
Eleven Guilty Men from Goredema: Parallel Justice and the Moralities of Local Administration in Northwestern Zimbabwe¹

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Abstract: In the late 1980s, at a time when the newly independent Zimbabwean state was still struggling to fortify local organs of legal and development administration, a group of male collaterals in the northwestern district of Gokwe was inventing a parallel corporate structure for purposes of limited self-governance. This article narrates the dramatic events consequent upon a case of rape and incest, using it as a point of departure to explore how spheres of local jurisdiction may be carved out and tested, and the morality of state intervention ultimately contested, by a newly imagined, if deeply patriarchal, form of civil society.

Résumé: Dans les années quatre-vingt, à l'époque où le nouvel état indépendant du Zimbabwe luttait pour renforcer les organes locaux de l'administration en matière de droit et de développement, un groupe d'hommes collatéraux du district nord-ouest de Gokwe inventait une structure institutionnelle parallèle dans un but d'auto gouvernement. Cet article raconte les événements dramatiques qui ont suivi un cas de viol et d'inceste; l'auteur s'est servi de ce cas comme point de départ pour explorer la façon dont les milieux de juridiction locale peuvent être d'une part construits et testés et d'autre part comment la moralité de l'état peut-être contestée en fin de compte par une forme de société civile, nouvellement conçue mais encore profondément patriarcale.

A society composed of an infinite number of unorganized individuals, that a hypertrophied State is forced to oppress and contain, constitutes a veritable sociological monstrosity. For collective activity is always too complex to be able to be expressed through the single and unique organ of the State. Moreover, the State is too remote from individuals; its relations with them too external and intermittent to penetrate deeply into individual consciences and socialize them within.

— Emile Durkheim, 1964 [1902]: 28

The state in postcolonial Africa routinely fails to provide the kind of moral authority it pretends to command, as the lengthening literature on corruption, terror and arbitrary or personal rule well attests (see Davidson, 1992). Still, communities must somehow make their way within the state's shadow, constantly testing or negotiating the limits of autonomy under circumstances that are often as hard to fathom as they are to predict (Bayart, 1993). Some limits are more easily, or more urgently contested than others, of course, so that asserting the right to raise a local militia may be less worthwhile or important than adroitly avoiding the payment of crop levies. In any case, the pathways through and around the web of laws that authorize state power are not easily classified as instances of "resistance to" or "compliance with" the state (see Comaroff and Comaroff, 1991; Lazarus-Black and Hirsch, 1994). So much, I hope, will become clear from the story I will shortly present, the story of an effort to constitute a limited form of patriarchal self-governance lying parallel to the official state.

The now-independent nation of Zimbabwe was claimed as a colony for the British by Cecil Rhodes and the Pioneer Column in 1893. The same year, we might note, marked the publication of *De la division de travail social*, Durkheim's famous essay on the changing relation of moral order to social form under conditions of industrial and political modernity. At the time, the problem of

state-making in western Europe had, at least for the time being, been effectively resolved. Neither the formal sovereignty of the state, nor its moral hegemony over ordinary citizens were any longer seriously in question (Corrigan and Sayer, 1985). It was the excessive, rather than the exiguous, permeation of social life by the state that Durkheim seems to have found worrisome. By comparison, the nature, degree and terms of hegemonic domination enjoyed by the postcolonial states of Latin America at the same moment were all at that time still very much being worked out (Joseph and Nugent, 1994; Mallon, 1995).

African societies, in contrast, had only just begun to find themselves compressed into the straitjacket of colonial boundaries and the regimes of colonial discipline, the results of which are still today openly contested in many African states, three or four decades after achieving independence. At the 19th century's end, the multi-imperial project famously initiated on paper at the Berlin Conference in 1884-85 had largely been realized in the form of colonies on African soil, just as the British defeat of Boer independence heralded the unification of the modern South African state. These events have been meticulously documented, of course, but the experiential meaning or moral assessment of the colonial state for Africans newly subjected to it is rather less well described (see Mamdani, 1996, Vincent, 1994).

The experience of Zimbabweans both under colonialism and after was somewhat unique. The pre-World War II pattern of land alienation and racial domination in what was then the semi-autonomous colony of Southern Rhodesia (see Palmer, 1977) was followed by a post-World War preoccupation with "Native Development"—at times mirroring and at times departing from the South African pattern. In 1965, the ruling White settlers skirted the anticipated transition to majority rule, and, with Ian Smith's Unilateral Declaration of Independence (UDI), assumed instead the international status of a pariah state.

The UDI government was notable for its efforts to revive—many would say "re-contrive"—the judicial and moral authority of rural chiefs, marking out apartheid-style Tribal Trust Lands to be governed under "customary" law (Holleman, 1969; Seidman, 1982; Weinrich, 1971). This strategy proved to be as ineffective at establishing a renewed hegemony over the African majority (Ranger, 1982) as it was at gaining credibility for the Smith regime abroad. By the time of its collapse in the face of a widespread guerrilla insurgency, the renegade Rhodesian state had received almost universal censure—not only for the disregard with which it held inter-

national law, but specifically for the draconian, racially motivated treatment meted out to those it called "Natives" in the face of their refusal to comply with the happy vision of cultural pluralism that Smith proposed as a substitute for majority rule (Ranger, 1985). The dual system of judicial administration that had a network of appointed administrative chiefs dispense justice in "customary" cases between native Africans, subject to the overriding discretion of White Native Commissioners, rapidly collapsed. Chiefs were shot by guerrillas as collaborators; village courts were set up by guerrilla cadres to fill the void left by a vanquished colonial state.

The Lancaster House agreement of 1979, and the election of Mugabe's ZANU-PF party to power the following year, brought the anomalous state of Rhodesia to an ignominious end. In its reincarnation as the postcolonial state of Zimbabwe, however, the reputation of the state has fared little better. In the eyes of many scholars of the post-independence era, Mugabe's government seemed determined to harden the administrative state inherited from Smith into the hypertrophied "sociological monstrosity" of Durkheim's nightmares. According to these assessments, even where direct oppression by the Zimbabwean state cannot be clearly demonstrated,² a kind of "governmentality" (Foucault, 1991) can be—one in which the vulnerability of citizens to centralized bureaucratic power seems discernible at every join and weld between policy discourse and governmental practice (Astrow, 1983; Drinkwater, 1991; Raftopoulos, 1992; Munro, 1995). From this perspective there seems to be little space for civil society of any kind that the state (including the national army and the effectively unique governing party) has not somehow managed to penetrate or sought to bring under its control.³

The extent to which the postcolonial state in Zimbabwe has in fact managed to permeate and control everyday social relations can perhaps best be estimated from the implementation of law in the domestic realm, an arena that, as I have already suggested, was relegated by the colonial government to appointed administrative headmen and chiefs, working beneath the paternalistic gaze of White Native Commissioners.⁴ The revamping of the local judicial system, in fact, was one of the first areas to be addressed by legislators in the effort to transform and extend postcolonial forms of governance. Sensing the need to fill the void in judicial authority that the revolutionary transition provided, the Customary Law and Primary Courts Bill in 1981 provided one of the means by which the state sought to bring into alignment two discrete objectives: first, to institutionalize its rejection of the racialized colonial order in the adjudication of citi-

zen's rights, and second, to assert sovereignty over a countryside that had essentially become self-governing during the last stages of the war. The Bill specified that from the village level on up, the judiciary would, for the first time, be separated from the administrative organs of state. Chiefs and Native Commissioners in particular would lose their authority to independently appoint Community and District Courts, although the realm of "customary law" was preserved to adjudicate several areas of law, including family and land disputes in the erstwhile Tribal Trust Lands in which most Africans lived.

A Parallel State? Repossessing Local Governance in Goredema

In the late 1980s, while conducting research in the remote northwestern district of Gokwe, my wife and I made a surprising discovery, one that called the hegemony of the state into question in a variety of ways. What we found was something like a parallel state-within-the-state. Unlike much of the rest of the country, Gokwe had been the staging ground for all the contesting factions during the war, but was exclusively captured by none. The party-operated "kangaroo courts" that administered justice in the years just before and after independence seem to have had little enduring presence in the ward of Goredema where we lived. Thus in 1982, taking advantage of the hiatus between revolutionary chaos and the re-encroachment of state authority, a group of 45 men, linked largely by ties of clanship, agnation and generation had formalized a corporate structure that served as a circumscribed form of self-governance through the application of locally derived conceptions of law.

This was not a return to remembered tradition: the corporation of brothers had written a constitution, elected officers and passed by-laws regulating procedure and jurisdiction for their actions. Its basis for recruitment—effectively an age-set of junior married men—had no counterpart in precolonial or colonial social life, and its system of offices was designed to mirror a division of functions and a set of procedural rules adopted from the farmers' groups created by the colonial agricultural extension service. Yet to call this corporation simply a hybrid of traditional and modern elements would be to miss the ingenuity that made it unique. These male collaterals sought precisely to modernize male authority over private relations by shifting them out of the colonial category of customary law and into a reconstituted public sphere, one in which their judgements, and not those of the state, held sovereign sway. In this sense, one might go so far as to say that these men had created a surrogate

state, one that in its jural functions and moral presumptions ran parallel to those of the state officially holding sovereign power.

We learned of the existence of these parallel institutions of governance only by observing a dramatic series of events in which they were put to work, and it is the story of this drama that I present below. More than simply a story of how a system of parallel governance operates, it is a story of how various fragments of the official state's authority—or what might be thought of as the dispersed qualities of the state's presence and power in the lives of its rural subjects—are actually realized. It is a story about how the state's official sense of temporality interacts with a contrasting village temporal sensibility. And finally, it is about the way in which these men forged a novel form of agnation itself, making of it the public sphere in which male moral authority, exercised unreflectively in the name of the community as a whole, was to be both asserted and assessed.

Katsuro's Crime

On a hot evening early in October of 1988, three weeks before the first rains would break, a beer party was held at an isolated homestead cut in the *mopane* forest of eastern Goredema. The second son of Takoshiwa, headman of the village of that name, was in attendance. A tall, wire-thin man, his name was Katsuro. After getting quite drunk, and having been urged to go home early in the company of relatives, Katsuro was caught, quite literally, with his shoes off and his pants down in the hut of the host's junior wife. The kin of the offended husband immediately bound and beat him, one of them going so far as to bite off the lobe of one of his ears, before allowing him to be carried by his brothers to the clinic some 10 kilometres away for treatment.

This episode was relayed to us with great mirth by the women of the household in which we lived that year; Katsuro was a half-cousin of their common husband, and one whom they held in low esteem for his slovenly appearance, his beer-drinking habits and his adulterous ways. The general amusement deriving from this incident had hardly subsided, however, when Katsuro's immoral behaviour took a far more serious turn. On October 15th, he embarked on a libidinous rampage, first attempting to enter the huts of several of his agnates' wives before finally accosting and molesting his own brother's daughter, a girl only six or seven years old. Whether because she screamed or because someone entered the hut, we do not know, but Katsuro was once again caught *in flagrante delicto*, and the girl's immediate

relatives were quick to seek a punishment in accord with the gravity of the crime.

That very evening, a meeting was held of all the adult men in the village. It was, however, the corporation of (mostly married) brothers, of whom Katsuro was one, who took control of the adjudication process. They agreed that he should not be sent to the police, since an extended jail sentence would only punish his wives and children. In fact, the burden of their upkeep would be passed on to the very relatives whom he had offended. They decided instead (apparently with his father, the headman, uniquely in dissent) on a course of summary punishment: Katsuro's possessions were to be removed from the several huts that accommodated his wives and children, and his granary emptied. The huts were to be set alight, and he and his family were to be driven from the village, and told never to return.

In the event, Katsuro's own wives were beaten trying to interfere with the execution of this judgement, and it was reported that our own host, a man named Kamba, broke the arm of one of them with the stick that he wielded against her. Katsuro himself, although scrawny, listless and less an earlobe, proved to be a more wily opponent than his kinsmen had anticipated. Instead of fleeing into exile, he went straight to the government authorities, reporting his version of the events to the police post at Nembudziya. A day later, the brothers received a summons to respond to charges that Katsuro had laid against them—collectively for destruction of property, and against Kamba in particular for assault. Hobbled by the sticky mud left by an early rain, the fraternity of accused men walked the 20 kilometres to the police post and the 20 kilometres back, losing an entire day's labour during the critical time of field preparation for planting. In Nembudziya, they were told that on November 30th, they would have to appear in the Magistrate's Court in the district headquarters at Gokwe, 55 kilometres away. Kamba would have to make an earlier appearance to answer for the broken arm.

On the night of November 29th the rains broke again over the Goredema lowlands, this time in earnest. We were awakened at 3:00 a.m. to hear Kamba's younger brother pounding on the hut of the elder wife, where Kamba was sleeping. Others shouted greetings in the misty night, and eventually the 11 men charged in the case set out in the dark and rain through the *mopani* forest, on up the steep escarpment of the Mafungabusi plateau. A two-hour hike would take them to the top where they would intercept the night bus coming from the Kuwirirana crossroads at the north end of the plateau. The bus would take them into Gokwe town,

where they would await their hearing with the magistrate. Late that evening, the weary men returned, laden with store-bought sugar and flour, and stories of what they'd seen in court.

"Can you believe it, Rukomboreri has three summonses waiting for him there!" Kamba told us, referring to the local big operator—a trader, transporter and money-lender—who controlled the local black market in cotton. One summons was for shooting a boy in the leg in one of his shops, another was for cashing a cheque without authorization and the last was for transport fraud. Nothing ever came of these complaints, as far as we could learn; Rukomboreri's awesome commercial reach throughout the district seemed to be complemented by a kind of unofficial immunity to successful prosecution, an alloy of the fear he inspired with his own arrogance and greed.

Kamba was recalled to Gokwe again in January to await the hearing of his case, and then again in February, when he was convicted and fined 200 Zimbabwe dollars (about a tenth of his annual crop value) or one month in prison. His younger brother collected the money from the others to pay the fine (each of the 10 contributing 20 dollars) and went to pay it the next day. Meanwhile the case against the group as a whole wore on without resolution; once a month they ascended the plateau before dawn, only to wait in futility for the case to come up on the docket, and each time they returned with a greater sense of anger and resolve.

On March 22, 1989, the men set out for the fourth or fifth time. "Bye, bye," one of them jested to the entourage of women and children gathered in their wake. "We might not ever see you again."

"Don't worry," teased the women. "We'll see you in Gokwe when we go to buy our cooking oil and sugar with money we've earned from selling your cotton. We'll take the bus from Maware, then change at Kuwirirana, and do our shopping at Gokwe. We'll be eating fat-cook daily!"⁵

The night before, I sat chatting in the moonlight with Kamba:

"We have decided we will spend even two years in jail if that is what is wanted [he said angrily]. But that guy Katsuro has been very lucky so far. We could have easily killed him. There are people we know who are easily able to do so. You know, he goes to the *doro* [beer party] and then is not seen again. Now, for such a guy who is doing many wrong kinds of things among his own people—to be trying to sleep with his sisters and his daughters, just like me taking my daughter for my wife!—for such a guy to be making *us* go to court, and to pay what, two hundred dollars each, times eleven, makes what?"

"Over \$2 000," I helped.

"That's right, over \$2 000. Do you think he will live after that? We have played Chimurenga [a reference to the anti-colonial guerrilla wars of 1896-97 and 1966-79]. To kill such a man is not hard for us. Yes, we have played that game. And also his father is very wrong for opposing us. He is just supporting Katsuro because he is his son, for no other reason. He says we should have gone to the police. But for what? So that we could look after his family for some years while he is in jail? No, better to chase him from this place. If he wants to do such works in Chinoyi or Kadoma or Njelele [towns to the south and east], it is alright with us. He can join the police or the roads department and travel around doing what he likes. But not here among our family."

In the event, we met half of the lot of them returning through the forest the next afternoon. "June 14th," they sang, still disbelieving. "We are to return June 14th, with all of our witnesses and the village leaders—Takoshiwa and Taneta and also Chamuka, perhaps because he's an elder who's not involved."

June 14th came and the men stood inside the courthouse; I couldn't stay to hear the proceedings, which in any case seemed as likely as ever to be cancelled again. But this time the men did not return to the village. The magistrate heard the case and ruled against them. The sentence he meted out was far worse than anyone could have guessed: two months hard labour in the district jail for all 11 men. It was the same jail, ironically, in which suspected guerrillas had been kept during the second Chimurenga war by the colonial government.

I sensed no rancour toward the state, abstractly conceived, at this judgment. What had been affirmed was the effectiveness of the corporation of patrilineals in asserting the right to govern moral relations among themselves, regardless of the capacity of the state to eventually override their actions. The sovereign state was not conceived in political terms in this sense, it mattering little which party was in charge, or in whose name such governance was carried out. The brothers of Kamba had, in their view, merely taken advantage of a *de facto* hiatus in power, one in which the Rhodesian state was weakening along with the elders whom it had successfully co-opted, and in which the new postrevolutionary state had not yet developed the institutional means to intervene in domestic relations. The form of self-governance that the brothers developed was uniquely tailored to revolutionary times.

We might read the import of this narrative in two ways. We might see it as instancing the ultimate triumph of a hypertrophied state, establishing its unquestioned

suzerainty through the force of the police and judiciary, as well as through its capacity, ultimately, to enjoin the community to consent to its naturalized authority. Then again, rather than interpreting the story as illustrating the means by which the state has extended its hegemonic project, we might understand it to be indicative of the means by which the subjects of that project creatively put elements of the modernizing project to work toward ends that, while not precisely subverting state power, nevertheless appropriate it.

The corporation of Kamba brothers asserted, indeed assumed, that it is men who are the active subjects of civil society; this was reinforced by the conviction that it is women, and in particular, contested access to women's sexuality, that give rise to disputes among them. Indeed, this was the explicit *raison d'être* we were given for the formation of the corporation: that in the course of the disorder caused by the war and its aftermath, cases of adultery among classificatory brothers had grown rife. With the discrediting of chiefs and the collapse of their legal authority to adjudicate cases, it was felt that men would have to institute a modern, if patriarchal, form of judicial authority, to take charge of their own affairs. When asked why men ought to represent the interests of women when the latter's rights had been violated, the brothers easily asserted, without sensing any contradiction, that this was their "tradition" (see Selim, 1991); indeed this view was enshrined in the rules of the colonial customary courts and adhered to in the Customary Law and Primary Courts Bill passed after Independence (Seidman, 1982).⁶ Whether women are subjected to forms of private violence and banishment, or merely rendered passive victims by state institutions, they have not been included as legitimate, legally empowered guardians of the moral order in Zimbabwe by either the formal or the parallel state.

What happens if, when asking about the century-long history of local encounters with modern administrative power in northwestern Zimbabwe, we dispense with our organic vision of the state; if, instead of picturing an amoeba or octopus, we see instead a dispersed residue of specific and very different sites of power—tidal pools in which micro-environments of power are iteratively nurtured, but never irreocably submerged, by the sea? Within these pools, local configurations of power, made of local histories, obtain. In Goredema, as elsewhere, these have always been multiple and cross-cutting; the temporary retreat of the state, far from creating the conditions for anarchy, enabled the mobilization of novel political identities (the corporation of classificatory brothers), and the selective use of "modern" models of governance (the

constitution) to enforce moral codes that were nevertheless predicated upon a naturalized "tradition" (the subjugation of women and their exclusion from the adjudication process). The reassertion of state sovereignty over the domestic realm has done little to undo the sense that its reach is in principle negotiable, and its future unpredictable.

Notes

- 1 An earlier version of this paper was presented to the 1995 Meetings of the American Anthropological Association in Washington, DC. I am grateful to Peter Kuchylski, Blair Rutherford, Gul Rukh Selim and Liz Fajber for their interest their useful comments, and their own contributions to a very stimulating session. Thanks go as well to the people of Goredema ward in Gokwe, who so generously shared so many aspects of their lives with Gul Rukh and I in 1988-89. For reasons that will be obvious, I have disguised the names of the participants in the events reported on below. Support received from the Wenner-Gren Foundation for Anthropological Research, McGill University and FCAR (Government of Quebec) is gratefully acknowledged.
- 2 Nonetheless, the recent report of the Zimbabwean Catholic Commission for Justice and Peace on systematic and violent repression in Matabeleland in 1983-84 leaves little room for doubt. The report has not been released by the Government of Zimbabwe, but the text is circulating on the Internet. See also Werbner, 1995 and Worby, 1998.
- 3 See Ciekawy 1997 for a comparable attempt to demonstrate the penetration and surveillance of civil society by the state in Kenya.
- 4 This was the case in the Communal Areas (formerly Tribal Trust Lands). Relations among Black farm workers in the commercial farm sector were subjected to the paternalistic governance of the farm owners. See Rutherford, 1997.
- 5 "Fat-cook" consists of a wheat flour batter dropped into boiling vegetable oil; since the ingredients are costly and must be purchased at the shops, eating fat-cook signifies extraordinary cash liquidity and conspicuous consumption.
- 6 The brothers were astonished to read, in a literacy magazine that we had brought from town, that it was in fact illegal to beat one's wife and that criminal charges could legitimately be brought against a man for doing so. This issue of the magazine easily enjoyed the widest circulation, and the most lively discussion, of any such material that we brought. (I am grateful to Gul Rukh Selim for recalling this episode to my attention.)

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