

2008

# Critical Impairments to Globalizing the Western Human Rights Discourse

Imani

Follow this and additional works at: <https://scholarlycommons.law.case.edu/swb>

 Part of the [Human Rights Law Commons](#), and the [Social and Behavioral Sciences Commons](#)

---

## Recommended Citation

Imani. 2009. "Critical Impairments to Globalizing the Western Human Rights Discourse." *Societies Without Borders* 3 (2): 270-284.  
Available at: <https://scholarlycommons.law.case.edu/swb/vol3/iss2/4>

This Article is brought to you for free and open access by the Cross Disciplinary Publications at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Societies Without Borders by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.



BRILL

## Critical Impairments to Globalizing the Western Human Rights Discourse

**Nikitah Okembe-Ra Imani**

*James Madison University, Harrisonburg, Virginia, USA*

---

### Abstract

This article focuses on the philosophical implications of Euro-centrism and Eurocentric discourse for the Western human rights narrative. It is argued that there is insufficient theoretical and practical consideration of those implications, particular for advocacy and activity in the so-called “Third World” where such arguments frequently become mere vehicles for the advance of economic and political neocolonialism. In many ways, colonialism with a humanistic, liberal democratic “face”. Finally, a proposition is advanced that if the Western human rights discourse is to be effectively corrected and evolve into a global one, critiques of Euro-centrism from outside the Western discursive world must be taken seriously.

### Keywords

eurocentrism, human rights narrative, neocolonialism, African customary law

Our subject of rumination for the moment, the western human rights discourse. It extends the apparently inviting pleantry “Come, let me hear your voice!” Inherent in the salutation is the fact that the one objectified in the greeting is being invited to a pre-existing discourse. That may in fact be the rub.

### The Nature and Problem of Eurocentrism

The global system as we know is largely a function not of natural evolution, but of European colonialism and neocolonialism. More importantly, subsequent to that historical epoch there was the imposition of an intellectual paradigm that colonized knowledge itself as well as the processes for producing knowledge. Within the context of Euro-centrism, the West

both creates the parameters of legitimate discussion concerning global issues and then serves as the de facto “ideal type” and standard for evaluative judgments relative to those issues. Even worse, Western created and sustained international organizations and domestic state institutions and legal entities are appealed to as the judicial authorities, administering admonitions, sanctions, and other punishments as consequences for deviance from the Western forms. Not surprisingly to anyone, except perhaps the West itself, non-Western forms, ideas, and concepts are found wanting and deficient and therefore subject to exclusion from the theater of debate and communicative legitimacy. I wrote in another piece about how the “vampire” was a proper and fit metaphor for Euro-centrism. It is rendered as such in Bob Marley’s song “Babylon Vampire,” in which he lays out its essential consequences.

Like the mythological vampire, Euro-centrism pursues its own interests at the expense of the psychological, sociological, economic, and political well-being of those it victims and does so by enrapturing them with illusions of love or at least mutual interest. Most modern configurations of Dracula describe a tortured creature, which is spiritually disfigured, believing at times that he or she does indeed “love” the one they systematically devour. Worst of all, the great malady of the vampire’s condition is the denial of its own existence as ghoul. The vampire believes himself or herself to be alive and so much wants to be a part of the world, yet inevitably must slink back to the coffin, to the grains of earth of their original burial (the seeds of Platonic epistemology and the Enlightenment), all before the encroachment of the sun, ever representing the force of true illumination from which nothing undead may hide and by whose light they shall surely be judged and found wanting. Next to the sun of external recognition, there is no greater threat than a mirror. For the mirror represents self-criticism, the capacity to reflect on oneself as monster. When gazing out, Euro-centrism sees nothing. Or we might better say, sees nothing beyond itself, believing itself to be the germinal seed of existence, without which being is meaningless.

It seems senseless for those victimized or in the path of this demon to despise the essence of what the creature is, for it is merely responding to its nature. Marimba Ani in *Yurugu* characterized this as the *asili*, or the equivalent of “cultural DNA.”<sup>1</sup> Since the predatory nature of the beast is so

---

<sup>1</sup>) Ani 2007, p. 12.

embedded within structure, it is unwise and dangerous to speak of “reform”. It must be destroyed where it lives . . . in its realm of its feeling, its “black heart”, and its damaged Frankensteinian mind.

### **How Historical and Present Eurocentric Power Taints Communicative Interchange with “Others”: How the Non-Western is Rendered “Mute”**

Stephen Lukes, political theorist and John Gaventa, political scientist, present the matter in forms useful for our consideration of this question of human rights. Gaventa, in *Power and Powerlessness*,<sup>2</sup> presents it in his attempt to work with and theorize about working with the disadvantaged in the U.S. Appalachians. He is confronted with recalcitrance on the part of his constituency of aid and notes that mainstream theory would be likely to categorize this behavior as “apathy.” But he is inclined to believe that what presents itself socially and empirically as “apathy,” is in fact a response to the historical consequences of oppressive neocolonial power. He references Lukes and his work in *Power: A Radical View*,<sup>3</sup> where the latter posits three dimensions to power.

The first dimension of power is one with which sociologists are intimately acquainted, and that is the feared “power over.” The power understood to be wielded traditionally by forces of oppression and domination. The second, certainly explored by interpretive sociologists in some detail, is the “power to.” Certainly, wielded by those same centers of power in some cases, it also the object of resistance movements. They seek to acquire it so as to bring about reform or revolution and the amelioration of their condition of social injustice and exploitation. Yet, Lukes presents a third dimension of power, one I believe poorly comprehended within existing sociological theory and one that is at the foundation of Euro-centric praxis. This dimension of power is the capacity to define the political agenda. It is obfuscated from traditional sociological analysis because it does not present in the form of a validity claim for “power over” or “power to.” It describes itself as the mere backdrop or context for the legitimate exercise of other forms of power, yet it is in this power to consecrate the legitimate realms of rational discourse that it is more coercive than the power it facilitates.

It is this “third face” of power that Carter G. Woodson was referring to when he surmised that though the chains might be removed from the slave

<sup>2</sup>) Gaventa 1982.

<sup>3</sup>) Lukes, 2004.

and the signs identifying social distinctions between “whites” and “Negroes” taken down, the mentality of those who had been victimized by oppression had been “educated” in a manner such that they would reconstruct (in league with their oppressors) their own demise.<sup>4</sup> It is the one referenced also in the historical mythological “Lynch letter” where Africans in the Diaspora are given an antagonistic, oppositional perception of their own community which would, it was believed, perpetuate enslavement without the mechanisms of restraint.<sup>5</sup> It was the object of the admonition of El Hajj Malik el-Shabazz when he warned that one should never “ask a slave what he wants.” The slave would not know what he or she wants outside of the context of freedom, which would never be the object of his or her asking. As such, their response would be meaningless and to grant it, would be merely to grant further dispensation to the system of enslavement. Cautioning us also was Audre Lorde, who told us clearly, one cannot use the “master’s tools” to deconstruct the “master’s house.”<sup>6</sup> So to the critics within Western critical theory who noted the paradox of arguing that the systems of Eurocentric modernity were corrupt and “unfree,” while simultaneously maintaining that the intellectual products of those civilizations were and are the only methodological tools for human freedom.

### **How Historical and Present Eurocentric Ethnocentrism Taints Communicative Interchange: How the West is Rendered “Deaf”**

As regards the human rights discourse particularly, we might employ the rich metaphorical and analogical framework given us in Greco-Roman mythology in the characters of Echo and Narcissus. Echo was a nymph in love with her own voice. Zeus was taken to consorting with the nymphs and employed Echo as an agent to occupy the time and thoughts of his spouse Hera, while he continued his ceaseless adulteries. Hera eventually exposed the plot and punished Echo by allowing her to say only the last words of other’s sentences. Narcissus was a human deemed to be so beautiful that all who saw him fell in love with him. Echo later meets Narcissus and falls in love with him as well. She is shy, so she follows him and reaches a vantage point where she can see him, but he can not see her. He becomes lost and says “Is anyone here?” Echo answered “Here, here, here.” He forces

<sup>4</sup> Woodson 2006.

<sup>5</sup> Embree 1931.

<sup>6</sup> Bereano 1984, pp. 110–113.

her to expose herself. When she does, she communicates her love to him in a nonverbal way, but he rebuffs her. Eventually she prays for death. She is given death, but her voice lived on, beloved of the goddess Aphrodite.

Narcissus later gets his come-uppance. A girl, who falls in love with him, prays that he suffer from the unrequited love he engendered in others. The goddess Nemesis curses him by making him fall in love with his own reflection.

We have to begin my contemplating this character Echo. She is defined initially as loving her own voice. One might say that the capacity of European colonialism and neocolonialism to exercise predominant power in defining the parameters of global affairs has enabled it to stamp the world with its own voice. In fact, much of the period of classical colonialism was spent “planting” the voice of European forms and their associated Eurocentric rationale in all corners of the world. Thus, religions were forcibly transformed into either Western forms or hybrids. Those who resisted were killed or at least marginalized as “heathens.” Capitalist flows, transferring the world’s material resources to Europe, the US, and Japan were codified under various ideological banners of development, globalization, globalism, or interdependence and those who resisted branded socialist or communist enemies or reactionaries. Western state structures and processes and their political liberalisms were presented as “democratization.” Systematically, every face of human social, political, economic, cultural, and psychological life was molded to reflect the worldview of the colonial masters, even the maps of the world themselves.

Frankie Goes to Hollywood recorded an introduction to their *Welcome to the Pleasuredome* album in which the lead singer says repeatedly “The World is My Oyster.”<sup>7</sup> Certainly, this was the view of the global conquerors. Here, we say the world is my Echo. For the voice of the world became the voice of the West. Thus there was no “voice of the oppressed” that might reasonable be listened to, or at least that could be recognized authoritatively as such. It’s important too, to recognize the critical reality that Karl Marx so exceptionally lays out as regards the inextricable link between the ideological superstructure and the base of control of the means of production beneath. Echo speaks initially to allow the god to commit adultery. In fact, this adultery is actually rape, since Zeus, as the most powerful deity, cannot be resisted in his sexual advances in any greater degree than African women could resist the incessant advances of lecherous slave-

---

<sup>7</sup> Hollywood, 1985.

masters. Echo then is the foil or the ruse for the criminal plot to exploit the nymphs and to deceive. Euro-centrism was born as the self-fulfilling ideological justification for European domination and oppression of the world. It was a foil in that its ontological and epistemological frameworks and arguments were not about truth or knowledge, but targeted instead at ideological “softening” of the objects of victimization. It pushed the ethic “thou shalt not steal” as it stole everything in sight. “Thou shalt not kill as it slaughtered everything and in the name of God. Thou shalt not take the name of the Lord they God in vain as it connected the messiah to white supremacy imagery and filled the heads of black and brown people with flying white angels, white last suppers, and white gods.

In Scott’s book, *Domination and the Arts of Resistance*,<sup>8</sup> he presents us with the critical dimensions of Echo’s downfall. For the extent of Eurocentric domination of global discourse presented the would-be global rulers with an inability to access the most critical element necessary to maintain their authority, the thoughts of the oppressed. Within the thoughts of the oppressed one might find strategies for resistance and revolution. But they heard nothing, but their own voices. Every serf, and slave, and woman, and savage spoke of “yes, sir boss” and the master and mistress were left sure of only one thing that they had heard nothing. What they had heard was the sound of their own oppression being echoed back to them. Their inability to get past the wall they so heavily fortified and maintained to see the enemy certainly beyond was the undoing of colonialism in its initial form. When the “voice of the oppressed” was ultimately heard in all its clarity, it came with a sword, drenched often in blood.

But all was not lost for the Western world. For in the downfall of colonial empire, there remained the ideological rationale itself. This rationale glorified and legitimate Western forms and concepts. Where it holds sway, we see Western political, social, and economic structure and we hear still the voices of “democracy” and “liberalization” and “freedom.” Echoes still. Yet, this is the plight of Narcissus. Narcissus was not there when Echo was punished, but like Echo he is drunk with his own legend. For her it was her voice, reflected in every corner of the world still even after the demise of her glory. For him, it was not the literal repetition of his voice, but the veneration of his image. In many ways he is both less arrogant and more self-centered than Echo. For Narcissus feigns self-loathing. He rejects the admiration of others for him, resisting and turning down the Echo. This is

---

<sup>8</sup>) Scott 1990.

the position of those Westerners who lead the human rights discourse today. They are quick in their criticisms of the West and its history, but in their rejection fail to recognize that even their visions of liberation are embedded, not in a globally constructed discourse, but in the reification of the same imperial structures that necessitated the move towards “human rights” in the first place. This is the dialectical positioning of the ex-white supremacist who travels the world earning huge sums as an antiracist speaker and trainer. Ask them whether their status as an antiracist is also a consequence of white supremacy, since no person of color similarly politically situated would be likely to garner such status, and they will often fail to get the question.

Despite Narcissus apparent “strange nobility” in steering the love of others from his visage, he himself comes to be occupied with a contemplation of his own image as reflected. Thus, while the Western human rights advocate does not require by statement, the advocacy of Western forms, these forms are a presumption when he or she engages the debate over human rights. Human means the Western definition of “human.” It must, otherwise, it would be a matter of debate and contention since there are different definitions of humanity across cultures. The lack of contention is not an artifact of universal agreement (the plurality of societies across the world being the empirical evidence mitigating against such a reductionist conclusion), but rather monologue. Likewise, the “rights” theory of human advancement is inevitably a philosophical situation within the Western discourse of rights and social contracts, clearly foreign to most societies, but presumed. These foundational epistemological assumptions are part of that aforementioned “third face” of power. They are embedded in the agenda of human rights itself.

### **The Folly of Seeking “Democracy” in View of The Resulting Western Ideological Monologue**

To assure that no real contention over these imperialistic presumptions is allowed, there is a Narcissus tendency, or assimilative impulse, that takes the “voice of the oppressed” and fixes it within the context of the ongoing Western discourse. It is a form of co-optation. If you say “democracy,” the immediate presumption is that you mean Western democracy and that you are speaking of the Western developed form as if there was no other. The notion that there are theories of democracy that do not stem from the

West and are even hostile to the bourgeois notions of the same is not part of the legitimate debate. If you say “development” or something similar in economic terms, everyone assumes you either mean traditional global capitalism or at least some “liberalization” of the same. If not, maybe you mean Marxian socialism. The notion that you mean none of that and that there are economic systems that have nothing to do with the West that might offer not only different, but better configurations for human economic empowerment and liberation is not on the table. One of the most difficult meta-assumptions is the Enlightenment proposition of the individual, central to the Western notion of rights, but extremely problematic for the collectivist societies of the world, particularly in the developing world. The notions of alternative theories of the individual, or even of human liberation theories that totally discard Western individualism are not negotiable.

I’d like to present an empirical example of problems posed by Western human rights discourse using various examples from traditional Africa, particularly the Bantu of the southern part of the continent. One of the principle issues of human rights is the necessity for the institutionalization of processes and structures designed to protect these “rights.” Often this devolves into inherently and repeatedly failed attempts to import wholesale Western judicial procedures and forms out of their “natural habitat.” There are some fundamental aspects central to African traditional judiciary that are likely to be missed by those caught conceptually in the Echo-Narcissus dialectic. The normal activist strategy is “Echo” in that the ideal forms for dispute resolution are presumed to be Western courts and connected structures. It is “Narcissus” in the sense that African traditional aspirations for justice and law and order are “heard” as analogous to the claims presented by and on behalf of Western liberalism.

### **Alternative Non-Western Perspectives on Democratizing Political Formations: Selected African Cases**

Central in African traditional systems of justice are the concepts of spatially and locality. Power, political and judicial, is wielded among the Bantu of Southern Africa via a communal political formation known as *mbongi*. The relevance of this term to our theoretical exposition here is evident in its frequent translation in Western discourse as “democracy” or as a synonym for “democracy.” This pagan, as in village, egalitarian construction

may be communalist, but bears little if any resemblance to the political structures of the West, in even their most socialist moments. *Mbongi* quite literally translates into an indigenous concept which relates it to the centralized meeting place within the collective. It is centralized in that it might be described as equally accessible both to all potential participating political actors and to all foreseeable, navigable points of destination in the local spatial map. It is a nexus without which one cannot traverse daily. Its very existential nature establishes a commonality in the routinization of the everyday lives of the people. The selection of a location for the would-be “house of social justice, then, may be the most critical decision an advocate will make.

*The term “mbongi” refers literally to a simple architectural structure centrally located in the villages of the Bantu and of those in the Kongo region in particular. The shelter is the seat and site of local communal power and is the physical manifestation and representation of ancestral political and social authority. This entity is of critical importance within the Kibantu, the corpus of Bantu philosophy. The term “mbongi” derives from the verbal root “bonga” which, in the Kikongo language and related linguistic dialects of the region, signifies the act of accepting possession of or owning.<sup>9</sup>*

History is littered with the ashes of failed peacemaking and reconciliation efforts by Eurocentric progressivisms, which chose as their geographic foci “national” capitals, or state or regional centers. Having removed themselves at the outset from the constituent communities, from the ethnic traditional authorities that could legitimate any settlements, and from the spatial dimension which by itself institutionalizes judicial change in the everyday interactions of the people, they could not hope to succeed.

And by what “laws” are these judicial disputes to be judged? In Eurocentrism, it is the law of the text, of constitutions, of declarations, of promulgated state statute that reigns. Certainly there is customary law, but that law is seen as having been transcended in modernity and survives merely as an edifice for filling in contingencies where legislation has not yet been enacted.

In the African traditional society, it is customary law which reigns. This is due to the fact that customary law is not a pre-modern phase in route to an alleged evolutionary trajectory toward Greco-Roman models of legalization, but rather the accumulated experiential knowledge of the people in

---

<sup>9)</sup> FU-KIAU 1985.

historical reflection upon the rendering and maintenance of social justice among one another. Any other “law” would be viewed not only as impersonal, but as foreign, explaining the problematic nature of the “nation-state” as the center of “human rights” advocacy in this sphere. Customary law draws its resilience and relevance as a result of its role as a repository for socio-cultural value and systems of aesthetics. Any judicial conclusion would therefore have to be inculcated into customary law to be deemed legitimate and truly binding in the minds of the mass of the people. F. U. Okafor in his book *The Igbo Philosophy of Law* terms this communal based system an *Ohacracy*, the collective will of the people.<sup>10</sup>

*Customary law in the maintenance of Ma'at (spiritual and material balance in the universe as set out by divine law) is used to settle disputes among the people within the community. In the Igbo traditional society it is called Omenala which refers to the practices and customs which apply to any aspect all aspects of life in the community designed to insure social harmony and peace.<sup>11</sup> Customary law becomes important not because of its rules but, because of its underlying values.<sup>12</sup>*

*The objective in the Gikuyu court system according to Jomo Kenyatta in Facing Mount Kenya is also to resolve conflict using established customary law by way of arbitration. There are no written rules on how to decide cases. This is unlike the Euro-centric system where it is done with precedents. Instead, customary judges [elders] rely on the collective wisdom of the people.<sup>13</sup>*

Then there is the question of “who” will do the deciding. If one is governed properly by the dictates of customary law, what is preeminent in the selection of judicial authorities is their personal experiential knowledge of that law. One would have to in that context recognize the overarching authority of the socially-defined elders in the administration of any credible judiciary. There is in this idea the concept of age. Those who have lived in the material realm longer are presumed to be wiser with respect to the cosmic laws. They are closest in temporal spatiality to the ancestors who are in the realm of all knowledge. There is also residence, which may or may not be the same. This refers to the length of time a person has dwelled in the community. Again, there is the presumption that longevity in this respect is evidence of one’s longstanding knowledge of, status of being subject to,

<sup>10)</sup> Okafor 1992.

<sup>11)</sup> Nwala 1985.

<sup>12)</sup> Obe 1992, pp. 327–351.

<sup>13)</sup> Obe, 1992, pp. 327–351.

and observation of the administration of customary law. In this respect, Euro-centrism is most dangerous to its liberalist intent. For too often the goal is the implementation of “democracy,” inevitably meaning the replacement of traditional, often ethnically-based elder leadership structures with more populist, external structures. These can be created, but they have little or no real authority on the local level.

*According to the Omenala [custom] it is the job of the elders to preserve peace in the community and maintain social order. The elders, which in most instances are the heads of families of each household, are given the responsibility of preserving social harmony among the people by reconciliation, as well as settling familial disputes within the family or between different families.<sup>14</sup>*

*The Council of Elders who make up the court system in Akan civilization is called the Badwafo and their job is to settle disputes between the family members and groups which include theft, slander, property, and intermarriage conflict.*

*According to Bascom in The Yoruba of Southwestern Nigeria, the elders (the Bale) are responsible for the resolution of conflicts because they have the most extensive knowledge of the traditional way of life. The Bale also serve as the principal judges in deciding disputes.<sup>15</sup>*

*The function of the elder in the Gikuyu then becomes “one of harmonizing the activities of various groups living and departed. In his capacity of mediator his family group and community in general respect him for his seniority and wisdom and in turn respects the seniority of the ancestral spirits”.<sup>16</sup>*

Last but not least, there is the question of what procedures will be applied. Very commonly the Western conception of “blind justice” is central to rights advocates. So too, is the adversarial dialectic in which there are the accused and the accuser. Often the accuser is the state or international organizations acceded authority by the state to make such judgment. Yet adversarial justice, in a sense, is precisely opposed to African traditional understandings of justice. First and foremost, the “accused” is most likely a member of the community. The goal of all community processes is to heal the rift. In fact, many African societies prior to colonialism had no word for “jail.” They did have words for their supreme social penalty, “exile.” And we should note that this was and is in traditional order, still analogous to a death penalty. Of course, it could literally mean death in terms of one being physically expelled from the community and forced to contend with external forces of nature and humanity without the protection

<sup>14</sup> Nwala 1985; Paris 1995.

<sup>15</sup> Bascom, 1984.

<sup>16</sup> Kenyatta 1953, p. 265.

of the society. But more philosophically speaking, exile was a permanent penalty which disconnected the individual from the collective. The African conception of the individual was that individuality was collectively defined and thus to be disconnected was to die in spiritual and social terms.

The Eurocentric science fiction series *Star Trek: The Next Generation* played at non-Western conceptions of individuality and its clash with external cultural forms. Two particular examples come to mind here. The first involves the creatures known as the Borg. Whereas in Western terms disconnection and exile from the core was styled as “freedom,” for the Borg it was to be cast into a world of misery and to move from universal clarity and essential cosmic connection to the whole to the solitary and silent isolation of personhood. The second example was a Klingon ritual in which one took blame for his families sins. The culmination of the ritual was the turning away from that familial representative and the nullification of their social identity.

Assuming the offense is not one warranting the supreme punishment, of which there are few, then the goal of any judicial proceeding is the reintegration of the individual in the community and the provision of reparation for those wronged. This mitigates against an adversarial methodology because such a methodology confirms the disequilibrium that is the enemy of the restorative justice process. Justice cannot be blind either, for if justice is blind, She cannot confirm that there has in fact, been a restoration of equilibrium. Using the stolen Eurocentric symbol of Liberty with scales (actually a bastardized form of the ancient African goddess Ma’at) as a metaphor, we might note that all sorts of mischief are likely to occur with the scales and their contents and weighing in the absence of her capacity for sight.

*In the Ashanti civilization, private offenses are called efisems. Efisems affect the social relations of persons or groups living in the community, while public offenses (Oman Akyiwade) affect the relationship between the community on the one hand, and the chief and the ancestors on the other.*<sup>17</sup>

*Among the Akan, the aim in settling household disputes is to reconcile the parties through arbitration.*<sup>18</sup> *This is done through a rite of reconciliation in the Mpata, a reconciliation fee in the form of a drink, accompanied by an apology, is given to the offended. Both parties then swear by the elders present that they will hereafter live at peace with each other.*<sup>19</sup>

<sup>17</sup> Ayittey 1991.

<sup>18</sup> Manoukian 1950, p. 40.

<sup>19</sup> Ayittey 1991, p. 45.

*Among the Yoruba of Southwestern Nigeria, the goal is to resolve the matters through peaceful settlement. The Bale (elders) are consistent with the maintenance of Ma'at because they settle disputes by deliberation and discussion, rather than by force, correcting the wrong doing by compensation except for offenses such as murder and they adjudicate and assess the matter impartially (1969)*

*In the Gikuyu court system, the elder looks at the conflict and decides what would be best for the individuals who are feuding and the collective society writ large. It is recognized that when there is conflict there is disunity, and when there is disunity there is disorder, which is a violation of Ma'at (harmony, order, and balance). The elder's job in reconciliation and the restoration of Ma'at (social order) is to "bring the disputing parties into a mutual agreement, and to avoid any act of vengeance which might result in the breaking up of the family group".<sup>20</sup>*

*In Schapera's book *The Tswana* it is noted that people can appeal to the Chief Court if they are dissatisfied with the decisions of informal courts. In the Chief Court people involved in the dispute or those accused of an offense always appear and speak for themselves (they plead in person). The judge (elder), in reaching his decision about the customary law, relies on personal knowledge of the law and upon the guidance of others present in court. All cases are heard in public and anyone present is free to attend and take part in the proceedings. This includes questioning parties involved, the witnesses, reviewing of the evidence, etc. After all the evidence is heard the judge renders a decision.<sup>21</sup>*

*The Igbo have a similar system. When a man from a neighboring village is accused of stealing property, he is brought in by his accuser. The Priest reports the matter to the Elders of the village, and also to the Elders of the accused. There is a "trial" at the marketplace the next day. The Elders pile their Ofo (a staff that symbolizes the link between the Ancestors in the spiritual realm and the Elders seeking to exact Ma'at in the form of justice in the material realm) on the ground and the Priest of Ala asks the ancestors for guidance in finding the truth. He asks the Ancestors to "help us try the case impartially, and assist us when we endeavor to find examples of the procedure in former times. If the accused has stolen the [item] you constrain him to confess." A libation is then poured for the Ancestors to join in the gathering. After the pouring of the libation each Priest from the village says "Life of men and women-protect us all."*

*Then the accuser and the accused tell their story of the events that took place. Witnesses are called to tell what they know about the event and they are told that they "must not do it in the spirit of envy or hatred for you may be called upon to swear." The Elders as well as the public can ask questions and a decision is made by the Elders. If the accused has sworn an oath to Ala than a decision is reached by a Priest outside the village. Delegates who are not related to the accused or the accuser are summoned and after they have been picked they are sworn to say to Ala "If these men go to Igwe and conceal or falsify what Igwe tells them may you Ala, Ancestors, and Ofo take away their lives." They solidify the oath by sharing Kola nut to symbolize unity and a commitment to the ancestors and the Creator in seeking justice [Ma'at].<sup>22</sup>*

<sup>20)</sup> Kenyatta 1953, p. 214.

<sup>21)</sup> Schapera, 1953, pp. 53–57.

<sup>22)</sup> Meek, 1937, p. 151

African traditional society takes the position that the events that are in dispute are best told by those who participated. There are no advocates because it is the disputants who can best tell their stories as only they know how. There are no bars on what can be “admitted into evidence” as in the Euro-centric system because all information is relevant to coming to a fair and just determination. Everyone can ask questions about the events because they all have a stake in the outcome and want to know the truth.

The Elders who decide the case based on customary law are trusted because they are respected in the community for their wisdom. The elders understand that if they fail in their duties than they are subjected to spiritual as well as material sanctions. The Oath to tell the truth before the Ancestors facilitates a just and fair outcome because failing to do so may have unwanted consequences from the spiritual realm that can affect an individual family or the entire community.

### **The Irreconcilability of These Alternative Conceptions of Democratization and the Implications for a Westernized “Human Rights” Pursuit**

Those that would politically “liberate” African people or bring them political “freedom” through various mechanisms of judicial responsibility should be wary of assuming that the Eurocentric forms of those will provide any acceptable vehicle. Not only will they fail, but worse, they run the risk of exacerbating conditions of colonialism and neocolonialism in the areas where they are applied. This takes us back to the original problem of the Echo-Narcissus dialectic, “hearing their voices.” Question one, Echo says to us that which Euro-centrists are likely to hear is that which they desire to hear. It is sound of their own aspirations for liberation from their own self-constructed systems of oppression reflected back in the words of those they have victimized. Question two, having heard, however errantly, are they victimized then by Narcissus and the belief that not only is the voice of the aspiration an echo, but the satisfaction of the aspiration inevitably to be found in the mechanisms of oppression wielded by the colonizers themselves?

### **References**

- Ani, M. 2007, *Yurugu: An Afrikan-Centered Critique of European Cultural Thought and Behavior* (1st ed.), Washington, DC: Nkonimfo Publications.

- Ayittey, G. 1991, *Indigenous Afrikan Institutions*, New York: Transnational Publishers Incorporated.
- Bascom, W. 1984, *The Yoruba of Southwestern Nigeria*, Prospect Heights, IL.: Waveland Press.
- Bereano, N.K., ed. 1984, *Sister Outsider: Essays and Speeches*, Berkeley, CA: The Crossings Press.
- Embree, E.R. 1931, *Brown America, The Story Of A New Race*, New York: Viking Press.
- Fu-Kiau, K.K. 1985. *MBONGI: An Afrikan Traditional Political Institution*, Mass. Roxbury, MA: Omenana.
- Gaventa, J. 1982, *Power and Powerlessness: Quiescence & Rebellion in an Appalachian Valley*, New Educational Edition. Champaign, IL: University of Illinois Press.
- Hollywood, F.G. Performer 1985, *The World Is My Oyster*. On *Welcome To The Pleasure-dome* [CD], New York: T.C. Horn.
- Kenyatta, J. 1953, *Facing Mount Kenya: The Tribal Life of The Gikuyu*, London, U.K.
- Lukes, S. 2004, *Power: A Radical View* (2nd ed.), Basingstoke: Palgrave Macmillan.
- Manoukian, M. 1950, *Akan and Ga-Adangme Peoples*, London, U.K.: International Afrikan Institute.
- Meek, C.K. 1937, *Law and Authority in A Nigerian Tribe*, London: Oxford University Press.
- Nwala, U. 1985, *Igbo Philosophy*, Lagos, Nigeria: Literamed Publications.
- Obe, A.I. 1992, 'The Dilemma of Afrikan Criminal Law, Tradition Versus Modernity', *SOULR*, 19, pp. 327–351.
- Okafor, F.U. 1992, *The Igbo Philosophy of Law*, Enugu, Nigeria: 4th Dimension Publishing Company Limited.
- Paris, P.J. 1995, *The Spirituality of Afrikan Peoples*. Minneapolis, MN: Fortress Press.
- Schapera, I. 1953, *The Tswana*, London, U.K.: International Afrikan Institute.
- Scott, J.C. 1990, *Domination and the Arts of Resistance: Hidden Transcripts*, New Haven, CT: Yale University Press.
- Woodson, C.G. 2006, *The Mis-Education of the Negro* (1990 Africa World Press Inc. Edition ed.). USA: Africa World Press.

**Copyright of Societies Without Borders is the property of Brill Academic Publishers and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.**