:32).

Secondly, the full benefit of rights can be enjoyed only by those who hold full citizenship. Section 3 of the South African Constitution guarantees all citizens the equal entitlement to rights, privileges and benefits of their citizenship. However, the extent to which Black women enjoy this guarantee is questionable. This is investigated below by contrasting the rights afforded in the public sphere with how these rights are exercised in the private sphere.

Thirdly, the jurisprudence of African feminism is sufficiently full-bodied to provide a platform for cohabitation to be redefined in line with the needs of African women. In what follows, we investigate this possibility through four paradigms: recognition of the centrality of family life; the preservation of female-friendly traditional institutions; exposition of subtle forms of cultural oppression; and the forging of new possibilities for African women.

### ***Transforming citizenship and the private sphere***

African feminism has two prerogatives: the emancipation of women and the liberation of all African people from the shackles of socioeconomic, political and cultural oppression (Chidammodzi 1994:45). These various oppressions

are suffered by men as well, which is why African feminists reject an anti-male stance. However, Chidammodzi finds it unfathomable that men are capable of critically and objectively analysing the institution of customary law, because they benefit directly from its patriarchal nature (Chidammodzi 1994:45). For example, the nature of the male primogeniture rule is such that marriage is a prerequisite to the use and enjoyment of property. In a rural context, girl children have to be born in wedlock to enjoy access to their father's property or have to get married in order to have access to their husband's property. Either way, marriage has remained central to customary family law. In resisting cultural patriarchy, African feminism exposes the root of African gender relations in order to criticise its abuses (Arndt 2002:32). This criticism exists within four elements.

First, co-operation with men is encouraged and motherhood coupled with the centrality of family life is affirmed. Second, patriarchal oppression is approached differently because the aim is not to eradicate traditional institutions. Rather, African feminists want to preserve those institutions that are favourable to women and transform those that are not. The exception here is that if a traditional institution is so severely oppressive that its transformation cannot be imagined, then its abolition would become imperative. Third, African feminism does not isolate gender relations from other mechanisms of oppression, such as classism, racism, colonialism, capitalism and dictatorship. Lastly, the end goal is to forge new ways of being for African women, in order to overcome their oppression (Arndt 2002:32). This is undertaken through a philosophical lens that is informed by their unique history, including the challenges of their present condition and the opportunities of their future.

There are three principles of African feminism that are concerned not only with the interests of women but also general social ills. These are holism, collectivity and situationality (Cruz 2015:26). Two of them are relevant to this paper. Holism looks at different social domains as pieces of a puzzle that make up a greater whole, instead of isolated fragments. Its integrated approach necessitates the consideration of domains other than gender and takes us back to the perception that African feminism is a movement against all social ills (Cruz 2015:26). The holistic African reality is made up of multiple issues, such as gender oppression, armed conflict, famine, racism and colonialism. All these issues will overlap at some point. For example, a Black woman who is discriminated against on the basis of her sex/race may be deprived of property rights on the grounds of tradition or raped by rebels during an armed conflict because of toxic masculinity.

Furthermore, we must consider variances between the public and private spheres that African feminism tries to harmonise. Certain customary law institutions limit women's empowerment to the public sphere while discounting their agency in the private sphere (Cruz 2015:27). This means that we cannot look only at Black women's access to education or right to equal pay to conclude that the feminist movement has achieved its mandate. The extent of women's freedom and equality in domestic relationships is equally important. The 'collectivity' principle refers to the 'corporate' character of indigenous groups. Cruz defines indigenous organisations as 'a large and formal structure with an identifiable leadership unit' (Cruz 2015:23). Cultural groups can be thought of as organisations because they have identifiable leadership units in the form of chiefs, headmen and other custodians of customary law. Their structure is formalised through constitutional protection in sections 211 and 212. Section 211(1) of the Constitution recognises the role, status and institution of traditional leadership. Section 212(2) goes further to stipulate these roles as, *inter alia*, dealing with matters that relate to customary law and the customs of communities that observe customary law. African feminism can be used as a lens to reimagine masculinist interpretations of cultural groups that are fuelled by and provide fuel for patriarchy.

Traditionally, debates around citizenship have been gender-blind in defining the concept around race and social class. As mentioned above, African and Western feminism have different priorities. For example, when the United States of America experienced a second wave of feminism in the 1970s, one of the demands of the day was the right to sexual pleasure (Richardson 2000:259). Contrastingly, the 1970s in South Africa were riddled with concerns over the Bantu Homelands Citizenship Act (National States Citizenship Act) 26 of 1970. This legislation stripped Black people of their citizenship and rendered them aliens in economically vibrant urban areas. Following South Africa's constitutional dispensation, this legislation was invalidated. Section 3 of the 1996 Constitution provides that:

- (1) There is a common South African citizenship.
- (2) All citizens are -
  - (a) equally entitled to the rights, privileges and benefits of citizenship; and
  - (b) equally subject to the duties and responsibilities of citizenship.

A narrow conception of citizenship limits it to a 'formal juridical membership within a nation state' (Gouws 2005:26). However, widely construed, citizenship includes the free and equal enjoyment of rights and a corresponding duty to fulfil citizenship responsibilities. This broad

perception of citizenship corresponds with Lister's definition of citizenship as 'a status bestowed on those who are full members of a community; all who possess the status are equal with respect to the rights and duties with which the status is endowed' (Lister 1997:29). Seen this way, African feminism invites a reassessment of the gender debate by drawing attention to the relationship between citizenship and gender (Richardson 2000:255). This relationship presents a discursive challenge because it requires a close reading between the lines to strip bare the language of the 'gender industry' in Africa (Lewis 2006:82). There is a perception that the ideal citizen is a man and that women have to negotiate their citizenship in society. It is imbedded in patriarchal structures; which Pereira refers to as 'malestreaming' (Pereira 2002). Economic, social and legal institutions in Africa were designed with men in mind and so require deconstruction in order to achieve genuine gender justice. The *Bhe* case, for example, indicates that the customary law of succession exclusively benefitted males. The issue is how societal structures and perceptions can be deconstructed to achieve gender justice.

One way to transform 'heteropatriarchal' normative systems is the art of negotiation, also known as nego-feminism (Arndt 2002:32). This implies that African feminists bypass or overcome certain oppressive customs by negotiating and reaching compromises with patriarchal institutions. This approach was not viable in the past because negotiations were somewhat non-egalitarian, as they depended on the comparable social power of the participants (Chanock 1989:80). Instead of a real societal transformation, public discourses resulted in a notional codification of negotiated rights. Yet, nothing changed in women's homes and communities. This dilemma is articulated excellently by Moolman (Lewis 2006:82):

While our Constitution is regarded as one of the most progressive in the world, [we] question the extent to which women are able to realise the rights enshrined therein. The passing of a number of progressive laws and the amendment of certain pieces of legislation, theoretically implies the improvement of women's positions in society – yet the reality is that the majority of women continue to face marginalisation and discrimination in their homes and communities.

Citizenship was based on a formal conception of equality and a negation of subjective circumstances. When South Africa transitioned to a democracy in the 1990s, there was a great demand for human rights reform, especially the rights of women who live under customary law. The rights discourse of that era framed citizenship within the rights that people could claim from the state. So, law reform brought a much-needed change in the policies and legislation that surrounded liberties, such as reproductive rights, a

greater scrutiny of violence against women and the inclusion of women in the workplace. Regrettably, this created a false sense of universalism in the concept of citizenship, which treated individuals as disembodied and ungendered (Gouws 2005:4). For example, if women were afforded more protection in the workplace, they were considered equal to men and therefore regarded as full citizens.

Due to South Africa's non-egalitarian past, it was easy for women's claim of full citizenship to be interpreted through their enjoyment of equal rights with men. African feminism insists that Black women can lay full claim to citizenship only if their femininity, their developing world status and the cultural oppressions that they face are considered and/or remedied. For them to become gendered and embodied citizens, the structures in traditional communities that perpetuate the void between formal and substantive equality need to be removed (Ige 2014:106). As an example, it might be thought that a woman having access to a homestead places her on an equal footing with her male counterpart. However, the institution of customary law ignores the truly substantive fact that men are entitled to ownership whereas women are limited to right of use. In the context of cohabitation, African women are not full citizens unless their co-residence relationships are afforded substantively equal entitlements to property and ownership rights.

Citizenship exists as a status or as a practice. As a status, individuals are bestowed rights as a means of enjoying agency. Nevertheless, it is through practice that the full potential of citizenship is measured. Alternatively, citizenship as status may be considered in the same way as the relationship between the state and the individual, whereas citizenship in practice refers to the praxis of rights between private individuals (Gouws 2005:3). If a balance between the two is not achieved, the exclusionary force of citizenship will come into play. For Black women to experience full citizenship, the 'malestream' separation of the public and private sphere needs to be deconstructed, given that there is a definite link between women's citizenship rights and their position in the private sphere (Lister 1997:42).

As far as cohabitation is concerned, there is a sense in which citizenship may be regarded as 'the main inclusionary emancipatory discourse of the left' (Gouws 2005:22). Here, the left refers to two aspects. Firstly, it represents those members of society who suffer unjustified inequalities. Secondly, it embodies an egalitarian movement in favour of the marginalised. Black women in cohabitation relationships are the left and it is necessary for citizenship to be redefined in such a way that these women become emancipated and participate fully in both the public and the private spheres.

### *African feminism and the public–private dichotomy*

In 2001, a World Bank report revealed that the extension of equality rights to women had improved significantly in Africa (World Bank 2001). Seemingly, more and more women had more and more rights. But the report also noted that this extension was yet to be experienced in women's private social contexts. The rights and duties characteristic of full citizenship do not only concern the relationship between the state and individuals (vertical relationship), they also flow in the relationship between individuals themselves (horizontal relationship). For our purposes, the former refers to the 'public sphere' (relationship between the state and women), whereas the latter refers to 'private sphere' relationships of cohabitation. The public–vertical relationship places a duty on the state to protect and respect the rights of women, whereas the private–horizontal relationship places a duty on people to respect the rights of women in cohabitation relationships. Put differently, section 8(1) and (2) of the Constitution binds all law and organs of state to the application of the Bill of Rights. It also holds all natural and juristic persons to the same standard. Section 9(3) and (4) encapsulates the vertical and horizontal flow of rights by prohibiting the state and private individuals from unfairly discriminating against anyone, whether directly or indirectly, on arbitrary or otherwise grounds. The issue is how effective these provisions are.

Social inequality in traditional communities is rooted in many factors. Of these factors, discrimination in the private sphere constitutes most of the social and economic disadvantages suffered by many African women (Bannister 2016:1). African feminism offers a much-needed theoretical framework within which the realisation of rights in the private sphere can be linked to an overall eradication of systemic inequality. In this respect, the enforcement of women's socioeconomic rights is a potential tool through which policy-makers could tackle inequalities in customary family law. This assertion is justified by the communal nature of traditional societies. As is commonly acknowledged, traditional African societies access their socioeconomic rights through their family units (Bannister 2016:13). For example, the socioeconomic right to property is embodied in land and livestock, which constitute historical forms of family-generated wealth. Historically, the ownership of such property was limited to males. Females enjoyed the benefits of these types of property through their social relationship with a male, that is, by being a wife, sister, aunt or daughter.

Some scholars argue that the purpose of public law is 'to restrain state institutions from interfering in the private sphere' (Bannister 2016:40). However, law is the foundational fabric of regulation in any society. Its

primary purpose is the promotion of human welfare. Accordingly, it also ought to play a role in regulating private affairs. As is self-evident in social fields of normative behaviour, the nature of rules influences the manner in which people behave. Thus, it makes no sense to ignore the benefit of infusing private relations with constitutional values. Such infusion would result in relational dynamics that inform an interpretation of family law rules in a way that protects the rights of women. In any case, the state is already regulating most aspects of private life, such as succession, domestic abuse and corporal punishment. This is the context in which we should perceive the state's indifference towards women's legal protection in cohabitation relationships.

Typically, traditional distributions of wealth recognise men as the primary owners of property in a relationship. Also, customary law regards marriage as the only valid basis of family formation. In so doing, it treats cohabitation as an outlier and reinforces the marginalisation of a Black woman who chooses to live with a man without being formally married to him. Thus, customary laws shape the social relationships of women. How these laws are applied to cohabitation illustrates the relationship between rights in the public and private spheres.

For example, in the public sphere, sections 25 and 26 of the Constitution grant women property and housing rights.<sup>4</sup> Yet, there is no way of protecting these rights during and at the dissolution of a codependent cohabitation relationship. This is because men are the only recognised owners of landed property under the customary law rule of male primogeniture. This rule obviously negates the property rights that women may claim from the state. African feminism requires us, in this instance, to enquire into the relational dynamics between the parties. It encourages an interpretation of the law that goes beyond the formal divide between the private and public spheres (Bannister 2016:40). The example above reveals the gender-blind nature of rights, which abstracts them from the real-life context of the private sphere. So, how does the man's customary law privilege directly affect the woman's socioeconomic situation?

Arguably, a transformative view of women's emancipation should advocate for justice instead of rights. Indeed, this is what African feminism seeks to achieve. Justice is a broad concept, which entails an understanding of how certain norms, institutions or groups block individuals and groups from claiming their citizenship. Contrastingly, the notion of rights has the tendency to create the effect of nominal access (Lewis 2006:83). This means that access is given to marginalised groups only in name. A liberal perspective of justice requires the discourse around citizenship to account for women's

lack of rights in the private sphere, since the rights in the public sphere are insufficient to remedy gaps in basic freedoms in the private sphere (Gouws 2005:3), in this case, cohabitation.

### ***Towards the recognition of cohabitation***

The relationship between customary law and state laws in South Africa is a legacy of colonialism. Since colonialism ended, state laws, especially constitutional values, have been moulding customary laws into universalist images of colonially transplanted European laws, from which state laws emerged (Diala 2019). Significantly, this moulding process merely continues the extralegal changes that have been occurring in African normative fields since Europeans landed on the continent.

For example, Chanock argues that the colonial period in Africa contributed immensely to the transformation of customary law (Chanock 1989:76). Anxious to maintain social control and further their economic interests, colonial administrators endorsed male power in their colonies, thus placing male community elders in positions that exacerbated their relational social status. As a commentator noted, 'the colonial judiciary, in complicity with (African) elders ..., redesigned most of what is today presented as customary law so as to increase male authority and control over women and children and compensate for the loss of their political and social power to the colonial state' (Ncube 1993). In some cases, African elders simply assumed powers that they never wielded prior to European colonialism. This enabled them to assert control over women and family property and sowed the seeds for the unequal power relations that disadvantage women in cohabitation today.

Administrative processes also played a role in the transformation of indigenous behaviour. For example, the formal documentation of marriages became part of pseudo-requirements for the validity of marriages in extralegal elements of the colonial governance structure, such as the church (Chanock 1989:82). A way forward in protecting cohabiting women requires a two-stage process.

Firstly, the patriarchy that overwhelms customary family law must be broken down, along with the laws that are blatantly biased against women. This is the deconstructive stage. Secondly, the application of customary laws must be aligned to their foundational values in order to encompass the needs and experiences of women. This is the reconstructive stage (Mangwira 2004:8). A good place to start this alignment process is those customs that exude sexist and discriminatory features. Sexist customs are based on the different treatment of men and women in a way that actively 'others'



women. The race and class oppressions faced by Black women stem largely from South Africa's colonial and apartheid past. Therefore, the biggest contribution that African feminism could make to deconstructing cultural biases against women would be to start with deconstructing colonialism, the system that escalated the extent of patriarchy in African cultures and communities. Put differently, instead of a haphazard and 'Band-Aid' recognition of cohabitation, we propose gradual steps to decolonise African and cultural spaces to be more accommodating of the needs and rights of women in cohabitation relationships. Two things have already been made clear: that African feminism seeks to harmonise traditional institutions with the rights of women and that institutions of traditional leadership are an entrenched part of our constitutional dispensation.

The possibility for change is evident in some cultural communities, such as the Bapedi village of Madibaneng in Limpopo Province, where marriage is no longer a requirement for the allocation of residential and agricultural land by the *lekgotla*. This signifies a potential for change, where single and cohabiting persons have the opportunity to claim the rights available to their married counterparts. The *lekgotla* may again protect women where cohabitation relationships end as a result of death. Whereas a cohabiting partner might not be allowed to formally request a burial plot for their deceased partner, members of the *lekgotla* are in a position to facilitate communication between the family of the deceased and the cohabiting partner. In this way, the cohabiting partner may become part of some of the burial rituals, such as *go hloboga* (seeing the deceased one last time before burial) and *go kota moriri* (post-burial shaving of hair to signify mourning).

Currently, women need to be married to enjoy the benefits of property owned by their partners. This situation implies that the choice to get married is not made freely. Rather, it is based on the need for economic survival through access to property. Ultimately, most African customs reflect the overwhelming male power that customary law supports (Mangwira 2004:9). The custodians of customary law are largely male and have been so despite radical changes in social conditions. So, in practice, customary law was designed to suit the male experience, which places a higher premium on male kinship privilege than the agentic choices of women. In this sense, customary law calls into question the relationship between choice and kinship.

Kinship refers to family ties and the continuation of a lineage and is thus central to African teachings. However, kinship depends on women because of their physical capability to bear children, as well as their gender-assigned role of rearing children. One of the objectives of African feminism is to arrive at a point where women have the right to free choice. This includes

the choice to vote, to work, to engage in sexual intercourse and the choice to abort. However, the choice to cohabit has not been brought to the fore as strongly as the rest of the other issues. To transform cohabitation in African customary law, we first have to acknowledge that Black women have the choice of marriage or otherwise and have the choice to develop sexual and family relations out of wedlock (Mangwira 2004:45). The rationale for this freedom of choice is that women's bodies are the primary sites of their sociocultural oppression. The fact that their bodies are designed to fulfil the needs of their husband to build a family and carry on the male bloodline is precisely part of the reason why cohabitation by women is discouraged. This then brings us to the point that to transform cohabitation, the female body must first be liberated (Pucherova 2019:118).

Even though Richardson and Robson advocate lesbian feminism, they offer ideas that could be useful for the objectives of African feminism. Richardson speaks of 'balancing the claims of different communities with constructing new common purposes' (Richardson 2000:261). Robson identifies women as outlaws who, instead of seeking rights within the law, should rather forge their own approach to the law (Richardson 2000:264). In the context of transforming cohabitation, black African women can be thought of as a community within their respective communities. Their claims ought to be balanced with those of the overall community, to construct strategies where women's interests are not sacrificed for the sake of 'marriage normativity'. These strategies should be adopted with Robson's argument in mind to reflect our position that the law and society are malestream. Women are indeed cultural minorities, and their new reality depends on invoking African feminism to forge a new approach to customary family law rules. This means that we cannot completely rely on the current system of customary law to emancipate women, because 'the master's tools will never dismantle the master's house' (Lorde 1984:110).

## **Conclusion**

Customary family law finds itself in a dilemmatic tug of war. On the one hand, the courts presume that marriage exists where the parties cohabit. On the other hand, the principles of customary law demand the couple's compliance with certain formalities before a marriage can be said to be concluded. Many of these formalities directly exclude cohabitation. This situation breeds uncertainty regarding what constitutes a valid customary law marriage. With this uncertainty, African women may spend years in a relationship, labouring under the misconception that the law recognises their relationship when, in fact they are mere cohabitants. This situation

strips them of the financial protection of property rights if the relationship comes to an end. We have argued that the non-recognition of women's property rights in fringes on their full citizenship status.

The status of citizenship plays out in the public and the private sphere, being constituted by the relationship between the state and its citizens and the relationship between private individuals, respectively. Women are citizens in the public sense because the Constitution grants them rights to equality, human dignity, property and freedom of bodily integrity. However, in their private interactions they are not equal to men. Rather, they experience property insecurity due to the non-recognition of cohabitation in South Africa's legal framework. Indeed, women are barely free to choose whether to cohabit or not and their human dignity suffers constant and severe violations. Over the years, the art of ego-less negotiation, which is represented as nego-feminism, has yielded only nominal access to rights, leaving the substantive position of African women unchanged (Arndt 2002:32). This failure warrants a move away from rights assertion to justice enforcement.

The current model of customary family law privileges form over function. This is why such great emphasis is placed on marriage and there is little consideration of the fact that cohabitation relationships also perform the same function as marriage. Family formation is at the very heart of our traditional communities because it ensures the continuation of lineages. However, if we persist with this model of form over function, we will be ignoring the fact that even cohabitation relationships foster the continuation of lineages because partners can procreate either way. In not recognising the property rights of cohabiting women, their interests and those of their children fall short of protection merely because their parents did not subscribe to the norm of formal marriage. Accordingly, we offer African feminism as a means to combat discriminatory cultural attitudes to cohabitation. It is useful because of its values-rights-justice praxis.

The starting point of our argument for the legislative recognition of cohabitation is indigenous values. Constitutional values as well as African feminist values of human dignity, equality, care and kinship should inform policy interpretation of women's rights. A justice-based approach to values of bodily integrity, property and adequate housing justifies the recognition of cohabitation as a legitimate union with proprietary consequences. A good platform for this recognition is the proposed single marriage statute. Our recommendation aims at bridging the gap between cohabiting women's enjoyment of rights in the public and private spheres.

Finally, it is clear that South Africa needs a gender-conscious interpretation of sections 8 and 39(2) of the Constitution. Section 8 is the cornerstone of bridging the gap between the public and private spheres, since it commits both the state and individuals to respect and protect human rights. Section 39(2) enjoins the development of customary law in line with the spirit and object of the Bill of Rights. Other than the explicitly mentioned values of human dignity, freedom and equality, our Constitution is also informed by values of care, egalitarianism and justice (Bannister 2016:43). The concept of African feminism is rooted in these values. Free of gender binarity, it focuses on the advancement of women and men alike, striving to afford them equal protection and opportunity in the private and public spheres (Bannister 2016:44). It also emphasises kinship and communal values. The values of the Constitution and African feminism can drive our societies towards better protection of women in cohabitation relationships. If embraced, we will find that such women are driven by the same desires that drive the rest of us, namely: to establish kinship in a stable home with a partner and children and to be treated equally, kindly and respectfully as human beings with dignity.

## Notes

1. In *Bwanya v Master of the High Court, Cape Town and Others* [2021] ZACC 51; 2022 (4) BCLR 410 (CC); 2022 (3) SA 250 (CC) (decided on 31 December 2021), the Constitutional Court of South Africa found that permanent life partnerships are a legitimate family structure that deserves respect and legal protection.
2. *Tsambo v Sengadi* (244/19) [2020] ZASCA 46, Para 22.
3. *Badimo* is the Pedi, Sotho and Tswana word for ancestors. *Go phasa* refers to the act of communicating with one's ancestors to give thanks, acknowledgement, introduce new members of the family such as babies and brides, or to ask for blessings. The process of *go phasa* typically requires snuff and alcohol spirits.
4. Section 25 provides that no one may be deprived of property unless it is by way of a law of general application and further prohibits an arbitrary deprivation of property. Section 26 grants the right to have access to housing and prohibits evictions from being effected without a court order.

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# **Institutionalising Gender-based Violence within African Democracies: A Comparative Analysis of South Africa and Botswana<sup>1</sup>**

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## **Abstract**

Even though international legislation recognises the eradication of gender-based violence as a crucial target for the promotion of human rights and the achievement of the sustainable development of the world, violence against women has received little intellectual attention and scholarly intervention from academia. In the African region, where diverse sociocultural and institutional gender discriminative factors often mean unequal power relations between women and men, the prevalence of gender-based violence is particularly critical. This article examines the institutional implications of violence against women by comparing South Africa and Botswana, two countries that adopted democratic systems after gaining independence from the United Kingdom. It highlights the importance of the Constitutions of both countries and the representation of woman in politics. The divergence between the two states' legal and political approaches to gender equality and human rights underscores the role of gender-specific institutions in the prevalence of violence against women. This article also uncovers the limitations of existing strategies and proposes a better understanding of inequality within gender relations and its reflection within the frame of institutions to find a way to resolve violence against women and achieve gender justice.

**Keywords:** Botswana Constitution; democracy; gender-based violence; gender and development; gender justice; South African Constitution; women's political participation

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## Résumé

Même si pour la législation internationale, l'éradication de la violence sexiste est un objectif essentiel de la promotion des droits humains et la réalisation du développement durable du monde, la violence contre les femmes n'a que très peu piqué l'intérêt des intellectuels et des universitaires. La prévalence de la violence sexiste est particulièrement préoccupante dans la région africaine, où divers facteurs socioculturels et institutionnels, discriminatoires en matière de genre, se traduisent souvent par des relations inégales de pouvoir entre les femmes et les hommes. Cet article examine les implications institutionnelles de la violence à l'égard des femmes en comparant l'Afrique du Sud et le Botswana, deux pays qui ont adopté des systèmes démocratiques après avoir obtenu leur indépendance du Royaume-Uni. Il souligne l'importance des Constitutions des deux pays et de la représentation des femmes en politique. En matière d'égalité des sexes et de droits humains, les divergences entre les approches juridiques et politiques des deux États met en évidence le rôle d'institutions sexospécifiques dans la prévalence de la violence à l'égard des femmes. Cet article révèle également les limites des stratégies existantes. Afin de résoudre la violence contre les femmes et de parvenir à la justice de genre, elle propose une meilleure compréhension des inégalités dans les relations de genre et de leur impact dans le cadre institutionnel.

**Mots-clés :** Constitution du Botswana ; démocratie ; violence sexiste ; genre et développement ; justice de genre ; Constitution sud-africaine ; participation politique des femmes.

## Introduction

Gender-based violence (GBV), or violence against women (VAW), has been a significant problem in international development over the past decades. It varies in forms and patterns, from female genital mutilation and early marriage to domestic violence or human trafficking, and has harmful impacts on women's health and lives and critically impedes the sustainable development of the world. Aiming for a better understanding of the occurrence and resolution of GBV, this study examines the legal and political institutional frameworks around GBV, and their implications, through a comparative analysis of South Africa and Botswana, both of which can be singled out as representing young democracies in Africa (Du Toit 1995).

South Africa and Botswana have considerable regional and historical similarities (De Jager and Sebudubudu 2017). Both of these neighbouring countries located in the southernmost area of Africa used to be colonies of the United Kingdom but achieved independence and established democratic regimes in the middle and late twentieth century. The principle of liberal



democracy espouses tolerance and non-violent means of conflict resolution and thus democratic regimes offer ‘the best protection from the violations of human rights’ (Caprioli 2004:412). By contrast, non-democratic regimes share significant sociocultural characteristics, including patriarchal social norms and marital provisions of customary law that have been the root causes of unequal gender relations and the neglect of VAW in many African countries. Such sociocultural factors commonly include religious customs, conservative social norms and patriarchal attitudes towards women, all of which may become significant underlying elements of unequal gender relations and the endless perpetration of VAW.

However, there is a big difference between the prevalence of GBV in South Africa and Botswana reflected in the data collected by the World Health Organization (WHO) in 2021 (see Table 1). In Botswana, 34 per cent of women in Botswana have ever experienced violence by intimate partners whereas this figure is 24 per cent of women in South Africa. Considering that the world average lifetime prevalence of GBV is 27 per cent and the regional average in southern Africa is 33 per cent, it seems imperative and essential that the gap between the two countries is examined (WHO 2021:xiii).

**Table 1:** Intimate partner violence prevalence in South Africa and Botswana

	<b>Lifetime Prevalence (%)</b>	<b>Past 12 Months Prevalence (%)</b>
South Africa	24	13
Botswana	34	17

Source: WHO (2021)

This article focuses on the different prevalence levels of VAW in the two states and aims to explore the causes of the difference, presuming that it may be linked to explanations of why the matter of GBV is not being addressed, especially in developing countries, and what should be changed in existing strategies to tackle GBV within institutional apparatuses. The study takes a comparative approach not only to figure out the causal relationship between the two African democratic countries’ GBV and institutional differences in dealing with VAW, but also to uncover the significance of the intersectionality of the causes of VAW and the impacts of unequal power relations between women and men on the prevalence of GBV. In so doing, this study hypothesises causal relationships between the different levels of GBV and differences in institutional qualities shaped within democratic governance.

Adopting the approaches of feminist institutionalism as the theoretical platform, the study uses *legal* and *political* dimensions as critical institutional factors to compare different levels of GBV in South Africa and Botswana. Feminist institutionalism is a strand of new institutionalism that incorporates a gendered analysis. New institutionalism understands the co-constitutive nature of political dynamics, in which institutions shape people's behaviour by constructing rules, norms and policies and the actors of society engender or resist institutional changes (Mackay, Kenny and Chappell 2010:573). In the perspective of feminist institutionalism, *gender*, which is socially constructed and culturally variable, becomes a crucial factor in institutions and social structures. In a nutshell, a gendered analysis can be the key to having a better understanding of the role and impacts of institutions on women's issues, including gender-based discrimination and violence, within social interactions.

Gendering institutionalism in the context of GBV also needs to be filtered by Samuel Huntington's institutional prism on the gap between rapid social change and the slow response to it by political institutions, which is conceptualised as 'political decay' (Huntington 1968). The government's readiness and public action to handle GBV through legal and political institutional strategies would make a difference in mitigating the level of political decay in South Africa and Botswana. Despite the undeniable fact that system-wide transformations in the societal stereotypes of gender relations should be undertaken as a necessary condition to eradicate GBV and minimise political decay, this study concentrates on the two institutional factors – legal and political – rather than the long-term prescription of the system-wide change.

### **International Discourses on Gender-based Violence**

Acknowledging the significance of damage caused by GBV, international society has committed to efforts to eradicate all forms of VAW. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is a comprehensive and fundamental women's rights bill, established in 1979 on the basis of the UN's key principles for promoting gender equality and women's rights protection. According to the CEDAW, discrimination against women refers to any distinction, exclusion or restriction made based on sex, which nullifies women's enjoyment of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It clearly declares the states' duties and responsibilities to take all appropriate measures, including legal and institutional means, to prohibit discrimination against women and secure women's rights and equality with men.

In 1992, the Committee on the Elimination of Discrimination against Women adopted General Recommendation No. 19, which states that ‘violence against women is a form of gender-based discrimination that is used to subordinate and oppress women’. It was an essential step in breaking down the perception that VAW is a matter of the private sphere, and identifying it as a matter of equality and human rights. General Recommendation No. 35 of 2017 emphasises that a change of the social norms and stereotypes that allow VAW, in the name of culture, tradition or religion, is necessary to eliminate the practices of gender abuse. It demands that member states take action to repeal all laws and policies that excuse or facilitate GBV – directly or indirectly – and calls for women’s autonomy and capability of decision-making to be equally promoted in all spheres of life (OHCHR 2017).

The UN Declaration on the Elimination of Violence against Women (DEVAW) of 1993 triggered the UN General Assembly to pass resolutions on GBV and force the member states to act. It clearly affirms that ‘violence against women is a manifestation of historically unequal power relations between men and women’, which results in men’s domination over women and the prevention of the full advancement of women’s rights and fundamental freedoms (UN General Assembly 1993). These resolutions called for co-operation to eliminate VAW, including domestic violence, human trafficking, rape and other forms of sexual violence, and enhanced global efforts to eradicate gender-discriminative traditional and customary practices, such as genital mutilation and early (or forced) marriage, affecting the health and safety of women and girls. At the Fourth World Conference on Women, in 1995, the Beijing Declaration and Platform for Action – the most progressive commitment to promoting women’s rights – committed to preventing and eliminating all forms of violence against women and girls because this is presumed to be a key social mechanism that results in women’s subordination.

More recently, the matter of VAW has been understood from the perspective of international development. The UN Millennium Development Goals (MDGs) of 2000 and Sustainable Development Goals (SDGs) of 2015 include gender equality and empowerment of women and girls as a part of the cross-cutting goals to achieve world development. Accordingly, both MDGs and SDGs have explicitly made the eradication of GBV and harmful practices against women and girls the specific target that needs to be tackled for the sustainable development of the world. Nonetheless, even though international society has continued discussions and efforts to address GBV as the foremost task, women have never been free from violence, no matter their region, class, race or age. The WHO

estimates that more than 30 per cent of women aged 15 years and older have been subjected to physical and sexual violence (WHO). This means that from 736 million and up to 852 million women and girls in the world have ever experienced violence from their current or former male partners as well as by non-partners.

### **Gender-based Violence in Africa**

Even if GBV is one of the most prevalent types of violence that occurs nowhere but everywhere, it is crucial to take a closer look into the GBV experienced by women in developing countries not only because the rate of violence against women there is higher but also because women and girls are more vulnerable to and critically affected by gendered violence and abusive practices in underdeveloped circumstances. Moreover, the extent of the violence is greater, and its impacts are fatal to many more women in developing countries. States with low levels of social development and governance are less likely to provide the necessary protection and support for victims of GBV; vice versa, the social and economic costs caused by highly prevalent violence can barely promote the sustainable development of the society.

**Table 2:** Regional prevalence of intimate partner violence

<b>Region</b>	<b>Lifetime Prevalence (%)</b>	<b>Past 12 Months Prevalence (%)</b>
World	27	13
North America	25	6
Latin America & Caribbean	25	8
Eastern Asia	20	7
Southern & South-Eastern Asia	28	14
North-Western Europe	22	5
Eastern Europe & Central Asia	18	6
Western Asia	29	13
Northern Africa	30	15
Sub-Saharan Africa	33	20

Source: WHO (2021)

Comparing the prevalence of intimate partner violence (IPV)<sup>2</sup> by region, the ratios of women who have ever experienced IPV are particularly high in developing countries (see Table 2) in the global South, particularly in African regions. In contrast, the prevalence of violence seems to be lower than the average in Europe and North America.

### *Patterns of violence*

The term ‘gender-based violence’ refers to any types of acts of violence caused by unequal gender relations – physical and sexual violence, sexual harassment, enforced sexual prostitution and pornography, sex trafficking, etc. This comparative analysis focuses mainly on domestic violence and harmful practices that incorporate the major common types of violence that women in Africa suffer every day. Both domestic violence and harmful practices are mostly intertwined with multidimensional gender-discriminative factors that are rooted in the region’s religious and cultural backgrounds as well as legal-institutional circumstances (Cohn and Blumberg 2020; Benería, Berik and Floro 2003).

### *Domestic violence*

Domestic violence refers to a behaviour that is used to obtain or maintain power and control within the household, particularly over female partners. Many women, no matter their region, race, age, class and ethnicity, suffer a variety of forms of domestic violence, which include physical, sexual, emotional, economic or psychological actions or threatening behaviour that frightens, intimidates, terrorises, manipulates, hurts, humiliates, blames, injures or wounds women within their home (UN n.d.). Though domestic violence is widespread and threatens women and girls in everyday life, the social reaction to domestic violence tends to recognise it as a private matter that should be dealt with at home. As the Beijing Declaration of 1995 stated, viewing domestic violence as a private matter is related to the high ratio of unreported violence within families and people having negative perceptions about social or political intervention in private matters. At the same time, the US Department of Justice argues that it is more difficult for victims of domestic violence to free themselves from an abusive environment because the violence between intimate partners is often accompanied by complex family issues, including children custody and family property (US Department of Justice 2000).

Most of the victimisation that occurs in the home is barely reported to the police because the victims may not consider the police an appropriate channel to address the conflicts within their relationships. Besides, victims may be afraid of the perpetrators, feel ashamed of publicising their experience of violence, or want to protect their relationships with partners and children. Since people’s understanding of the use of VAW significantly matters in reporting and preventing domestic violence, it is

presumable that the ratio of reported violence shall be much lower in societies where gender relations are more hierarchical on the grounds of cultural and religious characteristics.

### ***Harmful practices***

Harmful practices, which are often considered a part of religious traditions, are another deadly form of violence that affect a number of women and girls especially in developing countries. They include female genital mutilation, early marriage forced on girls, female infanticide and polygamy. These harmful practices are mostly conducted by the state or community in the name of culture and tradition – that is, they are officially accepted by a society even while critically violating women's rights and autonomy over their bodies and lives. The matter of GBV is particularly difficult and complicated to address in African countries not just because of the low level of government capacity and resources, but also because African women's experience of violence is deeply intertwined with gender hierarchical norms and practices that are rooted in their society and culture as well as the legal-institutional conditions that solidify the unequal gender relations and fail to protect women's rights and security from abusive circumstances.

One of the most remarkable characteristics of GBV in African countries is legal pluralism, which refers to a legal system that incorporates common law and African customary law. The common law systems in Africa originate from the colonial powers and form the basis of the normative and institutional state law systems. However, state law also recognises customary law, which has been indigenously 'invented' in the region, and incorporates norms of customary law (Woodman 2001:28–29). The recognition of customary law significantly matters to GBV in the African region because, within the society, the norms and principles of customary law often embody religious and cultural traditions that construct gender-discriminative mechanisms via entrenched customs and myths or even misogyny. The principle of customary law that recognises men's economic dominance in households enhances women's dependency on their husbands. As a result, the gender hierarchy of married couples is strengthened and ultimately contributes to making it much more difficult for women to be free from abusive circumstances. Indeed, the legal system found in African countries that recognises customary law has been criticised as a significant cause of widespread GBV in the African region. It becomes the foundation of the state's dismissal of men's use of violence to control women in a married relationship and a justification by the society of harmful practices exercised against women and girls for religious reasons.

Just as in other developing countries that experience high rates of GBV, most African countries have limited resources and capabilities to address GBV. They lack effective government policies to systematically prevent and monitor VAW and institutionalise the necessary support and protection for women from their abusive partners. Their governments may have a low capacity to monitor and control the violence exercised against women and to effectively prohibit the violence. Even if these states have legal strategies to curb GBV, women and men may have unequal access to legal information and the system itself because of the gender hierarchies within the society.

### **South Africa and Botswana: A Comparative Perspective**

Through a comparative analysis of South Africa's and Botswana's Constitution and the role of women in politics, this study examines the differences in how the two states recognise gender inequality, how they regulate the relationship between women and men within the private and public sphere, how acts of VAW are perceived in courts as well as in society, and how they address GBV within their institutions. The legal dimension explores the differences between the two states' gender provisions in their constitutions and delves into how these provisions influence the establishment of the states' laws and policies that deal with GBV. The political dimension compares women's political representation, specifically in the Parliament of South Africa and Botswana. Using the number of seats held by female parliamentarians as a basis, this study focuses on the direct and indirect role of women in politics who have the legislative authority to debate and pass gender-specific laws, including regulations that protect women from violence and gender-based abuse. Moreover, the study attempts to find the causal factors of the different levels of women's political representation by exploring the party structure and electoral system of the two states.

#### ***Constitutionalising gender equality and human rights***

The Constitution of each state is the most reliable point of comparison for how South Africa and Botswana regulate acts of discrimination or VAW and approach GBV in the legal dimension. The Constitution matters to issues of gender equality and GBV because the gender provisions within it regulate the understanding of gender differences and shape the foundation of the state's gender-specific policies and institutional strategies around women's issues (Scribner and Lambert 2010). Constitutional gender equality provisions have a great impact on establishing a legal framework that facilitates and supports necessary legislations and policies that help to create social norms about gender relations and regulate the state's responsibility to promote

women's empowerment and gender equality. Constitutional provisions can also inspire the contexts of policies that define the relations of women and men and influence judicial decisions by setting the extension of the court's interpretation of legislative rights. Constitutional gender equality provisions can also provide the legal basis and legitimacy of women's rights advocates to combat unequal gender relations and use their voice to drive legal and institutional changes.

Exploring how the gender-related constitutional provisions that structure legislation and policies to promote gender equality and protect women's rights and freedom are put into practice, we compare some major High Court cases. These reveal the significance of constitutionalising gender equality on the judicial decisions around gender-based violence crimes. The way in which South Africa constitutionalises gender equality and human rights is remarkably different from Botswana's. Whereas South Africa's Constitution has a decidedly egalitarian perspective on regulating the equal rights and freedom of women and men, Botswana's constitutional provisions are essentially gender-neutral to recognise the inequality or differences between women and men.

### *South Africa*

In the Constitution of South Africa, human dignity, equality and human rights and freedoms are regulated as the fundamental values of the state. Its founding provisions include non-racism and non-sexism, and thus the state emphasises the significance of equality among race or gender for the constitutional principle of the state (see Ch.1 Sec.1).

#### Ch. 1 Founding Provisions

Sec. 1 Republic of South Africa: The Republic of South Africa is one, sovereign, democratic state founded on the following values:

- (a) Human dignity, the achievement of equality and the advancement of human rights and freedoms;
- (b) Non-racialism and non-sexism;
- (c) Supremacy of the Constitution and the rule of law.

Moreover, the provisions of the Bill of Rights enforce the principle of non-discrimination of individuals by gender, sex and more (see Ch.2 Sec.9). It is worth noting that the provision specifies not only sex, but also gender, pregnancy and marital status, as the grounds of non-discrimination because it reveals the state's recognition of the significance of the social construction of gender role and identities, masculinities and femininities, and the impact of getting married on women's positions and lives.



## Ch. 2 Bill of Rights

Sec. 9 Equality: 3. The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

The Bill of Rights also includes some specific provisions which are more directly related to the state's commitment to preventing GBV. For instance, the deprivation of one's freedom and security and all forms of violence are prohibited (see Ch.2 Sec.12).

## Ch. 2 Bill of Rights

Sec. 12 Freedom and security of the person: 1. Everyone has the right to freedom and security of the person, which includes the right:

- (a) not to be deprived of freedom arbitrarily or without just cause; ...
- (c) to be free from all forms of violence from either public or private sources

## *Botswana*

Botswana's Constitution includes the principle of non-discrimination of fundamental human rights and freedoms of individuals, no matter their race, colour, sex and etc (see Ch.2 Sec.3). However, it lacks a specific commitment to maintaining the state's responsibility and role to advance gender equality and proactively guarantee women's rights and security from gender-based discriminations or abuses.

## Ch. 2 Protection of Fundamental Rights and Freedoms of the Individual

Sec. 3 Fundamental rights and freedoms of the individual: Whereas every person in Botswana is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his or her race, place of origin, political opinions, colour, creed or sex, [but subject to respect for the rights and freedoms of others and for the public interest...].

As above, while Botswana's Constitution has a single provision with a rather neutral and limited manner of statement, South Africa's Constitution specifies the principle of gender equality to fundamental human rights and freedom and explicitly prohibits gender-based discrimination and violence through multiple provisions. As South Africa has been known to have one of the most advanced and inclusive Constitutions in the world, the provisions not only lay out the principle of human rights but sharply underline the role of the state to encourage human dignity for both women

and men and promote the equality and diversity of the society (Scribner and Lambert 2010:51–52). Some of its clauses are particularly progressive in constitutionally recognising the systematic inequality between gender and resolving the discrimination that has persisted throughout its history.

### ***Common law versus customary law in the constitutions***

The two states' Constitutions can be examined also for any divergence in their acknowledgement of the relationship between customary law and common law. Both South Africa and Botswana have a legal system which incorporates the common law system that was imported from the Western colonial powers' Roman-Dutch Law and African customary law, which has structured gender-discriminative practices and norms in the region in line with religious and cultural traditions.<sup>3</sup> South Africa has a mixed legal system which compounds Roman-Dutch civilian law, English common law, customary law and religious personal law, and Botswana has a dual legal system which incorporates Roman-Dutch law and customary law, each of which separately governed the settlers and the Indigenous inhabitants during the colonial period. However, even though the Constitution of both states accepts the validity of customary law within its legal framework, the balance between common law and customary law is completely different particularly in respect of GBV and the recognition of women's rights and security within marriage and divorce issues (Goldblatt 2018).

The marital and family laws under customary law traditionally regulate unequal roles and positions for women and men within the household and often become the legal background of gender-discriminative practices or customs. For instance, the traditions of male dominance in decision-making authority and men's prioritised rights and access to family property are rooted in the marriage-related provisions of customary law. In many cases, these clauses of unequal power relations between women and men conflict with the constitutional provisions that fundamentally guarantee the principle of equality, individual rights and freedom for both women and men.

Consequently, disagreements between common law and customary law have been criticised as a key obstacle to addressing gender-based discrimination and violence. The 1995 Beijing Declaration emphasises the responsibility of the state to prohibit and eliminate 'any harmful aspect of certain traditional, customary or modern practices that violates the rights of women' and enforces state governments to remove derived religious practices that undermine women's rights, dignity and health. Thus, the way

in which Constitutions perceive the conflicting provisions of customary law and common law are crucial to analyse, particularly in the case where customary law neglects or enforces discrimination or abuses against women.

### *South Africa*

In South Africa, the Constitution explicitly prioritises the constitutional principle over the practices enforced by customary law. It regulates that the exercise of rights and practices under certain cultures and religions should be agreeable to the Bill of Rights (see Ch.2 Sec.31) and the interpretation of both common law and customary law must promote the objectives of the Bill of Rights (Ch.2 Sec.39). South Africa also directs the courts to apply customary law only when it is applicable and subject to the Constitution (see Ch.12 Sec.211).

#### Ch. 2 Bill of Rights

Sec. 31 Cultural, religious and linguistic communities:

1. Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community;
2. The rights [to exercise cultural rights...] may not be exercised in a manner inconsistent with any provision of the Bill of Rights.

Sec. 39 Interpretation of Bill of Rights:

2. When interpreting any legislation and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights. ...
3. The Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill.

#### Ch. 12 Traditional Leaders

Sec. 211 Recognition: 3. The courts must apply customary law when that law is applicable, subject to the Constitution and any legislation that specifically deals with customary law.

### *Botswana*

In contrast, Botswana's Constitution lacks such provisions to guarantee the security of women's rights prior to gender-discriminative customs and traditions conducted within their household. In Botswana, customary law is exempted from the constitutional provisions of gender equality and non-discrimination and the practices of customary law are free from the fundamental human rights and equality principles. Although the provision of

protection from discrimination prohibits different treatment of individuals because of their race, tribe, place of origin, political opinions, colour, creed or sex, Botswana's Constitution articulates that the provision shall not be applied to any law that is related to adoption, marriage, divorce, ... or other private matters regulated under customary law (see Ch.2 Sec.15).

#### Ch.2 Protection of Fundamental Rights and Freedoms of the Individual

Sec. 15 Protection from discrimination on the grounds of race, etc.:

- (1) no law shall make any provisions that is discriminatory...;
- (3) affording different treatment to different persons...by race, tribe, place of origin, political opinions, colour, creed or sex ...;
- (4) subsection (1) of this section shall not apply to any law so far as that law makes provision – ...
  - a) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;
  - d) for the application in the case of members of a particular race, community or tribe of customary law ....

### ***Differences in constitutional gender provisions***

One factor that might explain the differences between how the Constitutions of South Africa and Botswana deal with gender equality is the timing of the two states' transition to democracy. South Africa's Constitution was approved by its Constitutional Court in December 1996, not only two years after apartheid was ended but also when the stream of global women's rights movements was reaching its height.<sup>4</sup> South Africa's transition to democracy was in the middle of the grand international campaigns to promote women's rights, which extended the discussions around women's participation in political and economic development. Accordingly, together with the influx of huge international gender movements, South African women's rights advocates played a crucial role in designing the state's Constitution to include proactive gender-specific provisions. The women's rights movements also had a great impact on the state's political climate in making it favourable to women's voices. Domestic advocates for gender equality enabled women's rights activists to be part of the process of building the political party structure and implementing gender perspectives into the institutions to protect women's rights and security against any discrimination or abuse (Tournadre 2022). Furthermore, anti-apartheid activists were focused on revealing the gender discrimination conducted under the racial segregationist institutions of apartheid.

Botswana's transition to democracy, however, took place before the wave of international women's rights movements reached enough significance to influence the state's domestic political circumstances. Botswana achieved its independence from the United Kingdom in 1966 and adopted its new Constitution in the same year – about thirty years earlier than South Africa. Unlike in South Africa, the voices of international women's movements could barely intervene as the state established its democratic regime and Constitution. In consequence, women's participation in building the foundation of a democratic regime was critically limited compared to South Africa because of the lack of recognition of women's rights and roles in the social and political spheres. There was much less opportunity for international advocates of gender transformation to influence how Botswana's government dealt with women's issues and gender equality in its institutional framework.

The constitutional gender provisions in South Africa and Botswana have extensive impacts on the two states' laws and policies to recognise gender inequality, regulate GBV and discrimination and protect women's rights and security. Strengthening the states' legal framework to promote gender equality is crucial to eradicating VAW as it would improve women's rights in marriage and divorce, property ownership and child custody, which have the power to change women's position in relationships with their partners in the household. These rights are supported by the laws and policies that criminalise GBV, enhance police capacity and the criminal justice system in responding to VAW and provide better protection and support for those who experience the violence. Moreover, as Constitutions can regulate the balance between common law and customary law, the effectiveness of laws dealing with women's protection from certain abusive customs and practices enforced by customary law also depends on the states' constitutional provisions.

## **Legislation**

In South Africa, the Constitution is critical in providing a legal basis for necessary legislations to support the promotion of gender equality and control the dominance of male power within households, which aggravates gender-based abuse, such as domestic violence and harmful practices, in the private sphere. The constitutionalised principles of human rights and gender equality structured the legislations that support judicial decisions to admit GBV as an act of crime and punish the perpetrators. As the state constitutionally enforces the accommodation of customary law with the Bill

of Rights, there exist specific legislations to put customary law in line with the norms of the Constitution and international laws. The Recognition of Customary Marriage Act (Sec. 6) states that 'the wife in a customary marriage has in all aspects a status equal to that of her husband' to resolve unequal relations within the married couple and discard husband's power as a guardian of his wife.

South Africa also has established gender-specific laws and institutions to make the government protect victimised women and punish the perpetrators. The Parliament of South Africa passed the Domestic Violence Act (No. 116) in 1998 to prevent husbands' use of violence against their female partners. The Act played an essential role in providing a definition of a wide range of domestic violence, which includes physical, emotional, economic abuse and harassment. It ultimately encourages society to recognise domestic violence as a serious act of crime and decisively rules the state's responsibility to end violence against women and children, from the perspective of promoting constitutional rights, such as freedom and equality and the women's rights principles embedded in international commitments, including the CEDAW.

This legislation also declares the duty of judicial institutions to provide certain legal protections for victims, by specifying the procedures and obligations of the police and court activities. For instance, the Domestic Violence Act of South Africa is recognised as having particularly innovative clauses which grant the court's responsibility for a Temporary Protection Order in case the actions of the aggressor seem to pose imminent harm to the complainant. It allows the state to provide the needed protection for the applicant's health, safety and wellbeing, by ruling the eviction of the aggressor from the matrimonial home and providing financial relief to the applicant. As a result, it is possible to ensure that constitutional principles such as equal rights and dignity are guaranteed within the household and prohibit gender-based abuses, while preserving the religious traditions of marriage and divorce. The case of South Africa reveals that gender-specific constitutional provisions can be the legal framework that challenges gender-discriminative activities and VAW.

On the other hand, Botswana's Constitution is much less proactive and less momentous than that of South Africa in prohibiting gender-based discrimination or abuses caused by an unequal relationship between women and men. Nevertheless, the single constitutional provision of gender equality (see Ch.2 Sec.3) has been the core instrument of the state's strategies to deal with GBV and promote women's rights and authority under abusive circumstances. Botswana enacted the Domestic Violence Act (No.10 of

2008) which recognises ‘any controlling or abusive behaviour that harms the health or safety of the person’ as an act of crime and prohibits domestic violence, including the acts of physical, emotional and sexual abuse, economic abuse, intimidation, harassment and property damages’. Other legislations enforce the empowerment of women’s rights within the family, such as the Deed Registry Act (1960) and the Abolition of Marital Power Act (2004).

Having said that, the existence of a law does not necessarily mean the enforcement or application of the law. Even if Botswana’s government established the Domestic Violence Act, it failed to regulate the legal prohibition of marital rape – which means that victims of intimate partner violence cannot be protected under the law.<sup>5</sup> Given the customary law’s principles that allow male dominance and men’s guardianship over women in the household, domestic violence has been confined under the frame of a private matter and become legitimately exempted from other laws and regulations. Also, harmful practices and other gender-discriminative customs are not subject to such legislations because the matters related to marriage and divorce are primarily recognised under the principles of customary law – just like their exemption from the Constitution.

Thus, notwithstanding CEDAW’s concerns about the risk of women’s rights violations caused by conflicts between the principles of common law and customary law, Botswana’s legislations lack the power to legitimately prevent sexual violence within marriage or cohabiting relations because the state’s Constitution recognises the exemption of customary law from constitutional human rights principles. Moreover, even though further advocacies to establish gender-specific legislation were driven by women’s rights movements, newly established or reformed laws could not go beyond removing the discriminatory provisions of existing laws rather than proposing comprehensive laws to proactively guarantee women’s rights and freedoms in their private and public lives, because of the fundamental limitations of their Constitution and legal structure (Scribner and Lambert 2010: 51–52).

## **Judicial Decisions**

In South Africa, the courts played a crucial role in ensuring that the implementation of customary law conformed with the constitutional norms of human rights and gender equality. As South Africa’s Constitution accentuates the Bill of Rights as the priority before any laws, the South African High Court interprets all legislation, including customary law, under the principles of the Bill of Rights. The Constitutional Court of

South Africa underlines that the Constitution imposes an obligation on the courts to judge whether to develop its legislation, both the common law and customary law, to bring it in line with the Constitution (Ndulo 2011: 113). Furthermore, the Constitutional Court of South Africa declares that the central principles of customary law, including male primogeniture which defines the husband's predominant rights to inheritance and succession and other traditional beliefs and practices, are anchored in patriarchy and essentially violate women's rights to human dignity and equality (Ndulo 2011: 102). Based on the supremacy of human rights norms that are equally guaranteed for women and men by the constitutional provisions, the decisions of the Constitutional Court have shown that unconstitutional customary values or practices, such as early marriage and female genital mutilation, are unacceptable and inexcusable in modern society.

For example, in the case of *Prior v. Battle and Others* of 1999, the South African Constitutional Court ruled that customary law that guarantees husband's guardianship over wife is 'outmoded and anachronistic'.<sup>6</sup> The Court's decision influenced the social and legal recognition of husband's guardianship. Consequently, five years later Parliament passed the Abolition of Marital Power Act to prohibit the regulations of marital power that conflict with the constitutional gender equality norms. In the *Shilubana v. Nwamitwa* case of 2008, the court ruled that 'male primogeniture of succession of chieftaincy' is a gender-discriminative tradition and clearly proposed that customary law needs to evolve in a way to promote gender equality as constitutionally guaranteed.<sup>7</sup>

The South African Constitutional Court's attention to the principles of the Constitution also had a crucial impact on specific court rulings in cases of GBV crime. Regarding the domestic violence crime in the *S v Baloyi* case of 2000, the court asserted that 'the constitutional right to gender equality is jeopardised' because the legal system could not appropriately resolve the crime.<sup>8</sup> On the other hand, the Constitutional Court on *Van Eeden v. Minister of Safety and Security* of 2001 demanded the state's responsibility to protect women's rights and security from abuse, affirming that 'the state is obliged under international law to protect women' against crimes of GBV and discrimination.<sup>9</sup>

In contrast, decisions from the courts in Botswana have been completely different from those of South Africa in gender-based violence cases. The courts have not virtually committed to condemning the customary traditions and practices that infringe constitutional norms regarding the promotion of women's human rights. The principles of customary law have become the foundation of decisions in Botswana's courts in GBV crimes that occur



within the private sphere, as they are guaranteed and protected prior to norms and values from the Constitution and other legislations about the protection of women's rights and security from violence.

In reality, the spousal or marital exemption principles of customary law support the courts in presuming matrimonial consent to the intimate partner's violence and imply that the 'wife has given up herself on her husband'. In the case of *Mogodu v. State* of 2003, although the High Court of Botswana upheld the conviction of rape, the appellant appealed his conviction for rape because the evidence did not show a lack of consent.<sup>10</sup> Moreover, the Constitutional Court of Botswana ruled that 'the marriage presumes the consent between husband and wife because the Customary law allows a man to chastise his wife' (Selolwane 1998). Thus, it has been almost impossible to recognise a husband's abuse of his wife as an act of violence and Botswana's courts fail to effectively prohibit and penalise domestic violence because of the institutional limitations.

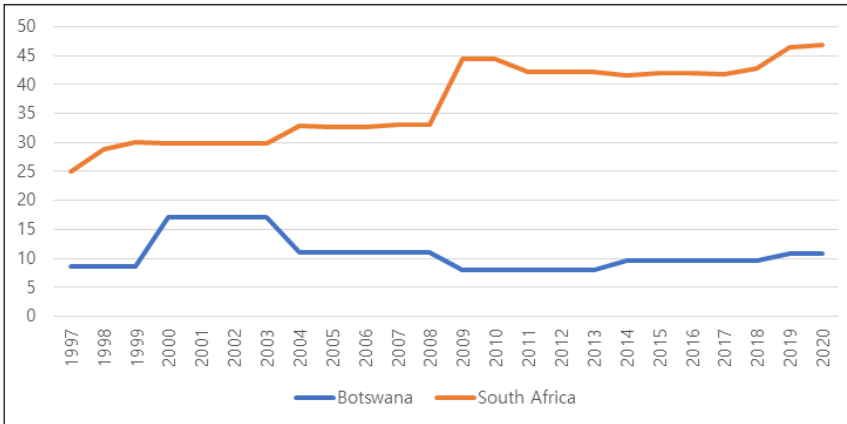
## **Women in Politics**

This section examines the proportion of seats held by women in the Parliaments of South Africa and Botswana and compares the role and impacts of female parliamentarians on legislative strategies for tackling GBV in the two states.

### ***Women's political representation***

According to the Gender Monitor of 2016, published by the Southern African Development Community (SADC), women's representation in South Africa's Parliament was 42.4 per cent, with 169 of 399 seats taken by women.<sup>11</sup> South Africa ranked the second-highest in the region, after Seychelles, for the number of women in Parliament. Botswana, on the other hand, was reported to have the third-lowest proportion of women in politics, after the Democratic Republic of Congo and Swaziland, which had 9.5 per cent of female parliamentarians – only six women among sixty-three seats. Moreover, the gap between women's political representation in South Africa and Botswana has been increasing over the past twenty years. In South Africa, the proportion of women in Parliament has maintained an upward trend since the first election of 1994. It started with 25 per cent of the total number of seats held by women and peaked at 46.3 per cent in the most recent election in 2019.<sup>12</sup> However, in Botswana, the proportion of seats held by women in Parliament increased from 8.5 per cent in 1997 to 17 per cent in 2000 but dropped back to 10.7 per cent in the election of

2019 (Figure 1). Thus, in South Africa, together with the gender equality principles of the constitutional framework, the high proportion of women's representation in politics has become the institutional and structural basis for the national gender machinery.<sup>13</sup>



**Figure 1:** Proportion of seats held by women in South Africa's and Botswana's Parliament (World Bank, 2022)

What are the causes of women having substantially different political representation in South Africa and Botswana? The Protocol on Gender and Development, adopted by SADC in August 2008, demands the efforts of the member states of the Southern African region to increase women's participation in the governance sectors. It calls for the states to endeavour to save at least 50 per cent of decision-making positions for women in the public and private sectors (Article 12 *Representation*). Also, the protocol directs the states to assure the equal participation of women and men through adopting policies and strategies for women's capacity-building, changing discriminatory attitudes and norms and encouraging men's participation in gender-related training and community mobilisation (Article 13 *Participation*).

As a strategy to enhance women's representation, the government of South Africa adopted the Electoral Act (No. 73 of 1998) which enforces the state parties to facilitate full and equal participation of women in political activities and to ensure women's free access to public meetings, marches, demonstrations, rallies and other public events. South Africa's efforts to increase the proportion of women in Parliament were also inaugurated by women's rights movements, including anti-apartheid activities, which promoted the direct and indirect transformation of women's issues into

political issues, through demanding legislative and institutional changes. For instance, the Women's National Coalition (WNC), established in 1992 by integrating ninety different women's organisations in South Africa, protested for the expansion of women's representation as a measure of delivering unified and powerful voices for women (Scribner and Lambert 2010: 47–48). As a result, the initiative of electoral gender quota was driven by the dominant party of South Africa, the African National Congress (ANC), which declared that it would increase the proportion of women's seats in Parliament to 30 per cent.

In Botswana, however, there have been no electoral quotas for women nor other institutional instruments to guarantee women's equal rights for political participation despite SADC's commitment to women's inclusion in decision-making bodies. Women have been marginalised in political party structures as men dominate the ruling party, which has been unfavourable to women's rights and gender equality issues. Additionally, Botswana has a First-Past-The-Post (FPTP) electoral system which is criticised as the least woman-friendly electoral system and antagonistic to gender quotas. Many other countries that adopt the same electoral system, including Liberia, Ghana and Nigeria, have no electoral gender quotas and as a result have a very low proportion of women in Parliament. Male dominance and the marginalisation of women in the elections have been further aggravated once the conservative party, Botswana Democratic Party (BDP), dominated the FPTP system. Even though women's NGOs in the state have advocated for the need for gender quotas and women's involvement in politics, they have failed to implement the quotas to promote their representation. It is unlikely that the dominant party BDP will support electoral reforms as they will seek to maintain their power in politics under the existing party structure (Van Allen 2007).

Botswana's institutional constraints for women's representation are seemingly related to the social perception of women's political participation. Based on the focus group discussion conducted by Kavita Datta (2004: 265), there still exists a prejudice that men's voices are more legitimate in public spaces, whereas 'women's voices cannot be accepted with equal legitimacy'. Consensus on women's subordination to men in political decision-making is made clear in the statement of a discussion participant: 'men should make decisions, women should consult men before making decisions – men must have the final word' (Datta 2004:265).

### ***Implications of women having legislative leadership***

How does the number of women's seats in Parliaments affect the incidence of GBV? It is worth noting that the underrepresentation of women in power, politics and legal positions is a causal factor that perpetuates domestic violence, and the limited organisation of women as a political force and the low level of women's participation in the political structure are related to the factors that exacerbate women's experience of violence (Heise 1993). Women's representation is significant from the perspective of achieving justice and strengthening the values of democracy through diversifying the composition of Parliament (Phillips 1998). It is therefore crucial to recognise the role of women in Parliament, as in legislative leadership. Female parliamentarians, compared to their male colleagues, are more likely to sponsor policy-making that represents women's interests and demands. Accordingly, having enough women in Parliament is critical in the procedure of gender-related legislation, because they are key in introducing women's issues to political debate. Women in politics can drive the legislative agendas and broaden practical discussions in politics to address women's issues, including GBV.

Female parliamentarians in developing nations can proactively persuade male members of parliament (MPs) and enforce government institutions to pass or establish laws and policies that deal with the protection of women's rights and security from discriminative circumstances in the household and society (Fallon, Swiss and Viterna 2012). In Botswana, female MPs played an essential role in passing the Domestic Violence Act (2008) and the Abolition of Marital Powers Act (2004), by opposing male colleagues. When there are civil society movements for or against government policies related to gender issues, women's representation in the legislature can precipitate the political debates to proceed with legal and institutional reforms. Female MPs can also inspire other women to take note and make an effort to take up political approaches to protect their rights and security. This can provide a strong basis and support for women in other government departments, including local officials, civil servants and those involved in administrative and policy-making processes (Bauer and Burnet 2013:109–110).

Nonetheless, although female MPs have had successful legislative outcomes, their accomplishments have been limited to eliminating the provisions that disadvantage women, rather than taking a further step to enact laws that promote women's rights and freedoms. In the case of Botswana, the lowest ratio of female MPs and the limitations of political party structure mean that women's issues are underrepresented and less

reflected in the procedure of legislation. They therefore failed to adopt a gender budget initiative, which had serious impacts on the society's resource allocation for women's empowerment (Bauer and Burnet 2013:109). In this regard, the matter of women's political participation is ultimately linked to questions regarding the social construction of femininities and masculinities or the gender disparity in access to social and economic resources and opportunities. The male-dominant party structure not only adversely affects women's political participation but also creates unfavourable circumstances for the promotion of women's rights and status in the economic and social realms.

### **Conclusion and Tasks Ahead**

This study is a comparative analysis of GBV in two African democracies – South Africa and Botswana – to fathom the institutional backgrounds and characteristics that explain the gap between the prevalence of GBV in the two countries. As the divergence between the two states' Constitutions and women's political representation is revealed, it is essential to adopt a gender lens in the states' institutions to eliminate VAW. Sophisticatedly designed gender-specific institutions can have a major impact on the way GBV is dealt with within society as they can provide the fundamental systematic basis for the states to guarantee gender equality in human rights and freedoms as well as to establish necessary gender-specific legislation and policies to protect women from violence.

First, there is a big difference in the recognition of gender equality and women's rights in the Constitutions of South Africa and Botswana. South Africa's Constitution has multiple provisions that proactively guarantee equal human rights and freedoms for both women and men and clauses that specifically prohibit discrimination and abuse based on gender. However, Botswana's Constitution is essentially neutral to gender issues, as it has a single gender-specific provision that declares the fundamental rights and freedoms of individuals no matter the sex.

Another remarkable difference between the two states is that South Africa's Constitution clearly regulates that customary law is subject to the constitutional principles and its religious and traditional customs can be exercised only if they are consistent with the Bill of Rights. By contrast, in Botswana, the constitutional principles of gender equality and non-discrimination are not applied to the customs and practices conducted within the married relationships regulated by customary law. These differences between the two states' Constitutions have crucial significance

in how GBV is perceived in the society and how the states deal with VAW. It is vital to re-emphasise that the Constitution becomes the foundational framework for gender-specific legislation and institutions to protect women from abuses and provides the legal basis of the court decisions in GBV crimes.

Second, women have a different level of political representation in South Africa and Botswana. The SADC directed its member states to promote the equal participation of women and men in decision-making positions in public and private sectors, thereby changing gender discriminatory attitudes and norms. Whereas women's full advancement of political representation is guaranteed through gender quotas and the Electoral Act in South Africa, women are largely marginalised in the political party structure of Botswana in the sense that its electoral system lacks gender quotas or legislations that guarantee women's representation. Comparing the most recent elections, the proportion of seats held by women in South Africa's parliament is 46.3 per cent, has a continuous upward trend and is ranked the second-highest in the region. In contrast, Botswana's proportion of female parliamentarians reached 10.7 per cent and it remains in a downward trend.

The level of women's representation in the two states is not only linked to the social construction of unequal relations of women and men in their households and society but also has a significant impact on women's legislative leadership to initiate political debates and pass necessary legislations for women, such as anti-GBV laws, in Parliament. A small number of women in Parliament results in the lack of a gender lens in the process of reviewing legislation and relative budgets, which ultimately weaken a state's capacity to provide support for victims and resolve GBV. The Botswana courts' failure to penalise and prohibit domestic violence indicates that institutional transformation is necessary as a resolution to fundamentally address GBV in that country.

What we derive from this comparative analysis is that both legal and political dimensions construct crucial parts of the institutional characteristics and their significance on the prevalence of GBV in South Africa and Botswana. However, there are still limitations that need to be addressed to continue further discussions on the eradication of VAW. First, a critical barrier to resolving GBV comes from the fact that it is impossible to discern the scale of women's experience of violence with any accuracy. Even though this study used official statistics provided by the WHO, huge reliability gaps have come about between the data on the prevalence of GBV, depending on the data-collecting agencies. Whereas the WHO data shows that the lifetime

prevalence of VAW is 24 per cent in South Africa, domestically collected data reveals that 77 per cent of women in Limpopo province, 51 per cent in Gauteng province and 45 per cent in Western Cape province have ever experienced GBV and more than 50 per cent of women have experienced abuses by their intimate partners (Gender Links and SAMRC 2011). In the case of Botswana, 67 per cent of women reported having experienced GBV, and 48 per cent of men admitted to perpetrating violence against their female partners (Gender Links and Women's Affairs Department 2012). It may be because investigators employ different measures in the survey, including different forms of violence, or that victimised women may have differing willingness to report their experience of violence.

More significantly, Samuel Huntington's institutional myth remains one of the major impediments in executing a long-term plan for the eradication of GBV (Groth 1979). Huntington (1968) claims that if the pace of social mobilisation outran the ability of political institutions to incorporate new actors, society would submit to political decay. While both countries have legal and institutional strategies, grassroots women's rights movements and diverse gender-transformative programmes to tackle GBV, system-wide changes in the social and cultural stereotypes of gender relations seem to take much longer. It is necessary to explore proper measures to remove the unfreedoms of women, generated by structural gender inequalities that have been worsened under colonialism and patriarchy, especially in the African region. Essentially, GBV in Africa cannot be addressed unless the intersectionality of sociocultural and institutional limitations, which constructs unequal power relations between women and men, is properly challenged. This task can be achieved only when domestic and international policymakers consider the multilayered discriminative factors that allow VAW in an integrated and inclusive fashion.

The strategy to tackle GBV should overcome and go beyond the instrumental rhetoric of victimising women for the sake of resource mobilisations for national development, regarding them as the subjects of development. Instead, it requires the reforms of laws and institutions to have gender-discriminative norms and attitudes and the social recognition of GBV as a manifestation of unequal power relations between women and men. To resolve VAW and achieve ultimate gender justice, it requires a better understanding of inequality within gender relations and of the significance of the impacts of institutions, laws and policies and civil society's movements on recognising and tackling the systematic construction of gender disparity.

## Notes

1. This work was supported by the Ministry of Education of the Republic of Korea and the National Research Foundation of Korea (NRF-2021S1A5B8096026), as well as the Asia-Africa Center of Seoul National University.
2. IPV refers to the gendered violence conducted by a current or former husband or male intimate partner, while non-partner violence refers to the violence perpetrated by anyone else other than the partners, including male relatives, friends, acquaintances, or strangers. The research utilises the data of IPV because there are no specific statistics about the prevalence of non-partner violence by country.
3. <https://unimelb.libguides.com/c.php?g=929734&p=6718215>, accessed 17 April 2022; <https://www.gov.bw/legal/background-judiciary>, accessed 17 April 2022.
4. For more details on South Africa's constitutional change in 1996, refer to Dixon and Roux (2018).
5. <http://www.mmegi.bw>, accessed 27 August 2022.
6. *Prior v Battle and Others* (1999) (2) SA 850 (TK).
7. *Shilubana and Others v Nwamitwa* 2009 (2) SA 66 (CC).
8. *S v Baloyi* 2000 (1) BCLR 86 (CC).
9. *Van Eeden v Minister of Safety and Security* 2001(4) SA 646 (T).
10. *Mogodu v State*. Maun Criminal Case No. M 05 of 2003.
11. The Southern African Development Community (SADC) was established as a form of development coordinating conference (SADCC) in 1980 and then transformed into a community for the development of southern African countries in 1992. It aimed at achieving equitable and sustainable development, including economic development, peace and security, and enhanced quality of life of the peoples in southern Africa through regional co-operation and integration. SADC Objectives: <https://www.sadc.int/about-sadc/overview/sadc-objectiv/>, accessed 20 April 2022.
12. See <https://www.sahistory.org.za/article/south-africas-2019-general-election-post-analysis> Accessed 15 July 2023.
13. South Africa's national gender machinery has been led by three major institutions: the Office on the Status of Women (OSW) at the national executive level, the Committee on the Improvement of the Quality of Life and the Status of Women (CIQLSW) at the parliamentary level, and the Commission on Gender Equality (CGE), a constitutionally established independent body.

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# Does Having more Children Reduce Women's Labour Market Participation? Evidence from Kenya

Martin Mulwa\*

## Abstract

Using the Kenya Demographic Health Survey 2014, this article estimates the motherhood penalty in Kenya's labour market. To control for endogeneity, the study used mixed-sibling sex preference to explain the exogenous variation in fertility. The results from the auxiliary regression show the existence of 'mixed-sibling' sex preference in Kenya. The probability of having an additional child increases by 24.77 per cent for women whose first two children are the same sex. The instrumental variable model shows that the exogenous variation in fertility afforded by mixed-sibling sex preference significantly reduces the probability of women's labour supply for decent work by 4.29 per cent. The effect of fertility is heterogeneous across age groups. The article finds that labour supply for decent work reduces by 6.08 per cent and 8.29 per cent for women in the age groups 15–24 and 24–34, respectively. Policy incentives such as providing access to affordable childcare services are critical in reducing the motherhood penalty.

**Keywords:** endogeneity; fertility; Kenya.; labour supply; women

## Résumé

À l'aide de l'Enquête démographique et de santé du Kenya de 2014, cet article évalue le désavantage lié à la maternité sur le marché du travail du Kenya. Aux fins de contrôle de l'endogénéité, l'étude a utilisé la préférence pour une mixité frères-sœurs pour expliquer la variation exogène de la fécondité. Les résultats de la régression auxiliaire montrent l'existence d'une préférence pour une mixité « frères et sœurs » au Kenya. La probabilité d'avoir un enfant supplémentaire augmente de 24,77 pour cent pour les femmes dont les deux premiers enfants sont du même sexe. Le modèle à variables instrumentales

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montre que la variation exogène de la fécondité induite par la préférence pour une mixité frères-sœurs réduit considérablement la probabilité pour les femmes d'accéder à un travail décent (4,29 pour cent). L'effet de la fécondité est hétérogène selon les groupes d'âge. Le document révèle que l'offre de main-d'œuvre pour un travail décent baisse respectivement de 6,08 pour cent et de 8,29 pour cent pour les femmes des tranches d'âge de 15 à 24 ans et de 24 à 34 ans. Les incitations politiques telles que l'accès à des services abordables de garde d'enfants sont essentielles dans la réduction des désavantages liées à la maternité.

**Mots-clés :** endogénéité ; fertilité ; Kenya ; offre de main-d'œuvre ; femmes

## Introduction

Recently, much progress has been made in recognising the rights of women. However, inequalities are still prevalent particularly in the labour market. The International Labour Organization (ILO) statistics for 2019 show that the labour market global gender gap is 27 per cent (ILO 2019) and the wage gender gap is 20 per cent (ILO 2018). Studies that have investigated the labour-market gender differentials have presented contrasting results. Some argue that labour-market gender differentials can be explained by human-capital differentials, in that women who are well-educated have equal chances of entering the labour market (Siphambe and Thokweng-Bakwena 2001; Nordman and Wolff 2009; Totouom, Mboutchouang and Kaffo Fotio 2018). On the other hand, some studies show that despite human capital improving labour-market outcomes, it does not eliminate gender differentials (Nicita and Razzaz 2003; Nordman, Robilliard and Roubaud 2011; Kuépié 2016; Mulwa and Gichana 2020). Other studies claim that labour-market gender differentials emanate from the fact that women disproportionately bear a great burden in household production associated with childbearing and care responsibilities (Waldfoegel 1998; Angrist and Evans 1998; Agüero and Marks 2008).

In the context of sub-Saharan Africa, where the total fertility rate is approximately five children per woman (Westoff, Bietsch and Koffman 2013), fertility can generate penalties, especially in the labour market. From a theoretical perspective, Becker (1991) argued that the procreation role of women can affect women's labour productivity and supply. Gronau (1977) argued that labour supply is a choice variable that involves choosing between leisure, unpaid care, and market work. The presence of children, the price of market substitutes for childcare, and potential wage, among other factors, determine the trade-off for time allocation between the three uses of time. Thus, an increase in the number of children implies increased time for

childcare and reduced time for market work and leisure. Alternatively, if the price of substitute for childcare is affordable, then the decision for market work increases and that of household production decreases.

Empirically, studies that have analysed fertility and labour supply show that fertility significantly reduces women's labour-market participation (Angrist and Evans 1998; Jacobsen, Pearce and Rosenbloom 1999; Chun and Oh 2002; Cruces and Galiani 2007; He and Zhu 2016; Kuépié 2016; Goldin 2014; Adda, Dustmann and Stevens 2017). However, the effect of fertility goes beyond labour-market participation. Women with children earn less, work for less (paid) hours and work in less prestigious jobs (Browning 1992; Waldfogel 1998). Similarly, studies that have estimated the effect of childbearing on men find that men's labour-market participation increases with the number of children (Angrist and Evans 1998; Kuépié 2016). Therefore, households respond to an increased number of children by either reducing the mother's labour supply or by purchasing childcare services in the market.

A key policy question is, to what extent do more children generate penalties for women's labour supply? Even though the question is relevant within the policy space, its answer is not straightforward because fertility is plausibly endogenous in the labour supply equation. Children are a choice variable that might be affected by a woman's labour-market participation status (Agüero and Marks 2008). Reverse causality is plausible, where women's participation in the labour market affects the fertility decision. Similarly, there are likely to be omitted variables that are unobservable, such as career ambitions, that affect both fertility and labour-supply decisions (Rosenzweig and Wolpin 1980; Agüero and Marks 2008). For instance, women in high-earning careers might decide to have fewer or no children due to unobserved factors brought about by the nature of their jobs. Failure to account for this endogeneity might result in biased estimates.

Most studies use the instrumental variable (IV) technique to deal with the potential endogeneity bias. However, the challenge arises in finding a valid IV that is strongly correlated with fertility and is plausibly exogenous in the labour supply equation. Some studies have used twins as IV for fertility (Rosenzweig and Wolpin 1980; Jacobsen *et al.* 1999; He and Zhu 2016), whereas others construct an IV from the sex composition of children (Angrist and Evans 1998; Cruces and Galiani 2007). Other exogenous variations of family size are son preference (Chun and Oh 2002), abortion legislation (Bloom *et al.* 2009) and infertility shocks (Agüero and Marks 2008).

Rosenzweig and Wolpin (1980) argue that the exogenous variation of fertility is affected by twins because if families have an unexpected child, this makes the control and treatment groups randomly assigned. However,

the drawback in this identification is the scarcity of twins at first birth (Nakamura and Nakamura 1992) and that twins might not be entirely random, with multiple births being common among women undergoing fertility treatment (He and Zhu 2016). For sex composition of children, Angrist and Evans (1998) argue that parents prefer a mixed-sex composition as opposed to children of the same sex. Parents whose first children are of the same sex have a higher probability of conceiving an additional child, and given that the sex of a child is randomly assigned, it becomes a good IV for fertility for those with at least two children. For the son preference IV, Chun and Oh (2002) provide evidence in the Korean context that originates from differentials in the labour-market performance between women and men. Families who have a daughter at first birth are likely to have another child until they conceive a son, and given that the sex of a child is randomly assigned, this becomes a good IV for fertility. For abortion legislation, Bloom *et al.* (2009) argues that even though the legislation to do with abortion reflects broader societal trends that might correlate with women's labour supply, the timing of such legislation is random and exogenous. Agüero and Marks (2008) propose that alternative exogenous variation in fertility is generated by infertility shocks. Infertility affects childbearing and, besides increasing with age, is almost randomly assigned. Regardless of the approach used to determine the exogenous variation of family size, virtually all studies show that women's labour-market participation decreases with the number of children.

### **Background Information on Kenya**

In Kenya, there are gender inequalities in access to opportunities especially in the labour market. The gender gap stands at 5 per cent, with women's labour force participation rate at 72.1 per cent compared to 77.3 per cent for men (Baumann, 2021) and more women working part-time than men, accounting for 36.2 per cent compared to 21.1 per cent of men (KNBS 2018). Further, women are underrepresented in wage employment. In 2021 they made up only 39.3 per cent compared to men (60.7 per cent), which is a slight improvement from 2019, when women accounted for 35.5 per cent of the wage employment (KNBS 2022). In addition, women earn less than men: the wage gap is estimated at 68 per cent (WEF 2019). Women find it hard to secure their first employment and oftentimes are overrepresented in the agricultural and informal sectors (Mulwa and Gichana 2020). Women account for 68 per cent of those in vulnerable employment compared to 39 per cent of men (KNBS 2020b). In addition, women total 70 per cent of the workers in the agricultural sector, which is categorised by low earnings and

productivity (KNBS 2019). For those women employed in the agricultural sector, 43 per cent are not paid wages and only 9 per cent receive in-kind payments (KNBS 2014). The low representation of women in the labour market could be due to the traditional role assigned to women. In 2019, women spent an average of 11.1 hours on unpaid work compared to 2.9 hours by men (KNBS 2019). The implication of this is that women have less command of economic resources. The female Gross National Income (GNI) is estimated at KES 3,666 compared to KES 4,829 for men (Baumann 2021).

Women's participation in the labour market in Kenya could potentially be linked to fertility rates. In Kenya, total fertility rates have decreased sharply from 7.2 births per woman in 1989 to 3.9 in 2014 (DHS 2014). With decreased fertility, women's labour force participation has increased by 5 per cent from 1989 to 2015 (KNBS 2018). With the fertility rate at 3.9 births per woman, this implies that a woman is expected to have at least four children in her lifetime (KNBS 2014). According to the Demographic Health Survey (DHS) report (2014), the highest fertility rate is among women between the ages of 25 and 34 (331 per 1000) and 15 to 24 (302 per 1000). At the same time, women's labour-force participation is lowest among the age group 15 to 19, at 18.8 per cent, and 20 to 24, at 53.1 per cent. This compares with men's labour force participation at 34.7 per cent for the age group 15–19 and 75.8 per cent for the age group 20–24, and over 70 per cent for the age group 25–49 in 2014 (KNBS 2014). On average, by her late twenties a woman in Kenya has at least two children and in her thirties she has more than four children. The high fertility rate of women in these age brackets could be as a result of high marriage rates. Marriage, which is linked to childbearing, starts early in Kenya. DHS (2014) shows that 29 per cent and 48 per cent of women were married by age 18 and 20, respectively. On average, women who marry at an early age are more likely to have their first child at a young age and have more children in their lifetime. According to DHS (2014), men marry relatively late compared with women – on average, the mean age of marriage for men is 25.3 years. Childbearing linked to marriage imposes an additional burden on women due to increased time spent on unpaid care, which might cause a delay in labour-market entry, withdrawal from the labour market or suboptimal labour participation.

Despite the decline in fertility coinciding with women's increased labour-force participation, there is a scarcity of household studies that estimate the relationship between fertility and women's labour-market participation in Kenya. The existing studies on labour-market outcomes in Kenya (Kabubo-Mariara 2003; Wambugu 2011; Mulwa and Gichana

2020) have not specifically estimated the childbearing burden within the Kenyan labour market. Kabubo-Mariara (2003) and Mulwa and Gichana (2020) present evidence of a gender penalty in the Kenyan labour market, with women highly discriminated against. Therefore, the purpose of this article is to estimate the causal effect of fertility on women's labour supply and offer policy insights that could help reduce the motherhood penalty.

The novelty of the study is that it investigates whether the gender penalty witnessed within the Kenyan labour market could be explained by the fertility burden imposed on women. Second, instead of focusing on fertility and overall labour market participation, the article pays particular attention to the effect of fertility on decent jobs. Third, unlike previous studies that present evidence of the effect of the fertility burden on labour supply from developed countries, this article provides evidence from a developing country. Finally, the article contributes to the causal discussion of childbearing and women's labour supply (Angrist and Evans 1998; Chun and Oh 2002; Cruces and Galiani 2007; Xiaobo and Rong 2015). Cruces and Galiani (2007) have argued that the 'mixed-sibling sex preference' IV can be generalised in developing countries context, quantitatively and qualitatively. This article explores to what extent the identification strategy proposed by Angrist and Evans (1998) can be applied in the developing country context. The identification of the instrument is drawn from parents' preference for the mixed-sex composition of their children rather than a same-sex composition.

The rest of this article is arranged in the following order. The next sections give the data and summary statistics, explain the estimation strategy used and discuss the results before inferring conclusions and policy implications.

## **Data and Summary of Statistics**

The article used cross-sectional national representative data obtained from the DHS, which was conducted in 2014. The dataset contains information for 31,079 women. The data captures information about fertility, sociodemographic factors and labour-market participation for women aged 15 to 49. Fertility is measured by the total number of children who had not reached 18 years at the time of the survey. Although the main concern of the DHS is not labour-market conditions, this article makes use of information on groups of occupation. The survey groups occupations in seven categories: professional/technical/managerial; clerical; services; skilled workers; self-employed in agriculture; household and domestic workers; and low-skilled workers. The article uses the first four groups to plausibly infer 'decent jobs in the wage sector', which is an indicator of integration in the labour market. For individuals who are self-employed in agriculture it is difficult



to distinguish the factors of a decent job; therefore, they are not included in the decent job category. For this reason, it is plausible that the indicator of decent job used in this article underestimates the population who are in the decent job category. It is important to note that this misspecification might lead to an attenuation bias in the estimation of the fertility burden in the labour market. Therefore, the results need to be interpreted as the lower bound of the actual estimate.

The article restricts itself to married women, given that they have the highest fertility rate compared to those who are unmarried (DHS 2014). Due to this modification on the initial dataset, 15,126 observations were used to estimate the effect of fertility on women’s labour supply. The summarised statistics from the sample dataset are presented in Table 1. On average, 8.9 per cent of married women are in decent jobs. The average number of children is 3.2, with the average age of the mother at first birth being 19. The average years of schooling are 9.1. On average, 84 per cent of the women are Christian. Given that fertility is endogenous in the labour-force equation, the same sex variable is used as the IV. On average, 41 per cent of women have children of the same sex, 21 per cent of women have the first two children as boys and 19 per cent of women have the first two children as girls.

**Table 1:** Summarised statistics

Variable	Measurement	Mean	Standard Deviation
Labour supply	1 if working in high-end job, 0 otherwise	0.0892	0.2851
Children	The number of children	3.2970	1.7473
Age at first birth	Years	19.5902	3.5750
Age	Age in years	31.3353	7.6818
Education	Years of schooling	9.1030	4.8275
Husband’s occupation	Husband’s occupation in the labour market	0.4647	0.4988
Christian	1 if Christian, 0 otherwise	0.8462	0.3607
IV			
Same sex	1 if the first two children are of the same sex, otherwise 0	0.4148	0.4927
Two_boys	1 if the first two children are boys, 0 otherwise	0.2179	0.4128
Two_girls	1 if the first two children are girls, 0 otherwise	0.1969	0.3977
Observations		15,126	

## Empirical Strategy

### *Empirical model*

The study uses the two-stage least square model (2SLS) to control for endogeneity of fertility in the labour-market participation decision. In the first stage, fertility is regressed against the IV and the control variables to predict the number of children.

The fertility decision equation is given as:

$$X_i = \delta V_i + \gamma S_i + \mu_i \quad (1)$$

where  $V_i$  is a vector of sociodemographic factors;  $S_i$  is an indicator of the sex composition, which equals 1 if the first two children are the same sex, otherwise zero.

In the second stage, the labour-market participation equation is expressed as follows:

$$Y_i = \alpha V_i + \beta X_i + \varepsilon_i \quad (2)$$

where  $Y_i$  is a binary variable for women's labour-market participation, which equals 1 if working (decent job), otherwise zero;  $X_i$  represents the number of predicted children obtained in the first stage analysis. Given equation 1, that is, the fertility equation has an additional exogenous variable  $S_i$ , the system of equations is exactly identified.

### *Strength of the instrument*

The auxiliary (first stage) regression shows that the *same-sex* variable is a relevant and strong instrument for fertility (see Table 2). The F statistic for same sex is 155.69 and is statistically significant at 1 per cent and the F statistic for two boys and two girls is 78.09 and is statistically significant at 1 per cent.

The results show that the probability of having an additional child increases by 24.77 per cent for women whose first set of children are of the same sex, by 25.87 per cent for those who have two girls and by 23.78 per cent for those who have two boys, all at a 1 per cent significance level. The 2.1 percentage point difference might be due to a cultural preference for boys but there is no substantial evidence of son preference. Cruces and Galiani (2007) in Argentina and Mexico, and Angrist and Evans (1998) in United States, document a similar cultural preference for boys. Generally, the results indicate a mixed-sex composition preference in Kenya with a slight bias for boys. The mixed-sex preference exists in the United States (Angrist and Evans 1998) and in Argentina and Mexico (Cruces and Galiani 2007).

**Table 2:** Auxiliary regression

Independent Variables	Children	
	Age (years)	0.4752*** (0.0101)
Age at first birth	-0.1853*** (0.0030)	-0.1853*** (0.0030)
Age*age	-0.0049*** (0.0002)	-0.0049*** (0.0002)
Education	-0.0811*** (0.0023)	-0.0811*** (0.0023)
Husband’s occupation	0.0114 (0.0191)	0.0114 (0.0192)
Christian	-0.1667*** (0.0301)	-0.1668*** (0.0301)
Same sex	0.2477*** (0.0199)	
Two boys		0.2378*** (0.0243)
Two girls		0.2587*** (0.0253)
Constant	-2.0433*** (0.1607)	-2.0423*** (0.1607)
Note: Parentheses indicate standard errors; ***, ** and * indicate significance at 1%, 5% and 10% respectively		

***Exclusion restriction***

After establishing ‘mixed-sex’ preference, the next step is to determine the validity of the *same sex* variable in instrumenting for the number of children within the Kenyan context. This identification strategy is drawn from parents’ preference for a mixed-sex composition of children rather than a same-sex composition. Arguably, the sex composition is randomly assigned and does not affect women’s labour supply directly, which provides a plausible instrument to explain for exogenous variation in fertility. Although the exclusion restriction is not directly testable, its plausible exogeneity must be discussed (Conley, Hansen and Rossi 2012). In this article’s context, the possible treats to exogeneity of the *same sex* instrument are discussed.

First, it could be argued that within the developing country context, and particularly in Kenya, families would have a greater preference for sons, which could potentially alter children's sex composition, through selective abortion (or stopping rules), hence threatening the validity of the IV. However, the data shows the contrary, that the sex ratio of infants (of boys to girls aged 0–1) is almost identical to the biological ratio, which is 1.02 and 1.01, respectively (DHS 2014), and therefore rules out the possibility of son preference. Moreover, the infant sex ratio shows no evidence of a son preference effect on the mortality rates for girls. Actually, the DHS (2014) shows that male children have a higher mortality rate than female children (44 deaths vs. 37 deaths per 1000).

In addition, son preference might emanate from expected future contribution, where sons are expected to support their families; when daughters are married, they have to take care of their own families and their husband (Basu and Gupta, 2001). If this form of son preference existed then it would imply that families invested more in sons in terms of human-capital accumulation as it is expected that they would earn more in the future and therefore contribute more to the parents' wellbeing. However, the data indicates that this seems not to be the case. For instance, the primary school enrolment for boys and girls is virtually the same, at 50.69 per cent and 49.30 per cent, respectively (KNBS 2022). Secondary school enrolment is slightly higher for girls than boys (50.12 per cent and 49.88 per cent, respectively). Enrolment rates in tertiary education for girls almost match those of boys. This evidence rules out the concern that due to son preference parents would invest in the human capital of sons more than daughters.

Another concern about the validity of the *same-sex* variable relates to the 'hand-me-down' effect identified by Rosenzweig and Wolpin (2000). In their study, they show that households with *same-sex* siblings in India have a lower per-child expenditure than those with mixed-sex siblings. They argue that this is because of the 'hand-me-down' savings on clothing and footwear items that are likely to be witnessed in households with *same-sex* siblings. They argue that given the significant share of these items to the total household expenditure, the sex composition might alter labour supply through other channels other than through fertility. Therefore, if sex composition directly affects labour supply, then the validity of the *same-sex* variable is threatened.

Although data on per-child expenditure in Kenya is not available, the data shows that it is implausible that sex composition has a significant effect on total expenditure. In Rosenzweig and Wolpin's (2000) study they found

that the share of expenditure on clothing and footwear for children under 18 years was 11 per cent. According to the Kenya Statistical Abstract, the share of clothing and footwear is 3 per cent for all household members (KNBS 2020a). This share is significantly lower because it represents the clothing and footwear share of expenditure for all members of the household, not only for children under 18 years. Further, Rosenzweig and Wolpin (2000) estimate the 'hand-me-down' savings to be 1.3 per cent of total income. Assuming that these savings existed in the Kenyan context, their share would be too small to account for any significant effect on the mother's labour-supply decision.

Thus, the evidence suggests that son preference in Kenya is almost non-existent and the evidence of a bias towards boys presented in the first-stage regression is mainly due to cultural preference and not strong evidence of discrimination against girls. Sex composition is unlikely to affect the consumption pattern especially for items such as clothing and footwear. Therefore, the *same-sex* variable is plausibly exogenous and is a valid instrument for fertility in the labour-supply equation.

## Results

### *Main results*

Table 3 presents the main results of the study while controlling for demographic factors such as age, age at first birth, years of schooling, husband's occupation and religion. In the first column, we present the OLS estimates; the second column presents the IV model with the *same-sex* variable; the third column presents the results when *two boys* and *two girls* variables are used as instruments for the number of children.

The OLS model estimates show that for every additional child a woman's labour market participation decreases by 0.87 per cent at a 1 per cent significance level. The OLS estimates are not reliable given the endogeneity bias that arises when estimating fertility and labour supply (Chun and Oh 2002). The IV model is estimated to correct for the potential endogeneity.

After correcting for endogeneity using the *same-sex* variable as the IV, the results show that the OLS underestimates the childbearing effect on women's labour-market participation. The difference is due to the exogenous variation in family size explained by the sex composition. The results show that women's labour supply (that is, in decent jobs) decreases by 4.29 per cent for every additional child at a 1 per cent significance level. The result is consistent with the results from developed countries (Angrist and Evans 1998; Jacobsen *et al.* 1999; Goldin 2014; Adda *et al.* 2017) and developing

countries (Chun and Oh 2002; Cruces and Galiani 2007; Agüero and Marks 2008; He and Zhu 2016; Kuépié 2016) that show a similar negative effect of childbearing on a mother's labour supply.

**Table 3:** Main results

Independent Variables	Ols (I)	IV Model (ii)	(ii)
Age (years)	0.0107**** (0.0024)	0.0274*** (0.0182)	0.0271*** (0.0092)
Age*age	-0.0001**** (0.0000)	-0.0003*** (0.0001)	-0.0003*** (0.0001)
Age at first birth	0.0011 (0.0007)	-0.0053 (0.0035)	-0.0052 (0.0035)
Education	0.0110*** (0.0005)	0.0081*** (0.0015)	0.0082*** (0.0016)
Husband's occupation	0.1854*** (0.0043)	0.1858*** (0.0043)	0.1858*** (0.0043)
Christian	-0.0298*** (0.0068)	-0.0355*** (0.0075)	-0.0354*** (0.0075)
<i>Number of children</i>	-0.0087*** (0.0018)		
<i>Same-sex</i>		-0.0429*** (0.0182)	
Two boys and two girls			-0.0423
Observations	15,126	15,126	15,126
F statistic	373.79***	2440.87***	2542.79
Overidentification test Sargan-test			$X^2 = 0.3516$ ( $p = 0.5532$ )
Basmann test			$X^2 = 0.3514$ ( $p = 0.5533$ )
Note: Parentheses indicate the standard errors; ***, ** and * are significant at 1%, 5% and 10% respectively			

The third column decomposes the *same sex* IV into the specific sex of the children. The results show that each additional child decreases women's labour supply (in decent jobs) by 4.23 per cent. Angrist and Evans (1998) argue that bias from any secular effects of a child's gender on labour supply would be different for the two IVs, whereas the effect of children on the

labour supply seems independent of whether the *same-sex* variable equals that of *two boys* or *two girls*. Given that the endogenous variable is one with two IVs, an overidentification test must be performed. The Sargan-Basmann test rejects the null hypothesis at a 10 per cent significance level that the *two boys* and *two girls* IVs are overidentified in the labour-supply equation, and therefore they are valid instruments.

To ensure the robustness of the results, the article accounts for the heterogeneity of age groups in the childbearing effect on women's labour supply. The article considers the following three age groups: 15–24; 25–35; and 35–49.

**Table 4:** Robustness analysis: checking for heterogeneity across age groups

Independent Variables	Sub-Sample Age Group 15–24 (i)	(ii)	Sub-Sample Age Group 25–34 (iii)	(iv)	Sub-Sample Age Group 35–49 (v)	(vi)
Age	0.0134 (0.0421)	0.0134 (0.0421)	0.1026*** (0.0337)	0.1004*** (0.0335)	0.0116 (0.0260)	0.0116 (0.0259)
Age*age	0.0002 (0.0010)	0.0002 (0.0010)	-0.0015*** (0.0005)	-0.0014*** (0.0005)	-0.0001 (0.0003)	-0.0001 (0.0003)
Age at first birth	-0.0183*** (0.0061)	-0.0183*** (0.0061)	-0.0152* (0.0081)	-0.0143* (0.0080)	0.0024 (0.0055)	0.0024 (0.0054)
Education	0.0057*** (0.0013)	0.0057*** (0.0013)	0.0054** (0.0028)	0.0057** (0.0028)	0.0139*** (0.0042)	0.0139*** (0.0042)
Husband's occupation	0.1283*** (0.0085)	0.1282*** (0.0085)	0.2040*** (0.0067)	0.2039*** (0.0067)	0.1937*** (0.0076)	0.1937*** (0.0076)
Christian	-0.0109 (0.0125)	-0.0108 (0.0125)	-0.0378*** (0.0130)	-0.0370*** (0.0129)	-0.0626*** (0.0141)	-0.0626*** (0.0140)
<i>Number of children</i>						
Same sex	-0.0608*** (0.0227)		-0.0829*** (0.0349)		-0.00006 (0.0038)	
Two boys and two girls		-0.0607*** (0.0226)		-0.0790** (0.0345)		-0.00007 (0.0385)

Note: Parentheses indicate the standard errors;

\*\*\*, \*\* and \* are significant at 1%, 5% and 10% respectively

The results from Table 4 show that after accounting for heterogeneity across age groups, the effect of childbearing is higher for women in the age group 25–34 compared with women in the age group 15–24 and those in age group 35–49. When considering the same sex instrument, for women aged 15 to 24 the results show that every additional child decreases women's labour supply by 6.08 per cent at a 1 per cent significance level. For women aged 25–34, an additional child decreases labour supply by 8.29 per cent at a 1 per cent significance level. When the same sex instrument is decomposed into two boys and two girls, the effect of childbearing is still higher for women aged 25–34. For women aged 15–24, for every additional child, labour supply decreases by 6.07 per cent at a 1 per cent significance level, whereas for women aged 25–34, for every additional child, labour supply decreases by 7.9 per cent at a 5 per cent significance level. The results show that the effect of childbearing for women in the age group 35–49 is non-existent and statistically insignificant. This result is in line with the fact that childbearing is a positive function of age (see Table 2) and the labour-supply effect increases with age.

## **Discussions and Policy Implications**

### ***Discussions***

The article analysed the causal effect of fertility on women's labour supply in Kenya. With fertility being endogenous in the labour-supply equation, the article corrects for this endogeneity using IV. The article uses 'mixed-sex' preference to draw an exogenous variation in fertility. The identification of the instrument is drawn from parents' preference for mixed-sex composition rather than *same-sex* composition. Arguably, the sex composition of the first two children is randomly assigned, which provides a plausible instrument to explain variation in family size and labour-supply decision.

The results from auxiliary regression show the existence of 'mixed-sex' preference for families in Kenya, with women more likely to have additional children if the first two children are of the same sex. The IV results show that women's labour-market participation for decent jobs decreases by 4.29 per cent for every additional child at a 1 per cent significance level. For women in the age bracket 15–24 years, labour-market participation decreases by 6.08 per cent, and for women aged 25 to 34 years it decreases by 8.29 per cent. One possible explanation for this result is the high fertility rate – the DHS (2014) shows that the highest fertility is among women between the ages of 25 and 34 (331 per 1000) and 15 to 24 (302 per 1000). On average, by her late twenties a woman in



Kenya has had at least two children and, in her thirties, she has had more than four. Another possible reason could be that women in this age group (15–24) are mostly in school, whereas those aged 25 to 34 are mostly starting their career and motherhood imposes significant costs on their career trajectory. For women in the age group 35–49, the results show that they do not significantly face the motherhood penalty in the labour market. It is plausible that the effect on women in the age group 35–49 is non-existent given that most women give birth at very early ages and the effect of childbearing disappears as they get older. A further possible explanation for this result is that women between the age of 35 and 49 years face extra costs in raising children, such as education costs, which might result in an increased labour-market participation. Rosenzweig and Wolpin (1980) found a similar result when using twins to instrument for exogenous variation of family size – that women within the ages of 35 and 44 years do not experience a motherhood penalty. The results show that the duration of the effect of childbearing is incurred during the ages of 15 to 24 and 24 to 34, then disappears in ages 35 to 49 years. This implies that the motherhood penalty is not necessarily permanent but rather occurs for specific age groups and disappears once women reach the age of 35 to 49 years.

In general, these results imply that an increased number of children reduces women's time for paid work and increases the time they allocate for childcare. This could be taken to mean that much of the gender differentials witnessed in Kenya (Kabubo-Mariara 2003; Mulwa and Gichana 2020) could be explained by fertility. The huge penalty witnessed could be because market work is substitutable by time for household production (Willis 1987). An additional child implies an increased marginal value of time in the household as a result of childcare. Within the Kenyan context, women are primary caregivers and are responsible for spending a large portion of their time on household production and unpaid care. Therefore, a mother's time for childcare increases with the number of children, causing a withdrawal from the labour market.

With an underdeveloped market for childcare, the high cost of formal childcare services in Kenya (Lokshin, Glinskaya and Garcia 2004) and the lack of gender-transformative policies that facilitate women's paid work and motherhood, women who have children are likely to drop out of the labour market to take care of their children. These institutional constraints signal to women that it might be difficult to combine motherhood and market work, and thereby lead to a delay in their entry into the labour market, their withdrawal from the labour market or suboptimal labour market

participation. The availability of a well-developed market for childcare services plays a critical role in labour supply, and if the market price for these services is lower than the wage rate for women, then mothers would choose to participate in rather than delay or withdraw from the labour market. Finally, although fertility imposes a penalty on mothers, the reduction in labour-market participation might produce some positive externalities. As mothers devote more time to childcare services than market activities, this might make some children better off (Blau and Grossberg 1992).

### **Policy Implications**

This article shows that childbearing reduces women's labour market participation especially in decent jobs, which could have implications on household income, gender inequalities in the labour market and reduced investment in human capital for children in those households, leading to poverty traps and increased economic inequalities. From a policy point of view, policy incentives that encourage women's labour-market participation are critical to help reduce the motherhood penalty. First, in the Kenyan context, it would be important for government to consider formalising childcare services and providing fiscal incentives to make childcare services more accessible and affordable. This would enable women to create time for market work, especially decent work, and reduce the time allocated for childcare, which in turn could help to reduce gender inequalities in the labour market and social exclusion more broadly. Also, beyond increasing the likelihood of women returning to work after maternity leave, it would act as a signal for future workers – particularly those considering having children. Second, working collaboratively with the private sector, government should consider introducing a policy directive that would ensure that all workers not only have the right to request flexible working arrangements but also that there is an enabling environment for flexible working to be adopted to allow mothers to care for their children without hindering their career progression. Such policies could play a significant role in reducing women's labour-supply withdrawal and delay in entry into the labour market.

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# Food Price Changes and Consumption Adaptation Models in Enugu State, Nigeria Amidst Covid-19 Pandemic Shocks

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## Abstract

The Covid-19 pandemic was a global disaster that affected the food security status of the world. This article examined food price changes and consumption adaptation models in Enugu State, Nigeria, to ascertain people's consumption patterns and the usefulness of palliative measures given to them. Primary data was generated through a survey of eighty respondents. The secondary data was compiled from monthly reports of food prices by the National Bureau of Statistics and was analysed using descriptive statistics, the Consumer Price Index and chi-square tests. The price indices of food items like white garri and sweet potatoes showed very high inflation during the pandemic period. The number of households who ate only once a day increased, and those who ate three times a day decreased. The chi-square result on differences in eating habits and meal regimen before and during Covid-19 is significant. Many of the respondents received palliative aid during the pandemic. The article recommends that the government should encourage farmers to increase their production by providing them with loans and subsidies so that they may produce enough food in times of emergency like the pandemic.

**Keywords:** food prices; Covid-19; households; consumption; palliative aid; Nigeria

## Résumé

La pandémie de Covid-19 a été une catastrophe mondiale qui a affecté la situation de sécurité alimentaire dans le monde. Afin de déterminer les modes de consommation des populations et l'utilité des mesures palliatives qui leur

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sont proposées, cet article examine l'évolution des prix de denrées alimentaires et les modèles d'adaptation de la consommation dans l'État d'Enugu, au Nigeria. Les données primaires ont été générées grâce à une enquête menée auprès de quatre-vingts répondants. Les données secondaires ont été compilées à partir de rapports mensuels sur les prix de denrées alimentaires produites par le Bureau national des statistiques. Elles ont été analysées à l'aide de statistiques descriptives, de l'indice des prix à la consommation et de tests de chi carré. Les indices de prix de produits alimentaires comme le garri blanc et les patates douces ont révélé une très forte inflation pendant la période pandémique. Le nombre de ménages qui s'alimentaient une fois par jour a augmenté tandis que celui de ceux qui mangeaient trois fois par jour a baissé. Le résultat des tests de chi carré sur les différences dans les habitudes alimentaires et le régime alimentaire avant et pendant le Covid-19 est significatif. De nombreuses personnes interrogées ont reçu une aide palliative pendant la pandémie. L'article recommande que le gouvernement encourage les agriculteurs à accroître leur production en leur accordant des prêts et des subventions qui leur permettent de produire suffisamment de nourriture pour les cas d'urgence, comme la pandémie.

**Mots-clés** : prix des denrées alimentaires ; COVID-19 ; ménages ; consommation ; aide palliative ; Nigeria

## Introduction

Health, economics and finance tend to drive human sociocultural affairs. People's health outcomes are often a function of dietary intake, physical and social environments and access to medical facilities (Pitt and Rosenzweig 1986; McNamara, Ulimwengu and Leonard 2010). Thus, the agriculture–food–health nexus contribution to human development cannot be overemphasised. The economic effect of the Covid-19 pandemic and lockdown on access to and demand for food led to changes in food prices (Iheme 2022), which skyrocketed around the globe (Vos *et al.* 2022). The spike in food prices in 2021 was largely attributable to the recovery in food demand from the world Covid-19 recession and temporary disruptions in logistics rather than severe food supply disruptions or trade restrictions (Vos *et al.* 2022).

Food prices and consumption models are the major factors that determine how diets affect human health. A balanced diet and good consumption models depend, among other things, on food prices and household income (Mkpado 2012a). Stabilising food prices has always been a major issue in agricultural development and is achieved through enhanced productivity and distribution channels. It is no wonder then

that responsible governments aim at improving the incomes of the people, increasing agricultural productivity and maintaining other policies that will result in good or affordable food prices. These objectives can be reached using sound food security programmes in a framework of good or responsible governance. However, economic meltdown, financial crises and pandemics often shake the food security status of world economies, which could be stabilised by improved agricultural capacity-building (Mkpado 2013a). One of those formidable global shocks that shook the world's economic, political, financial, food security and health status was the recent Covid-19 pandemic.

The Government of Nigeria, like governments across the world, enforced border closures, lockdowns and social distancing to curb the pandemic (OECD 2020). The result was a hike in the cost of transportation with a corresponding increase in the cost of many commodities in the market. The measures affected human relations and physical contact for business purposes. They paved the way for online and digital business transactions and the dissemination of information. Speculative purchases and panic-buying of essential food items prompted a large increase in demand, resulting in shortages and a spike in the prices of commodities at the expense of non-essential food items (Bairagi, Mishra and Mottaleb 2022). Producers and retailers were unprepared for the sudden increase in demand for foodstuffs at the onset of the pandemic and the resultant rise in food prices changed consumer patterns across the world (Stoevska 2020).

Attanasio *et al.* (2013) argue that consumers change their consumption and spending to mitigate the impact on their welfare. With the purchasing power of consumers affected, there was a fall in household consumption. The consumption expenditure pattern of Nigeria in 2019 shows that 56.65 per cent of total household expenditure (about NGN 40.2 trillion) was spent on food and the remaining 43.35 per cent on non-food items (NBS 2019). With food taking up more than half of the household budget, rising costs were likely to mean making some hard choices.

Rising food prices can affect the health of poor households negatively by making it more difficult for them to afford basic food requirements (Mkhawani *et al.* 2016). The livelihoods and choice of diet of farmers, traders, producers and consumers are affected by food prices (FSP 2012). Market prices of commodities are influenced by the devaluation of the local currency through food importation, a drop in the price of crude oil, infrastructural bureaucracy (increasing the cost of production of goods), communal conflicts and clashes between crop farmers and herders leading to less food being produced, shocks such as poor harvests and adverse

weather conditions, supply shocks and pandemics such as Covid-19, which ravaged the entire globe. The food security of the poor can be threatened by the slightest change in food prices because they spend a greater portion of their income on food (Zezza *et al.* 2008; FSP 2012). The rich can easily adapt to these changes because of their higher income.

The world has experienced many crises in the past – the Great Depression of the 1930s, the financial/economic crisis of 2007/2008, and now Covid-19, which caused not just a health crisis but also financial and economic crises as well as social and developmental problems. This study is based on neoclassical theory which states that people react and take actions based on the information they have. The hike in food prices resulting from the Covid-19 pandemic and its associated lockdown made consumers seek coping strategies to feed their households; thus they adapted their food consumption patterns and adjusted their meal intake.

High food prices can affect developing countries directly or indirectly (Holmes, Jones and Wiggins 2008). They do so directly when the international price of food is higher than domestic prices, which occurs when a rise in the currency exchange rate is passed on to domestic prices and makes food less affordable. However, this can encourage local production (Mkpado, Arene and Chidebelu 2012). The indirect effect is felt when international prices are higher, resulting in trade deficits, which may lead to less government revenue with a corresponding reduction in government expenditure and an increase in the unemployment rate.

Food price increases were identified in a number of countries in Africa and Asia from February to May 2020 – a period associated with the rapid spread of Covid-19 (GAIN 2020; FAO Datalab 2020). The increase was highest in very poor African countries like Rwanda (19.5 per cent), followed by Tanzania (12.3 per cent) and Mozambique (10.5 per cent). Kenya (4.21 per cent), Ethiopia (3.44 per cent) and Nigeria (3.10 per cent) were the least affected among selected African countries but the impact on them was comparable to Asian countries like India (3.82 per cent) and Pakistan (2.55 per cent), Indonesia (3.82 per cent), and Bangladesh (0.95 per cent).

The literature on Covid-19 varies in focus, on livelihood or welfare. Covid-19 affected people's livelihood, which adversely affected their welfare. These effects on people's welfare can be measured easily by considering their consumption patterns and associated changes, which reveals the susceptibility of people to economic, social and nutritional challenges. This article, therefore, examined food price changes between March and June 2020 for major food staples like rice, beans, yams, meat, fish and milk, as well as products for baking, such as sugar and flour. It also analysed people's



consumption patterns with respect to food and non-food items. The results indicate what people will give up to obtain necessary food items. Analyses of consumption shocks and associated adaptation models are very important in understanding and managing poverty crises.

Mkpado (2012b) noted that during global financial and food crises, household food consumption is adversely affected. People minimise phone calls and clothing purchases to cushion diets that were mostly unbalanced. This was partly due to the very high cost of food items. So this article set out to find answers to questions such as: Did the Covid-19 pandemic shocks affect people the same way? How severely? Did people sell productive assets to feed their family? What was the percentage increase in the price of food staples? What food substitutions did people make between protein and carbohydrate sources? Consumers might include more neglected and underutilised crop species (NUCS) as the price of major foodstuffs increases, so did the NUCS gain more acceptance due to their lower price as consumption and spending patterns were altered to maintain a balanced diet (Attanasio *et al.* 2013; GAIN 2020)? How do people make purchases at minimum cost? Aron (2018) showed that Africa has the lowest number of people using mobile money. Did the period of lockdown compel people to use e-transaction models more?

In light of the above, the objectives of the study were to examine:

1. Food price changes during the Covid-19 pandemic shocks
2. Consumption patterns and adaptations
3. The usefulness of palliative measures offered by government and non-government organisations.

The article's results provide information on what is needed to sustain populations in times of economic, social and health upheaval, and so contribute to emerging issues related to human sustainability amidst global challenges. The study is also very useful in understanding the constraints in achieving the SDGs – especially SDG goal 1, SDG goal 2 and SDG goal 12, among others. For instance, how do higher food prices increase food insecurity and what are the strategies to create a social safety net in the face of such an emergency? Policymakers, development partners and researchers will find useful information in this study on how to improve human welfare especially in the event of crisis or shocks. The findings could enable recommendations to be made to help ordinary citizens, governments and non-government organisations deal better with such challenges.

## **Methodology**

### ***The study area***

The study was conducted in Nsukka Local Government Area (LGA), Enugu State, Nigeria. The state lies between latitudes 5°56' and 7°06'N and longitudes 6°53' and 7°55'E (Ezike, 1998). Nsukka LGA is in one of the three zones that make up Enugu State. The LGA has a population of 309,633, comprising 149,241 males and 160,392 females (NBS 2006). The LGA is the home of the University of Nigeria, Nsukka, and therefore, is a hub of academic and commercial activities, which include farming and skilled craftsmanship/artisanship.

### ***Data collection and sampling procedure***

The study made use of primary and secondary data. Primary data was generated using a well-structured questionnaire given to a random selection of eighty respondents. The questionnaire dealt with consumption patterns, adaptation models and views on palliative measures. Secondary data was generated from monthly reports of food prices by the Nigerian Bureau of Statistics (NBS) E-library.

A multistage sampling technique was used. The first stage was the purposive selection of Nsukka LGA due to its proximity to the researchers, whose travel was restricted by the Covid-19 pandemic. The second stage was the random selection of eight communities in Nsukka LGA. The third stage was the random selection of ten respondents from each community, giving a total of eighty respondents.

### ***Analytical framework***

The data was analysed using descriptive statistics and chi-square tests. The Consumer Price Index (CPI) was also a factor. Descriptive statistics were used in examining almost all the objectives. The socioeconomic characteristics and other valuable information with respect to achieving the objectives were first presented using descriptive statistics, before applying chi-square tests. The Consumer Price Index was described to achieve objective 1 and was also presented in the manner of descriptive statistics. The CPI model is presented in equation 1.

$$\text{CPI} = \frac{\text{Price at Current Period (Month)}}{\text{Price at Base Period (Month)}}$$

The resulting figure can be multiplied by 100 to arrive at a percentage. If the value is less than unity (1) it means deflation but if greater than unity (1) it means inflation. Objectives 2 and 3 involved the use of a chi-square test. The test is implicitly presented as:

$$X^2 = \sum_{i=1}^r \sum_{j=1}^c \frac{(O_{i,j} - E_{i,j})^2}{E_{i,j}} \dots\dots\dots 2$$

Where  $(r-1)*(c-1)$  = a degree of freedom (df) at a 5 per cent probability level ( $p < 0.05$ );  $O$  = observed frequency;  $E$  = expected frequency;  $r$  = number of rows starting from  $i$ ;  $c$  = number of columns starting from  $j$ ; and where the  $X^2$  (chi-square) calculated value greater than the tabulated value at the degree of freedom (df) is considered significant. The chi-square test was chosen for this analysis because the data for the  $X^2$  test is either qualitative or one is qualitative and the other a scaled variable (quantitative). It was used to test consumption patterns before and after Covid-19 (objective 2) and to measure the usefulness of palliative aid irrespective of whether this was received or not (objective 3). It was also used to test the usage of e-transactions – that is, whether an ATM card was owned or not (another component of objective 2).

**Results and Discussion**

***Socioeconomic characteristics of respondents that could affect consumption***

Table 1 indicates the socioeconomic characteristics that could affect consumption. The first is age, which is a crucial factor to consider because age indicates decision-making. The article sampled the opinions of responsible individuals/adults whose minimum age was 20, the maximum was 70, and the mean was 51.78, with a standard deviation of 15.68. The result shows that adults are responsible for taking decisions on consumption patterns to adopt when there are changes in food prices – for instance, whether to consume more non-perishable staple foods, like yam, most of which lack micronutrients except if supplemented (GAIN 2020). Lyu et al. (2015) support this finding, demonstrating that these foods will negatively impact nutrition.

Gender is another critical factor in socioeconomic analysis. In the study there were forty-nine males (61.2 per cent) and thirty-one females (38.8 per cent), which indicates that both males and females are involved in household consumption adaptation to cushion the effect of food price changes.

Of the respondents, 50 per cent were married and living with their spouse, whereas 27 per cent were single and 15 per cent were widows or widowers. This finding shows that the burden of consumption expenditure resulting from food price increase, with particular reference to the Covid-19 pandemic, is borne by more married couples than singles. The good representation of males and females in the sampling indicates that both are involved in household consumption adaptation to cushion the effect of food price changes.

Most of the respondents had tertiary education (30 per cent) followed closely by those with primary education (28.8 per cent); only 21.3 per cent had secondary education. The smallest proportion of the respondents (20 per cent) had no formal educational qualification. The greater percentage of respondents possessing formal education could be due to the presence of the national premier university, which has made the town a hub for academic activities. It should be noted that tertiary education does not refer to degree certificates.

**Table 1:** Socioeconomic characteristics of respondents that could affect consumption

GENDER	AGE/ %						TOTAL
	18–20	21–30	31–40	41–50	51–60	61 and over	18–20
Males	2(4.1)	11(22.4)	6(12.2)	5(10.2)	11(22.4)	14(28.6)	49(100.0)
Females	0(0)	3(9.7)	9(29.0)	4(12.9)	6(19.4)	9(29.0)	31(100.0)
Total	2(2.5)	14(17.5)	15(18.8)	9(11.3)	17(21.3)	23(28.8)	80(100.0)
Marital status							
	Single	Married	Divorced	Widow/ Widower	Separated	Transgender	Total
Males	17(34.7)	23(46.9)	4(8.2)	4(8.2)	1(2.0)	0(0)	49(100.0)
Females	5(16.1)	17(54.8)	1(3.2)	8(25.8)	0(0)	0(0)	31(100.0)
Total	22(27.5)	40(50.0)	5(6.3)	12(15.0)	1(1.3)	0(0)	80(100.0)
Educational qualification							
			No formal education	Primary education	Secondary education	Tertiary education	Total
Males			6(12.2)	18(36.7)	10(20.4)	15(30.6)	49 (100.0)
Females			10 (32.3)	5(16.1)	7(22.6)	9(29.0)	31 (100.0)
Total			16(20.0)	23(28.8)	17(21.3)	24(30.0)	80 (100.0)

Primary occupation							
	Farming	Civil service	Trading	Teaching	Artisan	Not Teaching	Total
Males	30 (61.2)	6 (12.2)	6 (12.2)	1 (2.0)	2 (4.1)	4 (8.2)	49(100)
Females	13(41.9)	10 (32.3)	4 (12.9)	2 (6.5)	0 (0)	2 (6.5)	31 (100.0)
Total	43 (53.8)	16 (20.0)	10 (12.5)	3 (3.8)	2 (2.5)	6 (7.5)	80 (100.0)
No of persons	1–3	4–5	6	7	8	9	Total
Males	21(42.9)	1 (2.0)	13 (26.5)	13 (26.5)	1 (2.0)	0 (0)	49(100)
Females	4 (12.9)	0 (0)	18 (58.1)	7 (22.6)	1 (3.2)	1 (3.2)	31(100)
Total	25 (31.3)	1 (1.3)	31 (38.8)	20 (25.0)	2 (2.5)	1 (1.3)	80(100)
(100.0)							
Income level in naira per month							
	≤20,000	20,001–30,000	30,001–40,000	40,001–50,000	50,001–60,000	60,001–70,000	>70,000 & above
Males	13 (16.3)	8 (10.0)	11 (13.8)	11 (13.8)	2 (2.5)	1 (1.3)	3 (3.5)
Females	5(6.3)	8(10.0)	6(7.5)	7(8.8)	2(2.5)	0(0)	3(3.8)
Total	18(22.6)	16(20.0)	17(21.3)	18(22.5)	4(5.0)	1(1.3)	6(7.6)

Note: Values in parentheses are percentages

Source: Field survey, 2020

Most of the respondents were farmers (53.8 per cent), 20 per cent were civil servants and 12.5 per cent were traders. This result shows that farming is the major occupation of the respondents. As a result, many of the households could feed themselves from their farms to reduce the effect of food price changes. However, the danger was that they might deplete their seed stock for the next planting season.

Household size or family size refers to the number of people in a household who share a common expenditure or budget. The family size has a mean value of 5 with a standard deviation of 3 while the minimum and maximum were 1 and 8 respectively. This implies that the respondents have fairly large families. Large households face a greater challenge in food price changes resulting from the pandemic because it will increase their consumption expenditure. In Nigeria half of the household expenditure goes to food (NBS 2019).

Respondents with a monthly income of less than NGN 20,000 (22.6 per cent) dominated, which implies that most of the respondents were low-income earners who are more prone to food price changes. Mkhawani et al. (2016) stated that rising food prices can negatively affect the health of poor households thereby making it more difficult for them to meet basic food requirements. Low-income earners spend most of their income on food (Zeza et al. 2008).

### ***Foodstuff price analysis using price index***

The food price index is a composite of the inflationary rate. November 2019 was taken as the base month for the food price computation because it was between the October harvesting period, when plentiful supply reduced prices, and the Christmas season, when demand was the highest, thus raising prices (see Table 2). The pandemic shocks were signalled shortly afterwards. In Southeastern Nigeria, where the study was conducted, major food crops like yams, beans and rice are harvested in October.

Food prices showed a very high inflationary rate, as can be seen from Table 2. Garri (a cassava derivative), rice, yams and potatoes were among the carbohydrates with the highest inflationary rate even though they are locally produced. This raises an important question about the food security status of the nation, as higher food prices could result in a lower quantity and quality of food intake. This result agrees with the reports of Polly-Mbah, Ohaka and Mkpado (2010) and Mkpado and Arene (2012), that these carbohydrate staples are price-sensitive and competitive in food markets (see also Ifejirika, Arene and Mkpado 2013).

The price of beans was more stable and showed a deflationary trend apparently because the consumption of carbohydrates exceeds that of legumes. Also, common beans (white or brown) have many substitutes, which are regarded as underutilised crop species and which are gaining market share due to their lower price. This is illustrated in Table 4. Beef, chicken, eggs, Titus fish and catfish, which are highly valued animal protein sources, also indicated price inflation. The result concurs with Abalaka, Mkpado and Ugwu (2013), who noted that animal proteins are more expensive than crop sources in Imo State, Nigeria (see also Mkpado, 2016).

**Table 2:** Foodstuff price analysis using the price index

Types of Food	19 Nov* Base Year Price In Naira	20 Jan	20 Feb	20 Mar	20 Apr	20 May	20 Jun	20 Jul
Agric. eggs, medium size	501.9	0.997	0.953	1.011	1.012	1.025	1.028	1.036
Beans, brown	465.31	0.873	0.85	0.883	0.922	0.925	0.921	0.936
Beef, bone in	1089.08	1.044	1.1	1.08	1.091	1.099	1.084	1.118
Beef, boneless	1484.21	0.991	1.011	0.982	1.021	1.03	1.029	1.025
Bread, sliced 500g	279.55	1.061	0.924	0.906	1.091	1.128	1.082	1.121
Bread, unsliced 500g	255.71	1.059	0.941	0.909	1	1.011	1.003	1.007
Broken rice ( <i>Ofada</i> )	532.75	1.005	1.006	1.032	1.041	1.053	1.054	1.059
Chicken feet	675.32	1.009	1.037	1.088	1.185	1.186	1.203	1.237
Chicken wings	1200	0.996	1	0.983	1	1.033	1.083	1.111
Evaporated tinned milk, Carnation 170g	172.39	1.035	1.018	1.015	1.016	1.023	1.015	1.029
Evaporated tinned milk (Peak), 170g	195	0.989	0.983	1.007	1.012	1.022	1.015	1.031
Frozen chicken	1944.44	0.975	0.953	0.925	0.937	0.981	1.008	1.018
Garri, white	172.73	1.037	1.094	1.158	1.638	1.643	1.514	1.605
Garri, yellow	196.6	1.086	1.149	1.252	1.664	1.675	1.54	1.626
Rice agric., sold loose	480	0.949	0.935	0.905	0.995	1.026	1.01	1.018
Rice local, sold loose	400.74	1	0.992	0.966	1.031	1.049	1.022	1.032
Rice, medium-grain	473.62	0.908	0.889	0.87	1.003	1.024	1.025	1.04
Yam tuber	196.11	1.002	0.958	0.796	1.047	1.068	1.086	1.231
Sweet potato	107.04	1.425	1.241	1.427	1.494	1.434	1.367	1.408
Titus, frozen	1004.49	0.971	0.911	0.966	1.015	1.053	1.07	1.089
Catfish, dried	1236.43	0.978	0.994	1.006	1.041	1.0451	1.062	1.107
Mackerel, frozen	982.2	0.957	0.932	0.892	0.958	1.041	1.103	1.123
Maize grain, white	227.51	0.88	0.848	0.916	0.967	0.991	0.967	0.997
Maize grain, yellow	235.35	0.893	0.841	0.914	1.01	1.017	0.981	1.002

### *Food consumption and adjustments to protein intake*

The high food prices caused consumers to adjust their food consumption with respect to protein. Table 3 shows that most consumers ate carbohydrates more than any other food group during the period of study (March to June 2020).

**Table 3:** Food consumption and adjustments to protein intake

What is the major type of processed food you consume?			Which of the following items did you not consume as usual during the pandemic due to their high prices?		
Food items	Frequency	%	Food items	Frequency	%
Fish	27	33.75	Fish	11	13.75
Meat	13	16.25	Meat	10	12.5
Vegetables/ Fruit	20	25.00	Eggs	38	47.50
Dairy/milk	13	16.25	Milk	38	47.50
Carbohydrate	52	65.00	Beans	2	2.50
Legumes	36	45.00	Other	14	17.50
Total	161*		Total	113*	

Note: \* =multiple responses recorded

Source: Field Survey, 2020

Furthermore, most respondents did not consume eggs and milk (47.5 per cent) because of their high cost during the pandemic period. Consumers' preferences for cheaper and less perishable foods and the interrupted access to fresh and more perishable foods in many countries, are leading to increased consumption of non-perishable staple foods like yam, most of which lack micronutrients except if supplemented (GAIN 2020).

It could be inferred that Table 3 is an indication that food preferences may have changed, whereas Table 4 is the confirmation. Some 85 per cent of the respondents agreed that they changed their food intake during the period of study (March to June 2020) (Table 4). This demonstrates that the pandemic hit consumption patterns hard, and that consumers had to change their food choices to manage the rising food prices during that time. Of the food items they added to their diet during this time were neglected and underutilised crops, particularly non-regular cowpea (*Mucuna*, or *Cajanus cajan*) (47.5 per cent) and water yam (46.25 per cent).

Table 4 implies that the rise in food prices prompted consumers to shift their food intake from common staples and perishable food items to neglected and underutilised foods that have fallen out of use and which are relatively cheaper. IHEME *et al.* (2020) reported that households in Nigeria consumed less expensive or less preferred foods as a coping strategy during the Covid-19 pandemic lockdown. In addition, 50 per cent of the respondents spent less on some commodities, such as clothing and alcohol, to save money for food for the household. Mkpado (2013b) noted that the



development of harvesting equipment that will not cause bruising to the crops is one way that Africa, and Nigeria in particular, could improve food security and resilience from economic shocks.

**Table 4:** Consumption expenditure adjustments and intake of neglected and underutilised crops

Have your food preferences changed during the period?	Frequency/ %	Which of these did you add to your diet?	Frequency/ %	Which of the following items did you spend less on during the pandemic?	Frequency/ %
Yes	68(85.00)	Yellow yam	27(33.75)	Clothing	40(50)
No	7(8.75)	Water yam	37(46.25)	Phone calls	9 (11.25)
I don't know	5(6.25)	Non-regular cowpea ( <i>Mucuna</i> <i>Cajanus cajan</i> )	38 (47.5)	Medicines and drugs	6(7.5)
		Short bananas		14(17.5)	
Total	80(100)	Total	116*	Total	90*

Note: \* = multiple responses recorded

Source: Field Survey, 2020

***Differences in eating habits and meal regimen before and during Covid-19***

Eating habits and associated changes in the number of meals are critical adaptation models for dealing with hunger. Besides illustrating people’s meal regimen, Table 5 shows that the number of respondents who ate once a day only increased by 5 per cent during the Covid-19 period and the number who ate twice a day only increased by 19.5 per cent. Unfortunately, the number of households who ate three times a day or more decreased, and even though those who managed three meals a day tried to maintain that level, the food quality was worrisome. The quality was better when prices were cheaper, as noted in Table 2. This result supports Mkpado (2012b) and Itheme *et al.* (2020), who noted that people reduced the frequency of meals to survive global economic, financial and food crises.

The nature of the data cannot fit into a t-test. The authors therefore considered three categories of meal regimen together at two points in time – that is, before November 2019 and during Covid-19 (March to April 2020).

**Table 5:** Differences in eating habits and regimen before and during Covid-19

BEFORE COVID-19		DURING COVID-19		REMARKS	
No of times	Frequency/ %	No of times	No of times	Frequency/ %	
Once	1(1.3)	Once	0-1-0	3(3.8)	Increased by 5%
-			1-0-0	2(2.5)	
			0-0-1	1(1.3)	
Twice	18(22.5)	Twice	0-1-1	14(17.5)	Increased by 19.5%
-	-	-	1-0-1	27(33.8)	
Three times	51(63.8)	Three times	1-1-1	33(41.3)	Decreased by 22.5%
More than three times	10(12.5)	More than three times	1-1-1-1	-	Decreased by 12.5 %
Total	80(100.0)			80(100.0)	
Chi-square		Value	Df	Asymp. Sig. (2-sided)	
Pearson chi-square		29.296	15	.015	
Likelihood ratio		40.193	15	.000	
Linear-by-linear association		.052	1	.819	
N. of valid cases		80			
Nominal by nominal		Value	Approx. Sig.		
Contingency coefficient		.518	.015		
N of valid cases		80			

The chi-square test in Table 5 is significant with a value of 29.296, which indicates a 1 per cent probability level with 15 degrees of freedom. The result is acceptable because its likelihood ratio and contingency coefficient were also significant. The report concludes that people's meal regimen changed, with more people reducing the number of meals per day.

Table 6 shows the respondents' reception, perception and sources of palliative measures as an adaptation to cushion the effect of the pandemic.

The result shows that 63.75 per cent of the respondents received palliative aid during the pandemic, most of which came from individuals and a small fraction from the church and government.

On the distribution of palliative measures, 28.75 per cent of the respondents lamented that the process was tainted with corruption and nepotism and most opined that the provisions were inadequate. This shows the degree to which corruption and nepotism marred the process. Eranga (2020) affirmed this in his report, which showed that residents claimed that

the process of distribution of palliative aid had been politicised. Omaka-Amari *et al.* (2020) therefore recommended that the government should supervise the distribution of relief materials across the states, to ensure that the aid reaches the target population.

**Table 6:** Reception, perception and sources of palliative measures

<i>Did you receive any palliative measures during the pandemic?</i>	<i>Frequency / %</i>	<i>From whom did you receive palliative aid?</i>	<i>Frequency / %</i>
Yes	51 (63.75)	Government	5(6.25)
No	29 (36.25)	Church	6(7.5)
How would you describe the distribution of the palliative aid?	<i>Frequency / %</i>	Philanthropy	10(12.5)
Fairly/equally	8(10)	Non-governmental organisation	1(1.25)
Corruption/nepotism	23 (28.75)	Friends/relatives	29(36.25)
Very adequate	1(1.25)	Total who received	51(63.75)
Not adequate	65(81.25)	I did not receive	29(36.25)
Total	97*	Total respondents	131(100)

Note: \*Values in parentheses are percentages

Source: Field Survey, 2020

Table 7 illustrates the common types of palliative aid given and received. Money, food or both, and medical services, among other forms, made up 63.75 per cent of the assistance. Of the food stuffs, *garri* accounted for 51.25 per cent, followed by spaghetti and Indomie noodles (a synthesis of cereals) and rice. Yams accounted for only 8.75 per cent partly because yam was not in season during that period (May to June 2020).

It is instructive that the group of donors of food items were the same as those who gave money, in that friends and relatives as well as church organisations took the lead. A far greater percentage of palliative funds came from friends/relatives/philanthropists (21.25 per cent), averaging NGN 20,916.67. Very little came from the church and government. It has been noted that cushioning the whole economy and all citizens from price shocks is beyond the capacity of developing economies in Africa (GAIN

2020; Mkpado 2013a). However, the Nigerian government has opened up its borders and made rice imports duty-free to reduce the hunger caused by global economic, financial and food crises (Mkpado 2012a).

**Table 7:** Types of food and other forms of palliative aid

What did you receive?	Frequency	%	What type(s) of food did you receive more during the Covid-19 period?	Frequency	%
Money only	7	8.75	Yam	7	8.75
Foodstuff only	21	26.25	Rice	26	32.5
Money and food	17	21.25	Beans	5	6.25
Clothes	0	0	Garri	41	51.25
Medical services and medication	2	2.50	Indomie/spaghetti	28	35.00
Others	4	5.00	Total	107	
Total that received	51	63.75			
Those that did not receive	29	36.25			

Source: Field Survey, 2020

In line with Table 6, Table 9 indicates that the government did not really provide much to its citizens. Rather, friends/relatives/philanthropists were at the forefront, ensuring that the masses, especially the rural poor, were helped to put food on their table. Giving alms is often encouraged, but its usefulness is crucial in changing recipients' welfare. Opinions vary on the usefulness of palliative assistance received during Covid-19 in many parts of Nigeria. Video clips showed peoples' contempt for a small loaf of bread given to a family, claiming that it was not good for even a quarter of a meal on a menu (*Newsbreak* 2020). Among those who received any form of palliative aid, 40 per cent said it was very useful whereas most (60 per cent) said it was only moderately useful. On the other hand, 88.6 per cent of those who did not receive aid said it was not useful to them. It could be noted that for something to be useful, you don't need to receive it directly.

The opinions of the respondents were subjected to the chi-square test. The result is significant, with a value of 69.029, indicating a 1 per cent probability level. The result is acceptable because the likelihood ratio and contingency coefficient were significant. Thus, the usefulness of palliative aid is dependent on receiving the assistance, as most of those who received it said it was useful, and most of those who did not receive it said it was not useful. Palliative aid needs to be expanded to reach many more people.

**Table 8:** Sources of palliative funds

Sources of financial aid	N. of recipients/%	Average amount (NGN)	Total amount (NGN)
Government	3(3.75)	350	9,750
Churches/non-government	4(5)	1,000	4,000
Friends/relatives / philanthropists	17(21.25)	16,666.67	283,333.4
Total	24(30)	20,916.67	297,083.4

Note: Values in parentheses are percentages

Source: Field Survey, 2020

**Table 9:** Chi-square tests of the usefulness of palliative measures

Palliative Aid Reception	View of Respondents on Palliative Aid / %					
	Did you receive palliative aid?	Not useful	Moderately useful	Very useful	I don't know	Total
Yes		0(0)	27(60.0)	18(40.0)	0(0)	45(100.0)
No		31(88.6)	3(8.6)	0(0)	1(2.9)	35 (100.0)
Total		31(38.8)	30(37.5)	18(22.5)	1(1.3)	80(100.0)
Chi-square tests	Value	Df	Asymp. Sig. (2-sided)			
Pearson chi-square	69.029(a)	3	.000			
Likelihood ratio	90.145	3	.000			
Linear-by-linear association	45.595	1	.000			
N. of valid cases	80					
Nominal by nominal		Value	Approx. Sig.			
Contingency coefficient		.681	.000			
N. of valid cases		80				

Note: Values in parentheses are percentages

Source: Field Survey, 2020

Financial support for the livelihood of poor households continues to be a problem in development finance. Table 10 illustrates the amounts borrowed and from where. Few borrowed from banks; most borrowed from friends

and relatives or from self-help groups. This distribution was subjected to a chi-square test, and the result in Table 10 is significant. The chi-square test has a value of 13.5, which indicates a 5 per cent probability level, with 6 degrees of freedom. The result is acceptable because of its significant likelihood ratio and contingency coefficient. The indication is that poor households are far less predisposed to borrowing from banks. This is apparently due to bureaucratic processes. However, they are much more likely to borrow from friends and relatives as well as self-help groups. It is no wonder that a number of studies are recommending the use of co-operative groups in credit administration among poor farmers (Mkpado and Arene 2006; Ohaka *et al.* 2017).

**Table 10:** Amount borrowed and source of borrowing during Covid-19

Amount Borrowed	Source of Borrowing			Total
	Banks / %	Friends and relatives / %	Self-help groups / Isusu / %	Number / %
NGN				
10,000.00	0(0)	3(33.3)	1(11.1)	4(44.4)
35,000.00	1(11.1)	0(0)	0(0)	1(11.1)
65,000.00	0(0)	0(0)	1(11.1)	1(11.1)
100,000.00	0(0)	3(33.3)	0(0)	3(33.3)
Total	1(11.1)	6(66.7)	2(22.2)	9(100.0)
Chi-square tests		Value	Df	Asymp. Sig. (2-sided)
Pearson chi-square	13.500(a)	6	.036	
Likelihood ratio	10.778	6	.095	
Linear-by-linear association	.015	1	.902	
N. of valid cases	9			
Symmetric measures	Value	Approx. Sig.		
Nominal by nominal				
Contingency coefficient	.775	.036		
N. of valid cases	9			

Note: Values in parentheses are percentages

Source: Field Survey, 2020

It is human nature to plan to manage risks. The perception of the type and nature of the risk often derives from the shock experienced. For many developing economies, like Nigeria, it is a pity that incessant economic shocks, social and food insecurity mean that its people have to plan for these eventualities. Table 11 illustrates some of the challenges people faced during the period of study. Economic and financial needs were the most critical, and food needs were second. Social and emotional as well as medical needs were also reported. All these challenges existed already but were apparently worsened by the lockdown to curtail the spread of the virus, which restricted movement and business activities and thus exposed people to more difficulty.

The response to the question, ‘How do you want to receive help(s) in case of any shock?’ is reported in Table 11. The use of insurance, friends and relatives, and government aid received a higher score than non-government/ church aid. This shows that people still hope and expect government to assist them as their friends/relatives will do. This is a good challenge to unresponsive governments. The use of insurance is another opportunity that people are considering. It could be possible to use insurance policies to solve many of the problems that governments are not yet getting right. This is food for thought.

**Table 11:** Some challenges and anticipated sources of help in case of future shocks

<b>What was/were your major challenge(s) during the pandemic?</b>	<b>Frequency/ %</b>	<b>How do you want to receive help in case of any shock?</b>	<b>Frequency/ %</b>
Economic/finance	46 (57.5)	Insurance	38 (47.5)
Social/emotional	28 (35.0)	Government aid	38 (47.5)
Food needs	39 (48.75)	Non-government/ church aid	19 (23.75)
Medical services	27 (33.75)	Friends/relatives	38 (47.5)
<b>Total</b>	<b>142*</b>	<b>Total</b>	<b>135*</b>

Note: \*Multiple responses recorded

Source: Field Survey, 2020

Electronic transactions involve the use of mobile money. This financial innovation is proving to be a way of minimising the cost of purchases and the risk of carrying money around. An automated teller machine (ATM) card issued to account holders by their financial institution is one of the keys to using this innovation. However, having an ATM card does not

automatically compel one to engage in online transactions and/or point of service (POS) transactions. Furthermore, Internet fraudsters' pose many threats to consumers' financial transaction security.

**Table 12:** ATM/POS possession and usage (March to June 2020)

Do you have an ATM/POS card?	Frequency/ %	Do you use an ATM/POS card?	Frequency/ %	What items do people pay for with an ATM/POS card?	Frequency/ %
Yes	69(86.3)	Yes	57(71.3)	Clothing	19(23.75)
No	11(13.8)	No	23(28.8)	Food items	19(23.75)
Total	80(100.0)	Total	80(100.0)	Electricity/ water services	30(37.5)
Chi-square test	Value	Df	Asymp. Sig. (2-sided)	Medical services/drugs	17(21.25)
Pearson Chi-square	31.607	1	.000	Others	2 (2.5)
Likelihood ratio	32.223	1	.000	Total	87*
Linear-by-linear association	31.212	1	.000		
N. of valid cases	80				

Note: Values in parentheses are percentages;\*= multiple responses recorded

Source: Field Survey, 2020

Table 12 shows that 86.3 per cent of respondents have an ATM card but only 71.3 per cent use it to make purchases. We examined the relationship between the possession of an ATM card and the types of purchases made with it. The chi-square test of this cross-tabulation was significant, with a value of 31.607, which is significant at a 1 per cent probability level. The likelihood ratio, contingency and coefficient are also significant, and thus indicate that possession of an ATM card is fundamental to using it for purchases.

The table also shows that during the study period, payment for services like electricity and water accounted for 37.5 per cent of the types of payments made. This was followed by purchases of food and clothing as well as medical services. It can be inferred that people like to use the ATM card to pay for services where security is higher. This may account for why Aron (2018) noted that the use of mobile money services is still very poor in Africa.



## Conclusion

The Covid-19 pandemic, with its resultant lockdown and border closures led to the escalation of food prices to the extent that many households could no longer afford to put three square meals a day on the table for their families. This gave rise to untold hardship. Thus, there was an opportunity to examine food price changes and consumption adaptation models in Enugu state, Nigeria, during the pandemic and the usefulness of palliative aid given to the vulnerable by governments and non-governmental organisations. Primary data for the study was generated through a survey of eighty respondents, and secondary data was generated from monthly reports of food prices by the National Bureau of Statistics (NBS). The data was analysed using descriptive statistics, consumer price index and chi-square tests.

The results showed that most respondents were married, had tertiary education and a mean age of 52. Most were farmers, with a mean family size of five and an average monthly income of less than NGN 20,000. Food prices showed a very high inflationary rate during the pandemic period with many foodstuffs having a price index of more than 1.023. As a result, consumers made some adjustments in their food consumption with respect to protein. Most respondents agreed that they changed their food preferences during the study period, including consuming neglected and underutilised crops such as non-regular cowpeas and water yam. Half the respondents spent less on commodities like clothing and alcohol.

The number of people who ate once a day increased, as did the number who ate twice a day, and those who ate three times a day decreased. Most of the respondents received palliative assistance during the pandemic. Economic and financial needs were the most critical. Although most respondents possessed an ATM card, not all used it to make purchases.

## Recommendations

From the results and conclusion of the study, the following important policy implications and recommendations emerged.

1. Government should encourage farmers to increase their production by providing them with loans and subsidies during a pandemic so as to provide enough food in those times.
2. The production and consumption of neglected and underutilised crops should be encouraged.
3. Government should have food reservoirs in case of national emergencies such as the Covid-19 pandemic.
4. Government should be responsive to the needs of its citizens in times like this and act timeously to curtail the suffering of its people.

5. Openness and transparency should be the watch word of people and organisations involved in delivering aid to the needy.

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# Potentialising a Traditional Peacebuilding System Towards Resolving Land Disputes in African Communities

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## Abstract

Land is a common cause of conflict in Africa. It is at the root of much social unrest and violence among family members, groups and communities. Although the state judicial system has been a major adjudicator in these instances, their case pronouncements have brought little or no recourse to peaceful co-existence among the conflicted parties. This article seeks to advance the potential of the traditional peacebuilding system as a 'community friendly' option especially for constructive land dispute resolution. Traditional peacebuilding is devoid of long judicial proceedings, 'preconceived' justice and high costs. This article argues that, unlike the state judicial system, traditional peacebuilding is not only about making resolutions through rational choice, custom knowledge, community history and social cohesion but also about enhancing restorative justice, inclusiveness and peace promotion, and developing the trust and safety that is so badly needed across African communities. It, therefore, concludes that the traditional peacebuilding system has an organisational propensity to resolve land disputes within an institutionalised structure across African communities.

**Keywords:** land dispute; traditional peacebuilding; dispute resolution; peace promotion; Africa

## Résumé

La terre est une cause fréquente de conflit en Afrique. Elle est à l'origine de nombreux troubles sociaux et de violences au sein de familles, de groupes et de communautés. Le système judiciaire d'État a été un arbitre majeur dans ces cas, mais les jugements rendus n'ont guère, voire aucune incidence sur la coexistence pacifique entre les parties en conflit. Cet article tente de faire progresser le potentiel du système traditionnel de consolidation de la paix en tant qu'option « favorable à la communauté », en particulier dans la résolution

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constructive des conflits fonciers. La consolidation traditionnelle de la paix est dépourvue de longues procédures judiciaires, de justice « préconçue » et de coûts élevés. Cet article soutient que, contrairement au système judiciaire étatique, la consolidation traditionnelle de la paix ne consiste pas seulement à prendre des décisions grâce à des choix rationnels, à la connaissance des coutumes, à l'histoire communautaire et à la cohésion sociale. Il s'agit également de renforcer la justice réparatrice, l'inclusion et la promotion de la paix, et de développer la confiance et la sécurité qui sont si nécessaires dans les communautés africaines. Il conclut donc que le système traditionnel de consolidation de la paix a les aptitudes organisationnelles à résoudre les conflits fonciers au sein d'une structure institutionnalisée des communautés africaines.

**Mots-clés :** conflit foncier ; consolidation traditionnelle de la paix ; résolution des litiges ; promotion de la paix ; Afrique.

## **Introduction**

Traditional peacebuilding is culture-driven in that it uses indigenous norms and values to create the basis for social solidarity (Zartman 2000; Murithi 2006). It emphasises traditional philosophy and logic for the resolution of human conflicts. Tafese (2016) states that the system builds on knowledge and experiences that have been transmitted through time. It is a social construct that is rooted in traditional beliefs and a long history of legitimising conflict resolution among people (Zartman 2005). Arguments have been made about the important role of traditional approaches to peacebuilding in most African communities. Unstable and weak states have been identified as the underlying reason for the continued support of traditional approaches (Mbwirire and Dube 2017), and Murithi (2006) has criticised modern state structures for their poor record in promoting social harmony and integration, which traditional peacebuilding might improve.

The strength of traditional peacebuilding mechanisms has been shown in many instances of conflict resolution in Africa. It has been used to pacify clans after interethnic conflict in the Oromia and Somali regional states (Boege 2006). In Mozambique, traditional reconciliatory practices have been used, especially for the deradicalisation and reintegration of child soldiers into the community (Zartman 2000; Murithi 2006). In Chad, Ghana and Nigeria, low-intensity conflicts have been settled largely via the apparatus of traditional institutions (Tutu 1999; Ajayi and Buhari 2014) with little or no recourse to the institutions of the state. In the past and present, traditional institutions have been notably efficacious in resolving issues of intracommunal conflicts, such as marital misunderstanding and family disputes over land and inheritance (Benson and Lamidi 2018; Lamidi 2021).

This does not mean, however, that traditional institutions are always successful in peacebuilding. Mbwirire and Dube (2017) have pointed out the shortcomings of traditional peacebuilding systems, such as their gerontocratic and gender-unequal nature and overreliance on primordial and traditional knowledge. Political co-option and manipulation have also been known to tarnish the traditional peacebuilding system, thus resulting in poor compliance and legal representation.

Notwithstanding its structural limitations, there is hardly any African community without a traditional system of conflict resolution and peacebuilding. In Zimbabwe, for example, the *Dare* traditional peacebuilding system remains a frontline institution for conflict resolution among the Shona people (Jabs 2014). In Rwanda, traditional peacebuilding includes the mediation traditions of *gacaca* courts, *ingando* camps and the *Abunzi* (Anastase 2015). Musingafi, Mafumbate and Khumalo (2019) discuss the role of the council of elders in Kenya within the spheres of the traditional peacebuilding system, and highlight the Wajir Peace Initiative as a women's traditional resolution group in Northern Kenya. In Burundi, the *Bashingantaha* tradition is a local model of peacebuilding that enjoys legitimacy in conflict resolution (Musingafi *et al.* 2019). The *Gada* system in Ethiopia is the traditional mechanism for peacebuilding among the Oromo people (Ogoloma and Ukpere 2011). Murithi (2006) has also extolled the efficacy of *Ubuntu* as a peacebuilding tradition and practice in African communities.

The above examples existed long before colonial adjudicating structures were imposed, and had particular relevance in the political and socioeconomic management of human livelihood and sustainability. It begs the question why pan-Africanists and postcolonial governments have not institutionalised these established traditional approaches to peace enhancement, particularly since land disputes are known in all communities in Africa. Moore (2010) analysed land battles that sparked conflicts across the continent of Africa, including examples in Western Sudan, the Democratic Republic of Congo (DRC), Kenya, Zimbabwe, Rwanda, Eritrea and Ethiopia, with uncountable and unreported cases of low-intensity conflict. Even today, there are still combustible land disputes in Burundi, South Africa, South Sudan, Uganda and Zambia, among other cases. In this regard, it becomes imperative to strengthen traditional methods of peacebuilding to nip in the bud emerging land disputes across African communities. Indeed, reinventing African peacebuilding capacities is foremost among several recommendations on peace, security and post-conflict reconstruction in Africa (Lumumba-Kasango and Gahama 2017).

This article aims to contribute towards institutionalising the potential of traditional peacebuilding systems. It addresses the failures of state judicial systems in land dispute resolution. In addition, it highlights the practical benefits of traditional peacebuilding, such as shortening the litigation and judicial proceedings and reducing the high administrative cost of state judicial courts adjudicating on land disputes. It also aids the legal and policy approaches of government to solve land disputes and other related conflicts, and demonstrates the relevance of traditional peacebuilding in modern governance architecture. It is against this backdrop that this article seeks to argue for the institutional relevance and potential of the traditional peacebuilding system as an agency for land-dispute resolution, which would promote restorative justice and peace and develop social trust across modern African communities.

As a follow-up to this preamble, the next section discusses land disputes from African perspectives with empirical examples. The third section describes the context of the traditional peacebuilding system. The fourth section presents theoretical frameworks for institutionalising traditional peacebuilding. The fifth section promotes the relevance of traditional peacebuilding system in resolving land disputes in African communities, and the last section delivers the concluding remarks.

## **Land Disputes in the African Context**

Land is a key asset for human activity and is central to the production of basic human needs, such as food and shelter. Yet its socioeconomic significance means that it has long been the object of expropriation and cause of violence between individuals and groups in Africa. As a competitive asset, it has been at the centre of conflicts about social identity, legitimacy and territory (Bruce and Boudreaux 2013). Notably, Bob (2010) argued that land has been critical to improving peace, stability and socioeconomic prosperity.

Odgaard (2006) has asserted that land is a conflict-ridden resource owing to the increasing quest for its ownership. In the same vein, Kagwanji (2009) has stated that most conflicts in African countries emanated from the battle for ownership and use of land and its resources among ethnic groups. Deininger and Yamano (2005) show that population pressure, agricultural commercialisation and urbanisation, among other issues, are the underlying sources of the eruption of land disputes in Africa. These causes have continued to weaken the current structures of land tenure across the nation-states on the continent (Daudelin 2002).



Lund (2001) reviewed the issues and experiences of land rights and conflicts in Africa to underscore the important issues and policy approaches. The concept of land rights features in poverty reduction, governance, migration, political formation and demographic development. A large number of people in Africa depend on land for wealth creation, agricultural production and social dominance. This makes land more contentious in Africa than on other continents where urbanisation, modernisation and industrialisation have reduced the need to acquire land. Moreover, the claim of land ownership by the individual, community and government provokes land disputes in Africa.

It must be noted that Africa is expected to experience exponential population growth to 2.5 billion by 2050. By inference, land as a means of livelihood will become increasingly a site of struggle as the land resources available start to dwindle. Homer-Dixon (1994) has argued that whereas in the past Africa was seen as a relatively land-abundant continent, high population growth has led to an accelerating land scarcity.

Normative dissonance has been acknowledged as a contributing factor to land disputes. Theron (2009) argued that land ownership and distribution become conflictual when different laws are used in claiming land rights as well as seeking land justice. Land becomes a disputable commodity due to inadequate institutional, customary and legal protections. It is important to note that weak governance across African nation-states has a consequential effect on a weak land tenure system. This deprives individuals and communities of inclusive rights and essential access to natural resources, which disrupts their socioeconomic livelihoods.

Land disputes in Africa most often result from capitalism, poverty and a lack of environmental awareness. For example, in some rural communities where crop cultivation is the major occupation small-scale miners have moved in, with concomitant negative effects on the land and crops, forcing the cultivators out. In other examples, environmental disasters, like famine and drought, have led to occupational migration and clashes between farmers and herders (Reuveny 2007). Also, Theron (2009) has highlighted the likelihood of land disputes in any post-conflict environment, which probably occur as displaced people return home to reclaim and secure their land rights after a long absence.

In Bob's (2010) empirical discourse on key land disputes across sub-Saharan countries he classifies land disputes at the level of social interaction. Indeed, land dispute appears more obvious at different social levels: intra-group, inter-group, intra-society and inter-society. Land disputes increase and become more complex at different societal levels in Africa. According

to Deininger and Castagnini (2006), acute land scarcity in Rwanda coupled with land acquisition for non-agricultural purposes led to land disputes and heightened interethnic tensions, which escalated beyond control and resulted in the Rwanda genocide in 1994. Campbell *et al.* (2000) asserted that land-use conflicts in Kenya's south-eastern Kajiado area are an example of continuous, growing and complex confrontations between herders, farmers and wildlife over restricted land and water resources. Ineffective land policies in Uganda, according to Deininger and Castagnini (2006), have increased the frequency of land conflicts and lowered production levels. These instances of land disputes are not restricted to the above-mentioned areas. There are innumerable cases of land disputes at different societal strata across communities in Africa.

Land disputes are contextualised on the basis of different circumstances. Haggins *et al.* (2005) underlined land redistribution from weaker to stronger parties as a causal factor of land dispute in the African context. Land disputes also erupt following inappropriate land allocation (Bob 2010). More often, there is high contestation between government institutions and traditional authorities on land and allied matters. Sometimes, government queries the role of traditional authorities in land administration and control. This was further argued by Bob (2010), who stated that the customary system of landholding deepens social division and class formation, thereby intensifying land disputes. Customary systems in Africa also affect women's land rights and threaten violence against them. In some traditional cultures, land is not allocated to or inherited by women. Carton (2000) cautioned that gender disparity in land ownership is a potentially dangerous and unforeseen aspect of land dispute in Africa.

Peter (2004) noted that policymakers and implementers are still grappling with how to balance frequently opposing social, economic and political land reform goals. Thus, land dispute becomes an unending issue especially in Africa where land reform in a contemporary justice system has not received adequate attention.

State interventions in adjudicating land disputes have had minimal results compared to the outcomes of a dynamic traditional peacebuilding system. Its arbitration processes are long, its preconceived ideas, or precedents, are not always applicable and they are costly—for the state and its citizens. The next two sections discuss the conceptualisation and framework for institutionalising traditional peacebuilding as a means of overcoming the inadequacies of the state judicial system in land disputes across African communities.

## Conceptualising a Traditional Peacebuilding System

There is a wide range of literature on traditional peacebuilding systems, mostly focusing down to granular level on its systemic roots and practice within an African cultural base. Peacebuilding is a customary attribute of traditional institutions within African communities. Its practice could be more traditional than indigenous in that the peacebuilding system is rooted in community culture, traditions and values whereas the procedure remains indigenous in its trends and trajectory. Several attributes of traditional peacebuilding have been identified, the most important of which is its non-monolithic nature (Olowu 2018). It is also important to note its diverse approaches as a key feature. This underlines the responsiveness of traditional institutions to different conflict types in their respective environments.

The character of the traditional peacebuilding system has endured through many societal changes. It was prominent in African precolonial societies but was sidelined by the colonial administrative system and it was surprisingly neglected by early post-independence leaders in African states. But it continues to be practised at the community level by traditional authorities.

Ben-Mensah (2004) maintains that African societies hold traditional institutions of peacebuilding in high esteem based on their confidentiality, adherence to custom, mediation and diplomacy. Ajayi and Buhari (2014) posit that mediation is a common resolution tool used in traditional peacebuilding in Africa. Olowu (2018) concretised the common features of the traditional peacebuilding system as its avoidance of an explicit parade of power, of social acrimony and of a 'win-lose' mindset among the conflicting parties. Another advantage is that it is less time- and resource-consuming (Okoro 2010). It has also been claimed that respect for the traditional peacebuilding system is consequent upon its justice for all. Notwithstanding its positive features, there are notable instances where traditional peacebuilding has encountered challenges in maintaining peaceful relationships between groups (Mbwirire and Dube 2017). This implies that the traditional system is not an absolute solution to peacebuilding. But it certainly is preferred as a means of mediation rather than arbitration.

Traditional peacebuilding focuses mainly on reaching agreement through deliberation, mediation and negotiation (Osamba 2001; Olowu 2018). In the face of challenges in the mediation or negotiation process, the system allows the disputants to reflect on the conflict issues and occurrences in an attempt to ascertain facts (Ramoroka 2009). The process often results in motivating the parties to clear up the conflict problems and embrace

peaceful co-existence. This further explains why the conflicting parties would be more prone to accepting the resolution of the traditional system of peacebuilding. Manyozo (2006) noted that the traditional peacebuilding system showcases the importance of indigenous realities in transforming a theatre of violence into a peaceful zone.

However, Osei-Hwedie and Abu-Nimer (2009) submit that the dominance of Western culture in the African political landscape has consigned the relevance of traditional peacebuilding to the backstage of peace and conflict resolution. They further stress that the politicisation of culture is harmful to the virtues of a traditional system of peacebuilding. Yet, a constructive mechanism for peacebuilding is inherent in the system. Osei-Hwedie and Abu-Nimer (2009:1) acknowledged in an editorial that 'the system is under-explored and, arguably, not significantly institutionalised, analysed and shared'. It is obvious that African leaders have politicised Western culture, as evident in poor democratic practices, violence during electoral processes, avarice in public resources management and corruption in the judicial system (Sharra 2009). This prompts a search for an alternative solution to African conflicts, which most commonly arise around land inheritance.

Mwikisa and Dikobe (2009) described how a traditional system of peacebuilding operates to unravel the causes of conflict and arrive at a resolution. Significant objectives of the system are to pacify the conflicting parties by paying adequate attention to their economic interests and to reach consensus or resolution, most often through deliberation by the conflicting parties, which is ratified by the mediating chiefs. It is a fairly open system with a strong concern for mutual justice and peaceful cohabitation. Conflict issues are cautiously and fairly handled without prejudice to human life. With these advantages, this historical institutional space could be incorporated within the modern structure of governance in African communities. It would bring rich histories that might pass into oblivion if there is an overreliance on conflict resolution structures from non-African cultures. The cultural and public benefits of this system are the basis for the argument for its institutionalisation.

### **A Framework for Institutionalising the Traditional Peacebuilding System**

Boege (2006) has identified the strengths of some of the many legitimate traditional approaches to peacebuilding in the management of land use, administration of land justice, and land allocation and redistribution in

Africa. They avoid the shortfalls of state-based institutions, they operate at the local level where the disputes arise, they enjoy a respected legitimacy more than any other public system and they acknowledge the psychosocial dimensions of land disputes in Africa. For example, land has spiritual aspects in the African space (Okech 2019), which can be considered only when adjudicating through a traditional approach.

It is worth noting that peacebuilding processes do not have a universal model. Peacebuilding reacts depending on the conflict typology and context, and the peacebuilding system is framed as an intervening instrument deployed to engage with the nature, cause and effect of the conflict context. A question worth considering is: Of what importance would the institutionalisation of traditional peacebuilding system be to the effective resolution of land disputes in Africa? This question could be answered by discussing the framework for the traditional peacebuilding system in the contemporary governance space.

### ***General and specific frameworks***

The framework for traditional peacebuilding system is designed to be multidimensional, so that it may respond to different contexts and adapt to new conditions and requirements. This enables the traditional peacebuilding system to establish general and specific strategic frameworks (Boege 2006). The general framework for traditional peacebuilding is reconciliation. It sets the general context for peacebuilding activities. It exerts local authority over the objectives and behaviour of the main conflict actors, which makes its institutionalisation plausible. This is simply because, for a very long time, it has enjoyed the defined authority that any modern institution should have. Dadashpoor and Somayeh (2019) highlighted the humanitarian and security concerns of the traditional peacebuilding system, which indicate the strategic purpose of the system in any locality. Also, what matters to any institution is contact and interface with individuals and groups within the society. The interdependence and interconnectivity of different strata of society are central to the network of traditional peacebuilding systems.

On the other hand, traditional peacebuilding is case-specific because there is no one-size-fits-all version of the system. The system differs from one society to another, cognisant of the peculiarities of the society. It thus requires that its intervention strategy be adaptable in its procedure and adjudication. The intervention framework considers the available information, conflict actors, needs, causalities and demographics, all of which are necessary to concretise the general peacebuilding strategy.

There are four notable lines of action in the implementation of a case-specific strategy: a local adjudicating authority is activated as needed to coordinate the first stages in the peacebuilding intervention strategy; a local team is put together who specialise in conflict analysis and peacebuilding initiatives; a local emergency team is constituted who will gather facts when an intervention assessment is needed; and—the most institutional of the four components—a strategic monitoring, evaluation and assessment centre is established, which consists of local groups dedicated to the peacebuilding activities.

### ***Formal and informal frameworks***

Leadership, excellent land policy and the quality of land institutions and land governance are all essential frameworks for preventing violent conflicts or resolving them amicably. As a result, a variety of legal (formal) and informal systems exist to settle land-related disputes (Wubie, De Vries and Alemie 2020). Official processes regulate the formal methods for resolving land-related issues, which are directed by government rules, regulations and laws. These may be administrative or judicial. Semi-judicial agencies, such as government resource offices, police and local government organs, use administrative procedures. Courts handle judicial methods for resolving land disputes.

The traditional peacebuilding system is made up of informal procedures. It is the process of resolving land issues without resorting to litigation. It usually speeds up the resolution of a land dispute and prevents it from recurring in the future. As a result, this informal method aids in reducing dispute-processing expenses. To resolve disagreements amicably via the traditional peacebuilding approach, disputants must be ready to engage and believe that settling problems through this process is more useful than through legal procedures (Rose and Suffling 2001).

Furthermore, the traditional peacebuilding framework emphasises the need for multiple parties with land-related issues to collaborate rather than focusing simply on their views (Goodale and Sky 2001). Rather than being academic and scientific, conflict resolution systems are described as pragmatic and political. Even in the US, the legal and academic communities began to be concerned about the dangers of increased litigation in the mid-twentieth century, because, while the laws of the day granted a wide range of rights and personal protections, seeking remedies for these rights when they were violated by the legal system became a complicated exercise (Saarikoski, Raitio and Barry 2013).

A conflict can be resolved in a variety of ways, ranging from formal legal processes to physical dialogue (Rose and Suffling 2001; Twining 1993). These methods are covered under the law, although not all are 'legal' in terms of form or acceptance (Ayano 2020). In many areas of modern law, litigation is excessively expensive, causes divides, is inaccessible or inefficient and necessitates long hours in court (Mamo 2019). As a result, litigation-oriented attorneys, judges and legislatures frequently limit or corrupt alternatives to litigation to the point where they become alternative means of litigation rather than alternatives to litigation.

This article proposes that, instead of the seeming divide between 'legal' and 'non-legal' dispute resolution approaches, a unified dispute settlement framework be established. This would identify the categories of disagreements in which the traditional peacebuilding system is most successful (Ayano 2020) and integrate them into a cohesive framework. The potential of each traditional peacebuilding system would remain intact, despite their unification into a single institution.

### ***Integrative ties as a framework***

For most political and sociocultural concerns, Gamson (1992:67) maintained that 'conflict resolution is best done when there is no winner, no vanquished' and proposed a method that allows a conflict to be framed as involving two rights rather than one right and one wrong. This may be achieved if integrative/cross-cutting linkages or ties (social, political and economic ties) are involved. The theory of integrative ties is a valid theoretical and practical approach for traditional peacebuilding initiatives (Gamson 1992; Payne 1997).

In the event of opposing interpretations, the theory advises adopting two broadly different attitudes or orientations in managing, controlling or resolving conflict—collaboration or assertiveness—and to frame information and facts in various ways within a symbolic framework (Davies and Kaufman 2002). Collaboration indicates a contesting party's intention to meet his or her own and the opponent's needs at the same time. Assertiveness is defined as the drive to satisfy one's desire at the expense or exclusion of others (Ojiji 2007). However, integrative ties theory extols collaboration above assertiveness since it is a better precept for long-term peace.

Integrative ties work within the framework of people-to-people initiatives which, apart from collaboration, include accommodation, avoidance, co-operation and discussion as some of the methods to resolve conflict.

Such initiatives allow an individual's framing or perception of a situation to be aired. The familiar relationships and cultural tolerance that result from integrative ties facilitate the understanding of disagreements among individuals, groups and communities. Understanding the social viewpoints of people is the central concern of people-to-people initiatives, which aim to achieve a degree of accepted social behaviour. This understanding makes conflict easier to resolve among individuals, groups and communities. All these factors are at play in integrative ties theory and are relevant in all types of conflicts: micro, meso and macro (Payne 1997).

The frameworks set out above for traditional peacebuilding enable the following benefits for the resolution of land disputes in an African context: the disputing parties' voluntary participation in a traditional peacebuilding process; their varying degrees of control over the conflict resolution process; a non-punitive and restorative outcome; and a less rigid, lower-cost and time-efficient process in comparison to litigation. Given its impact on and role in complementing formal legal systems, notably in terms of addressing local needs, traditional peacebuilding is gaining recognition as a vital pillar of effective governance. Since formal courts in many African nations are often overwhelmed, there are significant benefits to be realised, particularly by African governments, in using the traditional peacebuilding system in settling land disputes.

### **The Potential of Traditional Peacebuilding for Resolving Land Disputes in African Communities**

One of the foremost characteristics of the traditional peacebuilding system is its rootedness in the culture, traditional structure and political and legal cultures of traditional settings. Its central aim of restoring peace, order and relationships in the community (Zartman 2000; Boege 2006; Huyse 2008; Lamidi 2021) underscores the endogenous value of the traditional peacebuilding system for resolving land conflict. Tombot (2003) emphasised restorative justice as a potential outcome of the traditional peacebuilding system. This is acknowledged as a genuine form of traditional justice, especially in land disputes. Beyond Africa, Boege (2006) affirmed that restorative justice in Bougainville, Papua New Guinea, is largely credited to the traditional peacebuilding system. This suggests that the restorative justice potential of traditional peacebuilding remains undistorted even in the face of slavery, colonisation and migration.



### *Consensus in dispute resolution*

Holistic and consensus-based approaches are the operational traits of the traditional peacebuilding system, executed through the use of customary laws that derive from oral norms, values and practices. Huysse (2008) maintained that the traditional peacebuilding system is cognisant of social, economic, cultural and religious-spiritual dimensions in managing conflict. These numerous adjudicating dimensions (Ayano 2020) make it more holistic than the state judicial system, which has a solely legalistic dimension, with less consideration of the economic and social bases and no consideration of cultural or religious-spiritual dimensions. Formal courts in Nigeria, for instance, have dismissed the economic utility and social significance of land as a factor in land dispute resolution (Gico 2020).

Another advantage of the traditional peacebuilding system is that it recognises the resolution of land disputes through compensation with a symbolic equivalent amount if the aggressor is found culpable. In contrast, the state judicial system would find it illogical to apply compensation as a method of land dispute resolution. Rather, one party, either the aggrieved or the aggressor, would be procedurally legalised as the rightful owner even to the detriment of the matter at stake.

If the aggrieved party is found guilty, the traditional peacebuilding system does not punish the guilty party but attempts to reconcile and restore relationships that might have been damaged by the land dispute. For example, in Mali, the use of 'palaver' (a long talk) as a peace enhancement method is based on the restoration of harmony rather than punitive justice. It is not in any form retaliatory but rather corrects and unites the disputing parties to enjoy lasting and peaceful relationships (Agwu 2007; Noll 2013). This process is comparable to the *Ardzo* (which means 'to say' or 'to talk') in Cameroon. The traditional process embraces the principle of natural justice: that you cannot be a judge in your case and there must be a fair hearing in the court proceedings (Remi 2007). This underscores the liberalism of traditional peacebuilding.

Bah (2020) notes that consensus among conflicting parties is a recognisable post-conflict institutional design across African democracies. MacGinty (2008) states that traditional approaches enable the conflicting parties to resolve their issues without the direct involvement of a third party. But in fact the institution of traditional chiefs is the facilitator of the arrangements. The process of land dispute resolution is usually led by a traditional/community leader, drawing on rational choice, knowledge of customs, myths and history of the community, as well as familiarity with the relationships between the parties in land conflict. The traditional leaders

recommend the pattern of resolution in land disputes and commonly encourage consensus in the process. The conflicting parties must reach an agreement on how to interpret the past and create a shared picture of the collective history of the land in context (Huysse 2008). They need to establish the facts and disclose the truth. Only once there is agreement on the facts and the truth will offenders admit their wrongdoing, apologise and seek forgiveness and victims accept the apologies and forgive. On this basis it becomes possible to reach an agreement between the parties.

The participation process appears informal and the outcome of land dispute resolution is binding on different strata of the society. Participation in and strict adherence to the outcome of land dispute resolution is maintained by extended families at the compound level of the society, clans, village communities and tribes.

In Nigeria, for example, Ogoloma and Ukpere (2011) argued that no institution is left out in the quest for peacemaking in the country. Although peacemaking responsibilities have been vested in some institutions within the polity, enhancing peace and harmony are cross-sectional duties of formal and informal institutions in all strata of the society, such as the family, elders (within a lineage), clan, females born in a family or village, the council of elders, king-in-council, hunters' association, village or town assembly, age grades, the masquerade system, oracles and deities, etc. (Ademowo 2015). All these social groups serve as institutions for maintaining peace and resolving conflict. The potential of traditional peacebuilders is manifested in their rich experience in setting up the parameters, establishing the facts, putting together the team for conflict resolution, regulating the peace reconciliatory process and negotiating an acceptable resolution with all the conflict parties.

### ***Sociocultural sanctions***

Traditional peacebuilding system is not absolute in its sanction terms. Unlike the state judicial system, it has no organisational sanction that compels the parties to accept the agreed resolution. Yet, there are sociocultural sanctions that the aggressor or aggrieved party respect which encourage them to abide by the traditional rulings on land conflict (Tafese 2016). For example, in most traditional African societies not obeying traditional rulings on land conflict could lead to the following—disrespect, banishment from the community, stigmatisation, curses, being shamed, sorcery, stripping of traditional titles from the individual, family, compound or community. These sociocultural sanctions appear costlier than the penalty sanctions in the state judicial system. No member of an African community could withstand these sanctions because they have unquantifiable consequences

and intergenerational disadvantages. Crucially, they cannot be appealed or reversed, whereas sanctions imposed by the state judicial system solely affect the culprits, they have no intergenerational implications and can easily be appealed. Fear of sociocultural sanctions mean that resolutions by the traditional peacebuilding system are acknowledged and carry more weight than those made by the state judicial system.

### *Peacebuilding as a community exercise*

Traditional peacebuilding is a contextually specific and community-based exercise. It does not have a general architecture that can be used homogeneously in all situations at all times. This underlines its strength, control and applicability to conflicts in any given community in Africa. For instance, among the Oromo of East Africa, there is a traditional peacebuilding system called the *Gada* system. It is referred to as an institution for preventing the escalation of insurgence and outbreak of violence. Menkhaus (2000) confirmed a similar system in Somalia, where traditional peacebuilding has been efficacious in resolving conflicts at the local level.

In Liberia, the Kpelle community has a different traditional peacebuilding system. Unlike the Oromo *Gada* system, it is not permanent and does not handle all conflictual issues. Instead, peacemaking in the Kpelle community is conducted in a 'house palaver' or 'moot' court (Ogoloma and Ukpere 2011; Lamidi 2019). This is convened when an upset threatens to lead to conflict. For making peace in each case, the 'moot' would comprise kinsmen of the Kpelle community and associates of the involved individuals and groups (Ademowo 2015). All cases are addressed with a high degree of honesty and transparency, so that the verdict is accepted wholeheartedly by all parties. This is demonstrated symbolically by sharing a drink, which means that the verdict is accepted and that the issue will not metamorphose into crisis.

Bleiker and Brigg (2010) maintain that the traditional peacebuilding system has worked well in resolving conflicts between or among family members, groups and communities in Africa. Specifically, evidence on the effectiveness of traditional peacebuilding system largely relates to the resolution of land disputes because land inheritance and property are common factors in conflict escalation across African communities. There has been criticism about the adaptation of the traditional peacebuilding system from a local context to a national framework (Boege 2006). Nonetheless, using traditional peacebuilding in the local context only is still of great relevance to national peacebuilding, because it prevents conflict escalating from a local to a national level. Therefore, the efficacy of traditional peacebuilding needs to be continually strengthened within the communal context.

Conflict situations that threaten community stability are more appropriately managed and resolved by traditional peacebuilding, which in particular has more authoritative jurisdiction on land ownership. The economic motive of land acquisition can be moderated by the traditional chiefs to solve the issue of agricultural commercialisation (Boege 2004). As seen in Somaliland, where land redistribution is one of the causes of violent conflict, traditional peacebuilding is a significant contributor to conflict termination and sustainable peace (Menkhaus 2000).

Traditional institutions and the force of tradition have shown themselves to be so robust in adjudicating land disputes that the state judicial system lends credence to their judgments or rulings. This resilience has been demonstrated in particular by traditional modes of conflict control (Trotha 2000). For example, in Kenya, a set of respected elders called Gikuyu carries the responsibility of conflict prevention between and among community members by deterring the use of supernatural powers, such as witchcraft, property destruction and open hostilities as well as bloodshed, among other examples of community fragility (Remi 2007; Ademowo 2015). In Rwanda, Mwambari, Walsh and Olonisakin (2021) highlight the contribution of Indigenous women's groups to conversations around state-building.

Aggarwal (2008) maintained that land disputes resulting from population pressure and urbanisation in modern societies could draw on the comparative advantages of the traditional peacebuilding system. Its institutionalisation has the propensity to uphold public legitimacy and reduce the financial costs of justice administration for the state and its citizenry.

### ***Circular time***

Olonisakin, Kifle and Muteru (2021) emphasise the benefits of reframing the narratives of peacebuilding and statebuilding in Africa. This is a merit of the traditional peacebuilding system which the state judicial system cannot emulate. And it does this by using circular time for comprehensive judgment delivery. Faure (2000:161) defined circular time as 'a gradual, cumulative process in which duration and related functions leave an almost appreciable impression.' This is quite different from the lengthy judicial proceedings in the state judicial system in which series of court adjournments delay justice. Rather, circular time is ancillary to the traditional peacebuilding system which functions in three ways: to give conflict parties adequate participation time; to evaluate the state of the peacebuilding process; and to enable deliberate renegotiations and revisions of the process (Wubie *et al.* 2020). The outcome produces faster results than the usual practice of the state judicial system.

Circular time, as opposed to vectoral time in the state judicial system, provides for adequate inclusion and participation in the peacebuilding process. This enables the participants to hear diverse views and opinions about the land, an approach that leads to resolution being perceived as a 'win-win' outcome. An example of this is the *Ardzo* in Cameroon, a method for settling conflict-prone issues in Beti culture through dialogue. The process of peace-making in Beti society has similarities to the modern judicial system. The elders constituted in the *Ardzo* administer justice by following three consecutive stages:

- 1) they invite the conflicting parties to an *Ardzo* sitting;
- 2) they provide a forum in which the parties can be heard and cross-examined, thereby divulging the truth, fundamental issues and concerns to the *Ardzo* members; and
- 3) just as in the modern judicial process, the elders then retire to a secluded place to make their verdict and then return to the forum to deliver it. (Agwu 2007; Ademowo 2015)

In the end, the verdict is not seen as punishment; rather, the guilty parties provide reconciliatory compensation.

### ***Gender in traditional peacebuilding***

In general, traditional African communities have more firmly defined sociocultural roles for men and women than Western liberal nations. This influences men's and women's roles in conflict resolution, as well as the methods and degrees of their inclusion and involvement. The precise social settings and gendered particularities of participation and inclusion (or exclusion) processes must be carefully examined in each situation, which Western observers are not especially adept at doing (Brown, 2007). Since the extent to which women are incorporated (or excluded) varies greatly between societies, it would be inaccurate to broadly associate patriarchy and female subordination with existing traditional institutions (and gender equality with liberal Western societies).

Traditional peacebuilding is an intervention which induces gender inclusivity in specific cases of conflict. Fischer (2005) posited that the inclusion of women in the system is essential because land conflict has an emotive aspect. Oshita (2005) and Ajayi and Buhari (2014) detailed a case among the Igbo people in Nigeria, of a widow whose deceased husband's land was being taken over by his family under the guise of primogeniture, without considering the socioeconomic implication of such land inheritance. This implies that although male domination in

traditional systems is still very established, modern aspects of the system advocate the inclusion of women in the inheritance of land. This would enable a more balanced social viewpoint and perspective as the basis for a fair hearing and objective pronouncement.

Okech (2019) also examined the dominant discourses on widow inheritance, showing how it has led to contested citizenship in Kenya. Norms surrounding inheritance centre on who should inherit part of family-owned land when the inheritors are male and female, and result in contestation between members of the family. The contestation is compounded when the owner of a portion of family land dies and leaves behind a wife and children. This is a recurring cause of land inheritance conflict.

Women become victims of land seizure in multiple ways. This could be a result of the patriarchal structure of most African communities (Bah and Barasa 2023). The lack of women's representation as mediators in traditional peacebuilding is therefore a major limit of the system. Patriarchy curtails women's representation in the peacebuilding system. This should be reconsidered because women are constituent units of the society who often suffer from poor representation within the governance system. Also, the place of women in traditional societies appears more restrictive especially in the northern part of Africa, as a result of Islamic principles (Dadashpoor and Somayeh 2019).

Despite these restrictions, Marshall (2000) noted that women's grassroots organisations played a major role in facilitating inter-klan peace discussions in Somalia as a result of their non-alignment on the conflictual issues. Also, in Rwanda, Mwambari (2017) detailed the role of women-led NGOs in the enhancement of peacebuilding. Mwambari submitted that the women-led groups recorded such success in their peacebuilding initiative that they were seen as a challenge to the authority of traditional chiefs, who are mostly male. This strength has been observed in studies of age-old conflicts among clans where, despite the 'village-centric' nature of conflicts, women's organisations across clans remained united against the conflict (Anderson 1999; Menkhaus 2000). To this effect, women's organisations have been among the mediating actors that provided local support and facilitated inter-village dialogue for peace agreements.

### ***Cultural activities as peacebuilding***

Traditional peacebuilding stresses peaceful co-existence beyond the judgments on land disputes. It includes sociocultural events that strengthen relationships among the disputants (Jalingo and Sugiono 2010). These

events include traditional plays, cultural festivals, music and dance competitions and cultural displays, at which attendance is compulsory as part of the reconciling measures of a dispute. These ceremonies are loaded with reconciliatory action. Gico (2020) notes that symbolic activities in social events centre on the enhancement of peaceful co-existence between or among the conflict parties. This underlines the nature of most cultural activities in managing and resolving conflict within a culturally bound community in Africa.

In Tanzania, a traditional peacebuilding exercise is carried out during festivals among the Arusha people. Also, the Gologo festival among Talensi people in Tenzug, Ghana, was instituted for the prohibition of vendettas between and among individuals, groups and societies, clans and villages. It is otherwise known as the Golib festival, which is similar to the festival among Arusha people (Osimen *et al.* 2015; Ademowo 2015). The philosophy of the Gologo festival is premised on the abundance of crops to provide food, coherence and fecundity that would deter pandemonium in society and harmonise the interests of all the people in the community beyond the pronouncement of judgments.

### ***The psychosocial dimension of traditional peacebuilding***

Boege (2008) stated that social events bring together beings of all kinds, including masked dancers and gods, to seal the resolution of land disputes. This brings in the psychosocial and spiritual dimensions of the success of traditional peacebuilding in resolving land disputes. These dimensions are underrated by scholars of Western ideologies. However, they are of utmost importance for restorative justice, peace promotion and the rehabilitation of victims and perpetrators of land conflicts in African settings (Cochrane and Legault 2020). Psychosocial healing is an integral part of the traditional peacebuilding system in contrast to the state judicial system. Murithi (2006) confirmed that the *Ubuntu* notion of traditional peacebuilding in southern Africa clearly illustrates these dimensions.

The non-linear nature of negotiation and resolution of land disputes in African communities is exemplified by its mix of cultural, economic, psychosocial, and spiritual dimensions. This multidimensional approach is significant for developing trust and safety among conflict parties within the family, group, and community and produces judgments that are traditionally difficult to contest.

## Conclusion

This article has explored the system of traditional peacebuilding in resolving land disputes across communities in Africa. Notably, its potential is restricted to the resolution of land disputes within the sphere of a community and to its adaptability to individual, communal contexts. The growing number of land disputes in Africa underlines the reason for interrogating the efficacy of the traditional peacebuilding system. By analysing the constructive mechanisms of traditional peacebuilding, this article aims to indicate a way to resolve land disputes.

Braeuchler and Widlok (2007) stress that arguing for a traditional peacebuilding system is not an attempt to return to a primitive age. Rather, it is to revitalise the resolution of land disputes within a culturally tested system. It is about adopting traditional strategies to resolve communal problems that concern the ownership, allocation and redistribution of land. Acknowledging the usefulness of this system is not just an abstraction. Traditional peacebuilding systems contain general and specific guiding frameworks and operational traits that make their workability plausible in the modern world.

This article contributes to the existing literature on peacebuilding in Africa by putting into perspective the indigenous process-oriented achievement of timely and peaceful justice delivery in contrast to the drawn-out delays in judgment by the state judicial system. The beauty of the traditional peacebuilding system is embedded in its confinement to a communal context. It is a thorough system within a communal sphere, drawing on cultural laws, norms and values, in contrast to the centralistic application of the state judicial system which hinges on 'preconceived' justice.

The article identifies sociocultural dynamics and psychosocial healing as an integral part of traditional peacebuilding but which have no place within the state judicial architecture. The article argues that the outcomes of the traditional peacebuilding system are more readily accepted and weightier than those of the state judicial system due to the fear of traditional sociocultural sanctions. Against the patriarchal nature of traditional African society, it highlights the strength of women-led groups as the main source of peace in some African communities.

The limits of the traditional peacebuilding system lie in poor state support in establishing its framework firmly within modern governance structures. It is therefore recommended that the benefits of the traditional peacebuilding system be considered for inclusion in the judicial policy frameworks of



governments across African communities. Its institutionalisation has the potential to uphold public legitimacy and reduce the economic costs of justice administration for governments and their citizens.

This article found that there are still practicable traditional mechanisms for preserving land order, preventing land violence and resolving land disputes and that traditional peacebuilding has an organisational propensity to resolve land disputes across African communities. There is, therefore, the need for institutional support by governments to create a judicial portfolio for traditional peacebuilding systems on land matters, under state supervision.

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