

THE GLOBAL ETHIC AND AFRICAN CONCEPTIONS OF SOCIAL JUSTICE, LAW AND ORDER: AN APPRAISAL

James N. Amanze

ABSTRACT

The preoccupation with a more just and peaceful world today is a concern of many legal experts, faith leaders, policy makers and leading thinkers. This paper examines the Global Ethic, as espoused by the Parliament of World Religions and affirmed by the Kuala Lumpur Consultation, which was held in Malaysia in October 2010 and its applicability on matters of governance. It is argued in this paper that African societies are a good example of how the Global Ethic has been integrated into indigenous legal systems in Africa. This is a clear evidence that the Global Ethic can indeed be integrated into International Law in order to ensure a more just and peaceful international order. Focusing on indigenous spiritualities, which are the epitome of the Global Ethic at the local level, the paper argues that African societies are founded on strong moral values which have become the basis of indigenous legal systems which in turn promote social justice, law and order in society.

Key words: Global Ethic, social justice, spirituality, traditional/indigenous justice systems, reconciliation, peace-making, social cohesion.

1. Introduction

Social justice, law and order are intrinsic moral values, which are found in every human society in the world, of course, in varying degrees. The concepts of right and wrong, bad and good and crime and punishment have been the driving force in human societies for the attainment of peace and good governance for the preservation, prosperity and continuity of the human race. This paper examines African conceptions of social justice, law and order in light of the Kuala Lumpur Consultation which was held in October 2010. The consultation affirmed the Global Ethic as espoused by the Parliament of World Religions as an ideal foundation of International Law. The theme of the consultation was Faith, Shared Wisdom and International Law. It is argued in the paper that indigenous spiritualities in Africa are an integral part of the Global Ethic and that they inform and constitute the foundation of most indigenous legal systems which ensure peace and harmony in the community which, in turn, promote human development. Since many of the indigenous spiritualities reflect, in large measure, many of the moral values enshrined in the Global Ethic, the paper argues that in fact the Global Ethic has already been integrated in most indigenous legal systems in traditional Africa.

2. The Global Ethic as a Theoretical Framework

This paper was inspired by the Consultation of some sixty religious scholars, legal experts, leading thinkers and policy makers which the author attended in Kuala Lumpur, Malaysia, in October 2010. The Consultation, whose theme was –Faith, Shared Wisdom and International Law was jointly convened by the International Movement for a Just World (Kuala Lumpur), the Weeramantry International Centre for Peace Education and Research (Colombo), the Centre for Dialogue, La Trobe University (Melbourne) and the Sri Ramanuja Mission Trust (Chennai).¹ According to the organisers, the overriding objective of the Consultation was to translate the shared wisdom of the

¹ Communiqué, Faith Shared and International Law, Kuala Lumpur, 3-7 October, 2010, p.1

world's major religious and ethical traditions into concrete steps to promote a peaceful and ecologically sustainable world order supported by clearly articulated principles of international law. One of its specific aims was to identify important values shared by the world's major religious and ethical traditions that can offer useful guidance in the development of an international legal order conducive to peace, human security and sustainable environment.²

At the end of the Consultation, it was agreed that there was a need for a Global Action Plan which would draw its inspiration from the moral wisdom shared by the world's religious and ethical traditions, including indigenous spiritualities. Central to this plan was the conceptual and practical integration of this shared wisdom into international law. First and foremost in the mind of the participants was the conviction that values and principles that form part of a common world ethic should be more effectively integrated into the work of the United Nations system and major international legal institutions. Since the author is not an expert in International Law, which was the main concern of the Kuala Lumpur Consultation, this paper focuses instead on indigenous African spiritualities and examines how these inform and form the basis of most of the African indigenous legal systems which have been put in place to promote social justice, law and order today. The author, who carried out substantive research among the indigenous people in Malawi and Botswana, has come to the conclusion that indigenous legal systems in Africa are founded on sound moral principles like those enshrined in the Global Ethic.

The decisions and recommendations made at the Kuala Lumpur Consultation inspired the author to examine the applicability of the Global Ethic to indigenous forms of social justice, law and order in Africa which are, in most cases, based on indigenous spiritualities. In order to do this, the author decided to use the Global Ethic as expounded by the Parliament of the World's Religions in their document titled Declaration Towards a Global Ethic as the theoretical framework for analysis and tentative conclusions. The theory of the Global Ethic advocates that there is already an ethic within the World Religions, which provides the moral foundation for a better individual and global order, which can lead society away from chaos.³ It has been observed that the principles that form the basis of the Global Ethic can be affirmed by all persons with ethical convictions whether they are religious or not. It has further been noted that without such a fundamental consensus on an ethic, sooner or later, every community and society would descend into the abyss of chaos and anarchy characterised by violence and war.⁴

It is important to note that the Global Ethic takes into account the fact that the diverse religious traditions that are characteristic of today's world quite often offer different moral principles on what is right and what is wrong, and what is good and what is evil. However, there are certain universal moral values that human beings hold in common regardless of cultural differences, age, gender, skin colour, physical or mental ability, language, religion, political views or nationality. According to this theory, the Global Ethic consists of a minimum fundamental consensus on binding values, irrevocable standards and fundamental moral values which are shared by all humanity.⁵

By most accounts, the most fundamental moral principle, which is found and has persisted in many religious and ethical traditions of humankind for thousands of years, is the Golden Rule. This shared principle states that –What you do not wish done to yourself, do not do to others. ⁶ According to Hans Kung, this should be the irrevocable, unconditional norm for all areas of life, for families and communities, for races, nations and religions.⁷ This principle advocates for concrete moral standards which human beings should hold. Out of this principle, four broad moral principles have emerged to form the backbone of the ethic of most world religions.

² Communication on Faith, Shared Wisdom and International Law Conference: An innovative International Multi-Religious Initiative, 2010, p.1

³ Declaration Toward a Global Ethic, Parliament of the World's Religions, Chicago, USA, 4th September 1993, p.4.

⁴ Declaration Toward a Global Ethic, ... p.6.

⁵ Declaration Toward a Global Ethic,.....pp.4-6.

⁶ Hans Kung, –No clash, but dialogue among religions and nations|| Public lecture UIN presented in Jakarta on 27th April, 2010, p.7.

⁷ Hans Kung, –No clash, but dialoguep.7.

In the first instance, it has been noted that in many of the great ancient religions and ethical traditions of humankind, there is a directive that states that one should not murder, torture, torment and wound another person.⁸ According to this moral injunction, murder is proscribed in most human societies. This is to say that all people have the right to life, safety and free development of personality in so far as they do not injure the rights of others. This particular injunction emphasises the sacredness of human life. It states clearly that no one has the right to physically or psychologically torture, injure and kill any other human being. In other words, killing is considered a moral evil in most human societies. According to this principle, human life is infinitely precious; therefore, it must be protected.⁹

Secondly, it has been observed that in many great ancient religions and ethical traditions of humankind, there is a directive which forbids stealing. The Old Testament, for example, states: –You shall not steal (Ex.20: 15). This moral injunction, which is also common in many world religions, affirms the right to own property. It holds the moral principle that no one has the right to rob or dispossess in any way another person of his or her property.¹⁰

Thirdly, there is a directive which forbids people from telling lies. In the Old Testament, for instance, it is stated –You shall not lie (Ex. 20:16). According to this moral injunction, no one has the right to speak lies to other human beings. This injunction emphasises truthfulness without which there would be no justice among humankind. Human beings are, therefore, encouraged to cultivate truthfulness in all their relationships and must consistently and constantly seek truth and serve the truth.¹¹

Fourthly, there is the moral injunction which proscribes sexual immorality. In the Old Testament it is stated clearly –You shall not commit adultery (Ex. 20: 14). On the basis of this moral directive, it is understood that sexual immorality is a negative moral force. According to this directive, human sexuality should be expressed and fulfilled in a loving relationship in accordance with societal norms where partners accept the responsibility of caring for one another’s happiness and live as equal partners within marriage, which should be characterised by love, loyalty and permanence. Its aim must be to guarantee the security and mutual support of husband, wife and children.¹²

All the four moral principles are found in practically all African indigenous spiritualities. They are, therefore, from a moral perspective, the local expression of the Global Ethic. There was a general agreement at the Consultation that indigenous spiritualities should be taken into account seriously as part of the moral principles that need to be integrated into international law in order to create a peaceful and friendly world. This paper argues that the spirituality of the indigenous people of Africa enshrines the Global Ethic at the local level and is, to all intents and purposes, the epitome of social justice, law and order at the grassroots level. Mohammad H. Kamali in –The integration of shared norms and ethical wisdom into law has intimated that:

to develop a moral precept into a legal norm presents moral progress in the sense that the moral precept in question gains the critical mass of public support for it to become the subject of a binding commitment and legislation. In essence a great deal of law in any society consists of the concretisation into binding provisions of their underlying moral precepts.¹³

The author concurs with Kamali in every way, for as we shall see below, most African indigenous legal systems are based on moral precepts as enshrined in African Traditional Religions. These moral

⁸ Hans Kung, –No clash, but dialoguep.7.

⁹ Declaration Toward a Global Ethic.....p.8.

¹⁰ Declaration Toward a Global Ethic..... p.10.

¹¹ Declaration Toward a Global Ethic.....p.12.

¹² Declaration Toward a Global Ethic.....p.13.

¹³ Mohammad H. Kamali, –The integration of shared norms and ethical wisdom into law Paper presented at the Faith, Shared Wisdom and International Law Consultation, Kuala Lumpur, 4-7th October 2010, p. 1.

precepts are shared not only locally within a given country but also across African territories. We shall now turn our attention to examine some of the moral precepts which reflect locally, territorially and continentally the Global Ethic as expounded above.

3. Morality in African Societies in Light of the Global Ethic

It has been argued that indigenous spiritualities in Africa form the epitome of indigenous legal systems which ensure and promote social justice, law and order. W. C. Willoughby, who studied the moral system of the Batswana in Botswana in the 1920s, asserted that their moral system had a lot in common with the Ten Commandments as found in the Hebrew Bible and that it had nothing to do with the influence of Christianity. He writes:

It is not uncommon to hear natives assert that the Ten Commandments were known to their tribes before Christianity came to them. Where the moral sanctions of tribal life have not been broken under stress of superficial contact with European civilisation, the danger of taking the name of a god in vain is generally acknowledged; reverence for parents and those in authority is commonly inculcated and disobedience punished, self-control is cultivated; men of probity are respected; brotherliness, courtesy and hospitality are common virtues; a high respect for property prevails; mercy is highly esteemed and justice praised; murder, witchcraft, stealing, adultery, bearing false witness against one's neighbour, hatred and arrogance are all condemned; and there is such a sense of family responsibility that orphans and destitute people are provided for.¹⁴

In his analysis of the legal system of the African people, Willoughby has indicated that ethnic groups, which were not given in to military despotism, had no equivalent of statutory law. By -law|| is meant customary law, that is, the regulative idea that is supposed to have been transmitted unchanged from the founders of the community to the present day. On the other hand by -custom|| is meant the practical embodiments of -law|| which originated from the same source and have been endowed with particular validity as a result of effectual use over the centuries.¹⁵ Willoughby observed that among Africans every phase of an individual's activity is controlled by a common sense of obligation to -law and custom.|| According to Willoughby, wrong doing, whether trivial or serious, whether legal or ceremonial or ethical is always, in the final analysis, considered sin. This is because breach of traditional law is an offence against those who are thought to be the dispensers of all the blessings of tribal life and vigilant vindicators of the rules of conduct which they instituted.¹⁶

Isaac Schapera in *The Bantu-Speaking tribes of South Africa* indicated that there are various mechanisms in African societies that ensure that all members of the tribe conform to the law in accordance with the moral values of the society. For example, children are carefully taught by their parents the difference between right and wrong, good and evil. Similar teaching is also given at the initiation ceremonies. Adults learn about the practice of the law when they participate in the hearing of lawsuits in the village. In this way, from early childhood and through one's life, one's behaviour is moulded into conformity with the social norms of law and order. In other words, the Global Ethic becomes the foundational stone of the society at large. Those people who follow the law are praised and rewarded while those who break the law are punished by the society.¹⁷

John S. Mbiti has intimated that in every African society there are both legal and moral punishments used to punish those who break tribal laws. There are different punishments for different offences in order to make sure that justice is done. Punishments for crime committed

¹⁴ W. C. Willoughby, *The Soul of the Bantu*, London: SCM, 1928, pp.382-3.

¹⁵ Willoughby, *The soul...*p.385.

¹⁶ Willoughby, *The soul...*p.385.

¹⁷ W. M. Eiselen & Isaac Schapera, *The Bantu-Speaking tribes of South Africa*, London: Routledge & Kegan Paul, 1937, pp. 197-8.

against humanity may include death, paying of fines in cattle, sheep, money or such like depending on the nature of the offence. It is generally the chiefs and the elders of the area who deal with community disputes arising from various types of breaking moral codes, or offences against custom and ritual. According to Mbiti, where traditional chiefs and rulers exist they have the duty of keeping law and order and of executing justice in their areas.¹⁸

Kwasi Wideru in *–The moral foundations of an African culture*ll has argued convincingly that morality, in the strictest sense of the word, is universal to human culture. He has further noted that a society without moral foundation would collapse. According to Wideru, morality involves the observance of rules for the harmonious adjustment of the interests of the individual to those of others in society. At a far higher level, morality entails not only conformity to the requirements of the harmony of interests but also an imaginative and sympathetic identification with the interests of others even at the cost of possible curtailment of one’s own interests.¹⁹ Anthony F. Falikowski, for one, has defined morality as *–a distinctive human phenomenon often involving conflicting choices, which are based on fundamental normative considerations and obligations that affect human interests in important ways.*ll²⁰ Another scholar William K. Frankena has defined morality simply as *–a code or view about how we should or should not conduct ourselves.*ll²¹

Dominique Zahan has postulated that though African morals have not been fully explored by western scholars, they have, nevertheless, noticed various aspects of the moral conduct of Africans. These include fidelity, hospitality, sense of justice, love and respect for relatives and traditions, modesty surrounding relations between the sexes, unselfishness and self-sacrifice. Zahan has correctly noted that these moral values are inherent in the oral literature of the African people, which the elderly use for the moral education of their children. According to Zahan, one of the moral values that Africans value most is self-making as the foundational stone of their moral conduct. Zahan has further indicated that in African ethics self-knowledge leads to self-mastery. Africans are able to control their passions, emotions, behaviour and actions. Moral education on these values begins in early childhood and focuses on the domination of suffering, physical as well as moral. A male child learns how to control painful situations, which are imposed on him by the group during his progressive introduction into society. This is evident in initiation ceremonies where children are exhorted to be brave and to conquer fear. Cowardice is discouraged. In many initiation ceremonies physical suffering and its domination are considered as good moral values. Self-control, self-respect and other moral teachings are embodied in proverbs and maxims.²²

It appears that though religion and morality are not one and the same thing, many of the moral values of the African people have, from time immemorial, been grounded on their traditional religions. John Mbiti has indicated that most African people accept or acknowledge God as the final guardian of law and order and of the moral and ethical codes. For example, in line with the Global Ethic, among the Gikuyu of Kenya murder, theft, rape, witchcraft and sorcery are condemned as evil. These are considered offences against God. Honesty and trustworthiness are highly praised as good moral values. There is emphasis on corporate sin regardless of whether the breaking of the moral and ethical codes were done by an individual or by a group.²³ It is important to point out that a number of early missionaries bear testimony to the fact that African people had moral values that predate the arrival of Christianity and Islam in Africa. Studies that were conducted in the early 1950s in many African societies show clearly that African peoples’ behaviour was determined by well-defined moral values in all walks of life. These moral values have continued to the present day in one form or another. It is

¹⁸ Mbiti, *African Traditional....*, p.211.

¹⁹ Kwasi Wideru, *–The foundations of an African culture*ll, in Coetzee & Roux, A. P. J. (Eds.), *The African Philosopher Reader*, London: Routledge & Kegan Paul, 1998, p. 306.

²⁰ Anthony F. Falokowski, *Moral Philosophy*, Englewood: Prentice Hall, 1990, p.3 .

²¹ W. K. Frankena, *–Relations of morality and religion*ll in Childress, J. F. & J. Macquarrie (eds.), *A New Dictionary of Ethics*, London: SCM, 1967, p.400.

²² Dominique Zahan, *The religion, spirituality and thought of traditional Africa*, London: The University of Chicago Press, 1979, pp. 110-112.

²³ John S. Mbiti, *African Religions and Philosophy*, London: Heinemann, 1969, p.206.

important here to examine some of these studies because they show clearly how at a far higher level morality in traditional Africa engenders the Global Ethic.

In the first instance, Edwin W. Smith in his study of African Traditional Religions observed that the Lamba people of Zambia enshrined in their beliefs the idea that God is angered when people sin and that he punishes them by inflicting them with a disease such as small pox. At the time of his study he observed that crimes such as kin-murder were considered as beyond human vengeance but that the criminal would not escape. It was believed that neither the chief nor the ancestors would pronounce judgement upon the murderer. However, a curse would come upon him. The murderer, it was believed, would go mad, driven to suicide, drowned or killed by a wild beast.²⁴ G. W. Dymond, who conducted a similar study among the Ovambo people in Namibia, noted that the Ovambo believed that the Supreme Being locally known as Kalunga, requires good behaviour from his people by observing tribal ethics which involved observance of tribal custom, reverence for one's elders especially family and tribal ancestors and the avoidance of violence. Dymond observed that the Ovambo disliked any display of pride. In addition to this, theft and murder were condemned by popular opinion. It is claimed that their moral standards and character, which were expressed in the maxims and proverbs, were attributed to them by Kalunga. Many such proverbs condemned arrogance, anger, stealing, murder, teenage pregnancy and the like. These moral injunctions were based on the belief that Kalunga punishes those who break tribal customs.²⁵

Another study, which was conducted by H. J. Evans, shows that the Akan of Ghana based their life on a well-defined code of behaviour. According to Evans, the Akan enshrined in their beliefs the view that God rewards the righteous and punishes the guilty usually here on earth. This punishment for wrongdoing is conceived mainly in the form of lack of rain. Punishment for bad conduct is manifested in the form of sickness, bad luck and even death.²⁶ Moral issues have also been the concern of the Kono people of Sierra Leone. Robert T. Parsons has pointed out that there was commonplace belief in Kono society that the Supreme Being- Yataa- will punish those who kill others. At the time he carried out his study there was a belief that in the other world, the spirits would beat such a murderer and drive him away from the spirit world. He also noted that there was a belief according to which God sees the wrongs committed by people on earth and that he will administer justice to wrong doers. Misfortunes such as being struck by lightning and death, whose cause was not known, were perceived as punishments from God for wrong doing.²⁷ Similar moral injunctions were observed among the Mende of Sierra Leone. According to W. T. Harris, the Mende associated sickness with wrongdoing. Harris observed that the Mende condemned incest and adultery. Law- breaking was considered as anti-social. Parental respect was greatly emphasised.²⁸

Further examples of the moral conduct of the African people, which enshrine the Global Ethic, can be drawn from the Ngombe people in Congo. J. Davidson in his study of their religion noted that the Ngombe were highly moralistic. Their moral values were based on their belief in a Supreme Being called Akong. According to Davidson, the Ngombe believed that breach of moral laws of the community was displeasing to the ancestors from whom the laws came. But what was more important was their claim that the moral code was given to the ancestors by God himself. Apparently, in line with the Global Ethic, the Ngombe upheld four laws: laws against incest, witchcraft, adultery and theft. In addition to these, lying was condemned by popular opinion. It was strongly believed that breach of the great moral codes of the community would be punished in this life.²⁹ In the context of Southern Africa, early researchers observed that belief in ancestors supplied strong sanctions for individual and tribal morality. For example, it was noticed that the ancestors demanded filial piety and an unquestioning respect for tribal and customary law.³⁰ For instance, W. M. Eiselen & Isaac Schapera, writing about the

²⁴ Edwin Smith (ed.), *African ideas of God*, London: Edinburgh House Press, 1950, pp.22-3.

²⁵ G. W. Dymond, -The idea of God in Ovamboland, South-West Africa in Smith (ed.), *African ideas....*,p.149.

²⁶ H. J. T. Evans, -The Akan doctrine of God in Smith (ed.), *African ideas...*,pp.251-2.

²⁷ Robert T. Parsons -Ideas of God among the Kono of Sierra Leone, in Smith (ed.), *African ideas...l*, p.269.

²⁸ W. T. Harris, -The idea of God among the Mendell in Smith (ed.), *African ideas....*,p.296.

²⁹ J. Davidson, -The doctrine of God in the life of the Ngombe, Belgian Congo in Smith (ed.), *African ideas....*,p. 178.

³⁰ Smith, -The idea of God among South African tribes, in Smith (ed.), *African ideas.....*, p.87.

moral aspects of southern African tribes have documented that:

The good and moral man in Bantu society is the one who honours the ancestors by living as they have lived. Nevertheless most of what we consider to be evil is forbidden also in Bantu society, and what we hold to be good is also recommended by them. The Bantu would, in fact, have no difficulty in accepting most of the Biblical commands.³¹

Recent research by the author among the Chewa people of Malawi and Batswana of Botswana has revealed that their moral values are akin to the Global Ethic and form the basis of their indigenous legal systems. Murder, theft, telling lies, adultery and the like are considered evil. Children are taught from an early age to consider human life as sacred, to tell the truth and nothing else but the truth, to respect other peoples' property and avoid indulging themselves in sexual immorality. The source of these moral values is considered to be God himself but they are enforced by the ancestors who are the guardians of public morality.³²

It will be seen from the above discussion that moral issues are at the centre of African traditional justice systems. Moral values have been fully integrated in the indigenous legal systems of the African people from time immemorial for the common good of the entire society. Nonso Okafo in *–Relevance of African traditional jurisprudence on control, justice and law: A critique of the Igbo experience* has argued that as opposed to the westernised or modern African, the native African understands and construes control, justice and law as instruments for general societal cohesion rather than agents for advancing individual or factional group interests.³³ Okafo has noted that a major characteristic of the African concept of justice is that it is primarily aimed at peace-making. According to Okafo, Africans understand that the quest for peace in a community begins with peaceful co-existence between individual members of the society on the understanding that peace between individuals and small groups adds up to a peaceful society. In this regard, Okafo maintains, peace-making is the main thrust of indigenous systems of control, justice and law in Africa. This stands in sharp contrast to the English style of justice system which, by and large, puts a great deal of emphasis on the allocation of rights of individuals and group rights between disputants.³⁴ In this regard, Okafo writes, *–the native African systems are designed to redress wrongs, fine tune claims, preserve norms, and prevent the breakup of interpersonal and group relationships*.³⁵ Okafo has further indicated that another chief characteristic of traditional justice systems in Africa is consensus among community members. There is a general understanding that most aspects of control, justice and law among indigenous Africans is rooted in the members' general consent to the control, justice and law principles as well as the modes and agents for effectuating the principles for the common good. In this regard, it is held that traditions, customs and laws are usually developed and made with the consent and satisfaction of community members.³⁶

4. Social Justice, Law and Order in African Traditional Societies Today

Though African customary laws and their attendant institutions have been considerably diminished as a result of assaults by the various colonial systems that held sway in Africa, there are indications that they have survived the test of times. As a result of their tenacity, they continue to exert some influence in the life of African communities. It has been observed, for instance, that in a number of

³¹ Eiselen & Schapera, *The Bantu speaking tribes ...*, p. 70.

³² See James N. Amanze, *African Traditional Religion and Culture in Botswana*, Gaborone: Pula Press, 2002 and *African Traditional Religion in Malawi: The case of the Bimbi Cult*, Blantyre: CLAIM, 2002 where these issues have been discussed in detail.

³³ Nonso Okafo, *–Relevance of African Traditional Jurisprudence on control, justice and law: A critique of the Igbo experience* in *African Journal of Criminology & Justice Studies*, Vol2, No.1, June 2006, p. 38.

³⁴ Okafo, *–Relevance of African Traditional Jurisprudence.....*, p.44.

³⁵ Okafo, *–Relevance of African Traditional Jurisprudence.....*,p. 44

³⁶ Okafo, *–Relevance of African Traditional Jurisprudence.....*,p.45

African countries such as Nigeria, Botswana, Zimbabwe, Malawi, South Africa, Sierra Leone to name a few, African customary courts which are based on traditional justice systems are still operational. Keriako Tobiko in –The relationship between formal rule of law and local traditional justice mechanisms³⁷ has observed that in such situations there is a significant relationship between the customary courts and the formal judiciary, that is, the formal rule of law.³⁷

Tobiko has noted that traditional justice systems in Africa have remained an important element in the legal, social and development policy discourse. According to Tobiko, traditional justice systems are still used in the resolution of disputes in order to restore healing in the community for both the offender and victim through reconciliation, mediation and arbitration.³⁸ He has further noted that in the context of Africa, the application of such laws place a great deal of emphasis on collectivism in the community, mediation of truth, acknowledgement of wrongdoing, forgiveness and reconciliation rather than retribution.³⁹ Before concluding this paper it is important here to give a few examples of countries in Africa where traditional justice systems continue to exist, of course, into varying degrees in accordance with the prevailing circumstances in a given country.

One of the examples that come to mind is the situation in Uganda. Tobiko has observed that after the customary tribunals were abolished in 1966 by the independent government, they were re-introduced in 1986 and exist today in the form of Local Council Courts (LCCs). These are essentially councils and courts at the village level. The most important thing about them is that they are an integral part of the Ugandan judicial structure from which cases are sent either to the formal courts or referred back for parties to apply community alternative dispute resolution mechanisms.⁴⁰ Another model is that of Sierra Leone where customary law of the various ethnic groups is enshrined in the 1991 constitution. Statistics show that customary courts dispose of a significant number of criminal cases throughout the country since the vast majority of Sierra Leoneans are rural people and consider themselves primarily as subjects of customary law which is dispensed in line with the beliefs, customs and traditions of the inhabitants by local courts.⁴¹ Tobiko has noted that though the customary courts have limited jurisdiction, they do, nevertheless, dispose of a significant volume of minor criminal cases and regulate issues regarding marital problems, divorce and land disputes. What is quite interesting is the fact that people are satisfied with the application of traditional justice systems in the country both in urban and rural areas.⁴²

Another interesting example is the legal system in Zambia where customary courts of chiefs and headmen which have existed since the pre-colonial times but do not have formal status are more preferred by the communities because they are considered as fairer by the people.⁴³ Mention should also be made here regarding the legal situation in Tanzania where though customary law courts were abolished by the Magistrate Court Act of 1963 in favour of English law, primary courts today may entertain evidence touching on matters of customary law.⁴⁴

6. Conclusion

This paper has examined the concept of Global Ethic as espoused by the Parliament of World Religions and affirmed by the Kuala Lumpur Consultation which was held in October 2010. One of the objectives of the Consultation was to recommend that the Global Ethic, which consists of shared moral values across the world, should form the basis of International Law in order to create and promote a more just and peaceful world. It has been noted that most African societies are founded on

³⁷ Keriako Tobiko, –The relationship between formal rule of law and local traditional justice mechanisms³⁷ Paper presented at the 18th IAP Annual Conference and general meeting, Moscow, Russia, 8-12 September 2013, p.7.

³⁸ Tobiko, –The relationship between....., p.4

³⁹ Tobiko, –The relationship between....., p.4

⁴⁰ Tobiko, –The relationship between....., p.7

⁴¹ Tobiko, –The relationship between.....p.8

⁴² Tobiko, –The relationship between.....p.8

⁴³ Tobiko, –The relationship between.....p.9

⁴⁴ Tobiko, –The relationship between.....p.9.

strong moral values which are based on shared fundamental beliefs based on the belief in a Creator God. The paper argued that indigenous spiritualities in Africa inform and are the foundation of indigenous legal systems which create and promote social justice, law and order in society. At a far higher level this can lead to a peaceful, cohesive and united world in which the happiness of one is the happiness of all.

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