



CHAPTER 3

Mending Social Relations: A Community Court in a Namibian Village and Extending a Relational Quality of Justice on the Ground

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On a cool Thursday morning, the village of Okombahe slowly awakens and two elderly men arrive at the community court building at 09:40 a.m. Inside a modest assembly room that has seen better days, two women begin setting up the court. At the front, three microphones are placed on a rectangular desk before three chairs. Three signs, printed in block letters on A4 paper, are taped on the wall: ‘Switch off all cellphones’, ‘Silence

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in the court!’, and ‘No eating in court!’). Each sign is accompanied by an Afrikaans translation below it.

On the right side of the room, a piece of paper with ‘Defendant’ typed on it is taped on the wall. Two chairs are placed beneath the sign and there is a microphone on another chair in front of them. On the left, beneath a sign with ‘Complainant’ typed on it, a single chair and a microphone are set up. The two elderly men sit down on the ‘Defendant’ side. A few moments later, a middle-aged man arrives and sits on other side. At the front, the two women who were setting up the room (a young clerk and a middle-aged, traditional authority assessor) and another elderly man, a traditional authority and judge, take their seats.

The case begins and the complainant proceeds to tell the three authorities his version of events. They sit silently and listen attentively. The clerk diligently transcribes the complaint (an audio recorder is in place as well). She will later translate the transcription into English for official records. The two elderly men are the complainant’s uncles. They are accused of continuous insults, i.e. *crimen injuria*. After listening to his case, the elderly man asks a few questions to which the complainant replies promptly. With the estimated village population being only 2,500, such insults can carry weight, with potential social and economic ramifications.

The case continues in Khoekhoe, the language of the Damara.¹ The uncles are given the opportunity to state their defence. Again, the elderly man asks a few questions for each of them. After both sides of the case

¹ Okombahe consists primarily of the Damara (*≠Núkhoen*) people with a minority Herero population. However, the Damara language is not recognised as an official language in Namibia, as are English, Afrikaans, German, Otjiherero, Khoekhoe, Oshiwambo, Kwangali, Setswana and Silozi. The following are recognised regionally: Ju’hoansi, Rumanyo and Thimbukushu.

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have been heard, the elderly man excuses the three men to move to an adjacent room. The two women and the elderly man begin to deliberate. After a period of discussion, they call the two parties back into the assembly room. They rule in favour of the complainant and issue a warning to the defendants. The uncles promptly get up to apologise and shake their nephew's hand. As they shake, they smile and laugh. The charges against the defendants are their first. No fine is issued and the apology is sufficient. The uncles leave the assembly room with gaiety and the case is over. When the complainant was asked if he was happy with the outcome of the case, he stated "very" and went on to say that instead of going to Omaruru, a neighbouring town, it was "much easier here" in Okombahe. "We are the same people".

What may seem like a trivial matter of insults between family members is a significant one in a small village where insults can lead to altercations and domestic violence. Words are often tied to the representation of self and the words we receive and give can influence our day-to-day activities. In a small village, the intentional impairment of a community member's dignity (*crimen injuria*) can carry considerable consequences and public humiliation can motivate unwanted actions, trivial or otherwise. Crimes such as stock theft, housebreaking, theft and assault, which comprise the more significant crimes in the Erongo region, as well as any instances of homicide are reported to the magistrate's court in Omaruru. However, for the Damara people in Okombahe, access to justice in the magistrate's court is constrained by proximity and limited transportation. Okombahe is approximately sixty kilometres from the magistrate's court and the local taxis will usually have one, sometimes two, scheduled transports to Omaruru. In this regard, it is not always practical to take a case to the magistrate's court.

The community court provides an option that is accessible to the people in the village and offers deliberation through the framework of Okombahe's customary law. The community court addresses a wide range of disputes that emerge within the community: assault; domestic assault between boyfriend and girlfriend, or husband and wife; property theft; stock theft (cattle, goats, donkeys, chickens); arson; adultery; impregnating a girl; inheritance; debt; rape; witchcraft; murder or culpable homicide; and insult that impairs one's dignity or privacy (*crimen injuria*). Through the community court, many familial and social relations can be mended before they escalate into more serious matters that will have to be addressed in the magistrate's court.

This chapter focuses on women and justice on the ground in the Namibian village of Okombahe. The chapter will first sketch the emergence of community courts and their constitutional legitimisation in Namibia. This is then followed by a focus on the village of Okombahe, the Damara people and their community court. For Okombahe, seeking justice within the community court presents a partial picture. In this regard, the community court is akin to the magistrate's court in presenting justice as an object granted within a designated space. However, justice is more than an object and much more ubiquitous than a court setting. A relational perspective of justice goes beyond the understanding of justice as an object that can be granted and obtained within a particular space. Instead, justice is an intersubjective and inter-relational quality developed, in all spaces, between persons and requires consistent effort and agency. It is in this sense that the women of Okombahe contribute to a sense of fostering, and mending, social relations and cultivating justice on the ground within a greater context of social change. In closing, the chapter addresses civil society organisations in relation to women and justice in Okombahe.

COMMUNITY COURTS IN NAMIBIA²

Namibia is characterised by its ethnic heterogeneity. Subsequently, the tradition of community courts and customary law is far from homogenous. Manfred Hinz's extensive documentation illustrates the wide variety

² The following chapter is based on fieldwork in 2017 (by two of the authors) and again in March and August of 2018 (by three of the authors). In 2017, two of the co-authors visited three villages (Okombahe, Omatjete, and Uis) in the Erongo region and conducted an exploratory study to ascertain the relevance of the Namibian case in relation to a comparative study of community courts across southern Africa. Each of the courts visited in 2017 had a different history and belonged to a different ethnic community and/or clan. The Erongo region was chosen as the first among further case studies in other regions of Namibia, particularly because literature on the courts in this region is lacking. Moreover, each of the villages had a community court that related to the regional magistrate's court in Omaruru and further reflected the complexity of integrating tradition-based and state institutions within a quasi-urbanised context and a central region that has been tremendously influenced by colonialism, unlike northern Namibia. Among the three villages, Omatjete was one of the first to install a court after ratification of the community courts law whereas the village of Uis had only recently established its community court. In March and August of 2018, additional fieldwork was completed in Okombahe to collect more data and interview women within the village.

of customary laws, which was requested by the Namibian government to assist in the law reform process.³ In part, the heterogeneity of Namibia's customary law is due to the variable degree by which colonialism has affected the myriad of ethnic groups in Namibia. Population groups in the centre of the country, e.g. areas in the vicinity of Windhoek—the current capital—have been under the direct and constant influence of missionaries and colonial rule; Germany from 1884 to 1915 and then South Africa from 1915 to 1989. Regions in the far north and the dry south have been impacted much less. In contrast to the central regions, ethnic groups in the north and south have managed to maintain a relative sense of continuity in their way of living and culture.

After the 2000 Traditional Authorities Act, the Community Courts Act of 2003⁴ presented a basic framework for the official recognition and contemporary installation of community courts: “A traditional authority of a traditional community may apply in writing to the Minister for the establishment of a community court in respect of the area of that traditional community”.⁵ The act allowed for the inauguration of a community court to be recognised by traditional authorities on the basis of a group's customary law insofar as they were in accordance with the constitution. In other words, community courts require ratification from the state and must operate within the state's jurisdiction. Certain cases, such as murder, are exempt from being adjudicated within community courts and must be forwarded to the regional magistrate's court. For Okombahe, the regional magistrate's court is located in Omaruru. At the time of our research, according to the Deputy Director of Community Courts, thirty-seven community courts have been officially recognised in Namibia.

The 2003 Community Courts Act hence opened an avenue for revitalizing and continuing a past practice (prior to Germany's colonial rule) within most Namibian communities of traditional authorities, such as chiefs or councils, who exercised a central role in conflict resolution. The work of Manfred Hinz was critical in re-introducing and salvaging any continuities of Namibia's rich and heterogeneous history of customary

³ See Hinz (1997, 2008, 2010).

⁴ *Government Gazette of the Republic of Namibia*, Community Courts Act 2003 (Act No. 10 of 2003), Windhoek, 19 August 2003, No. 3044.

⁵ Ibid.

laws. The legislation also provided an avenue for local authorities, which may not have had a pre-colonial heritage, to apply for a community court. In this regard, the installation of community courts across Namibia not only presented a sense of Namibian heritage and traditions, a local and pragmatic avenue of resolving conflict, but also further initiated a process of formally documenting customary laws and their mode of operation within each community.

OKOMBAHE AND THE DAMARA COMMUNITY COURT

Located in a valley on the Omaruru River, the settlement of Okombahe is regarded as the capital of the Damara (*ǀNúkhœn* which means ‘black people’ in the Damara language). The majority of the people living in Okombahe are Damara but Okombahe is the name of the village in Orjiherero, which is the language of the Herero people. The Damara name for Okombahe is */ǀ-ǀ Gomeb* which means ‘wet-side’. A senior headwoman, also a messenger of the community court, tells a story that when the Damara people were travelling, a dog had found the river and returned to them wet on only one side of the body. This was an indication for the Damara to build their village. Although Okombahe lies on the bank of this river, the village has suffered since the 1990s from severe drought. The village’s subsistence on wheat and cattle has diminished and scarcity has become a cause of conflict. In 2018, water could only be accessed by a pre-paid card from commodified water taps installed around the village. Moreover, there is very little economic activity in Okombahe and the emergent social ills due to a scarcity in resources have become central to Okombahe’s challenges. The Ministry of Urban and Rural Development declared Okombahe a settlement in 2015 and yet, after more than twenty years of lobbying, the promised development of Okombahe has not materialised (Nampa 2015).

For the Damara, Okombahe is a place of great cultural significance. The Damara king, David Goreseb (1953–1976), is buried in Okombahe at the Gaob Memorial Stadium. Every year on the anniversary of the King’s death in November, Damara clans around Namibia gather for the King’s Festival. The clans arrive in their traditional regalia and clothes. They discuss the king’s legacy and educate the youth about their customs and cultural practices. The community court is an extension of Damara customs and draws on a long tradition of conflict resolution led by traditional authorities. According to our interlocutors, customary laws of the

Damara have not changed much and traditional authorities continue to play a central role in the governance of the community. Yet the traditions, customs and rituals have been fading away in Okombahe. In the past, initiation rituals played a central role. Elders within the community recall coming-of-age rituals for women when young women were required to sit in a hut for the duration of their first menstruation. For men, a hunting ritual represented the coming-of-age for young men. However, these rituals no longer exist in Okombahe. The dissipation of such rituals juxtaposed with Okombahe's cultural significance for the Damara and the community court led by traditional authorities highlight a perennial negotiation between tradition and modernity.

The Okombahe community court was established in 2012 and hears approximately seventy cases per year. The court is led by the chief, deputy chief, headmen and headwomen. The court is held in a building, which also houses the court's office with a full-time clerk, located opposite the memorial stadium for King David Goreseb. Any complainant must first contact the clerk, who documents the cases and invites the accused, by way of court messenger, to court. The clerk may also consult with the deputy chief and traditional authorities to receive their input. After the case has been registered, two judges undertake investigations to secure evidence. In Okombahe, traditional authorities—who collectively constitute the Traditional Authorities Council—deliberate on issues of land and may serve as both headmen/women as well as community court judges. The court deals with an array of cases⁶ but most often with instances of theft and assault. More severe crimes, as noted above, are referred to the magistrate's court in Omaruru. The most difficult and complex cases, one judge reflects, are those of land and inheritance.⁷

Anyone from the community is welcome to attend a court hearing and is offered a chance to share their views. The court usually begins by first hearing the plaintiff and then the defendant's cases, which are followed by an examination of the evidence. The judges offer advice, make suggestions and intervene in an appropriate manner to resolve the conflict. They may refer to the evidence, customary law or the Bible. One of the judges

⁶ As noted above, common assault, assault (grievous bodily harm), domestic assault, theft, stock theft, malicious damage to property, arson, adultery, inheritance, debt, rape, witchcraft, murder/culpable homicide, and *crimen injuria*.

⁷ It would seem, then, that the Traditional Authorities Council and the Community Court deliberate on different types of land issues and processes.

explained, in Afrikaans, how people come to the court with tears and together they will talk until they smile again (*“Mense kom met die tranes in en ons praat tot hulle lag”*⁸). In some cases, the guilty party will be asked to pay compensation. While the new interpretation of customary law has translated ‘compensation’ in terms of monetary value, other forms of compensation are often accepted according to agreement and capacity. At times, incremental payments may be made over an agreed period of time and in other instances, a goat may be offered in lieu of payment.

The flexibility with which traditional authorities and judges interpret and implement the provisions outlined in the Customary Court Act is demonstrated by the way in which specific situations of community members are taken into account. For instance, many community members are concerned about an offender obtaining a criminal record or jail time which may become an obstacle for current or future employment opportunities. Moreover, such consequences may also be financially or emotionally detrimental to the family. The community court takes these concerns into account. At the end of a hearing, the conflicting parties come together and apologise; a distinguishing feature that differentiates the community court from the magistrate’s courts. Ultimately, the community court aims to restore a sense of social harmony between parties who will most likely interact with one another in the village.

Thus far, the chapter has provided a brief sketch of Namibia’s community courts and the Damara people in the village of Okombahe. However, the brief illustration of the community courts presents a conflict resolution mechanism that is location specific. In other words, the task of mending social relations and deliberating on issues of justice is conducted in a particular space with specified roles and designated positions. Such a view is limited in presenting the greater scope of justice-work that happens on the ground outside of spaces such as the magistrate’s or community court. Justice on the ground is much more pervasive. The community courts in Namibia are relevant and play a significant role for justice on the ground with the view to resolving conflict and amending social relations. The remainder of this chapter argues that the task of resolving conflict and amending social relations is extended beyond the space of the community court in Okombahe and this work is conducted primarily by women.

⁸ 2017 Interview.

SOCIAL CHANGE AND THE ROLE OF WOMEN IN JUSTICE ON THE GROUND

According to Margaret Angula (2010),

Amongst the Damara the man is defined a “man” as the middle pillar of the house. This is the central pole that holds the house intact. He is the tough tree that can survive long period without water. This implies that a man is strong and can endure hardship and is able to protect his household. The “woman” on the other hand is defined as the foundation and keeper of the house. The Damara further regard a woman as a right-hand of the man.

In 2018, Okombahe is characterised by a high rate of unemployment and poor economic conditions. The river is absent, crops are scarce, and a general sense of social disintegration pervades the community. Although the annual King’s Festival is a reminder of Damara identity and history, the youth are reluctant to participate. Rituals and ceremonies are no longer practised and have diminished importance for the young. Some adults complain that there is “no discipline” and no structure in place to manage the youth in Okombahe. School drop-out rates are high. Local residents and radio personalities note the frequency of knife killings and students bringing knives to school. Some are suspended from school for smoking or drinking and fail to return. Others drop out to work on neighbouring farms. However, many are unable to find employment. Those who are able to complete high school often leave Okombahe to find work in nearby cities such as Swakopmund or Windhoek. Small businesses, such as selling *vetkoek*⁹ and other snacks to school-children, are conspicuous sources of income and pursued primarily by women.

A recurring narrative in Okombahe is that fewer men are gainfully employed and many spend their days drinking in local *tombo* (traditional beer) houses. Although women are also known to drink,¹⁰ a general view is that *tombo* is dominantly a male preoccupation. Men are also often said to be absent from the community because they work on distant farms, leaving women to play increasingly important roles at home and in the

⁹ A kind of fried dough bread.

¹⁰ In one case at the community court, a man accused his wife of neglecting her duties towards him and his children, as she spent her days at the *tombo* houses.

community (Angula 2010). An elderly woman mentions that in “the old days”, the “man made all the decisions because he was the provider and the woman had to respect that”. However, much has changed. Women have also become primary breadwinners and taken on positions of leadership. The Okombahe community cannot be described simply in terms of well-defined roles; these are negotiated on a daily basis by interactions between women and men, and are shaped by both internal and external dynamics.

Okombahe, like many communities on the margins of urbanisation, has been affected by changing sociocultural ideas regarding the roles of women and the interactions between women and men. Among other factors, gender dynamics have been shaped by changes in the political landscape. Colonialism, Christianity and the independence of Namibia in 1990 have all had a considerable impact on the relations between men and women (Angula 2010; Becker 2006; LaFont and Hubbard 2007). Moreover, Damara customs and traditions within Namibia’s colonial and apartheid history have woven a complex tapestry regarding gender normative social roles. For example, Damara women, as far as we were able to ascertain, have always been able to own and inherit land. However, prior to the constitutional provision, women were not typically part of the institution of traditional leadership. In other words, despite their capacity to own land, women were excluded from positions of power and leadership.

After independence, the country’s constitution recognised the rights of women and the need to promote and protect them. One of our interlocutors highlighted the value of equality between men and women delineated in the Namibian Constitution, post-independence, and stated “It’s now 50–50”. The extent to which these constitutional provisions have been significant in shifting the dynamics between men and women within the community is, however, uncertain. Women continue to face prejudices and biases to different degrees and across various social spheres of participation. Nonetheless, the provision has enabled women to take on formal leadership positions such as chief or headwoman. The women of Okombahe have gone beyond the household and into the broader community to fill vacuums in leadership and provide material resources to community members. It is in this capacity as leaders within the community that women are conspicuously present in fostering and aiming to develop the quality of justice.

The messenger of the community court, mentioned above, is a grandmother and caretaker of her two-year-old grandson as well as a headwoman of her farms. She is responsible for two farms; other headmen and headwomen may have three or more. She explained that it was the responsibility of the headmen or headwomen to resolve any conflicts on the farm. If a matter cannot be resolved, the conflict may be referred to the deputy chief with the Traditional Authority Office. When asked of any challenges associated with being a woman in this role, she stated: “It’s a bit difficult if you’re a woman; men are very hard-headed. Most of them do listen, but some disrespect you if you’re a woman”.

She described an ongoing situation at one of her farms. A man had been misusing the water tap on the farm; a critical resource for all living on the farm and especially for a drought-stricken semi-desert area like Okombahe. She met with the man and others on the farm to discuss the issue and collectively sought to reason with the man and find a way forward. If the issue remained unresolved, she will expel the man from the farm. However, expelling the man would be a last resort, she said, because such a decision would affect his family’s livelihood living on the farm. In this regard, how the headwoman addresses conflict on her own farms are not unlike the considerations taken at the community court. That is, she takes on a relational perspective towards justice and aims to foster a quality of justice across intersubjective spaces with the parties involved.

In 2018, Okombahe’s community court office is very much dependent on the diligence and effort of the court messenger, noted above, and the court clerk—a young woman in her mid-twenties—to ensure the court’s day-to-day function. During the day, and throughout the week, they fulfil various duties such as: handling initial reports from complainants, taking cases to the Traditional Authority Office for further discussion, referring cases to the police or relevant stakeholders, informing defendants of the complaint and communicating with the two judges. They set the date for the hearing and ensure that all parties, including the judges, are present at the hearings to participate in deliberations. The clerk is also responsible for recording the hearings and ensuring that monthly reports are sent to the central offices in Windhoek. Although the two judges are men, the court is very much dependent on women. At the Traditional Authority Office, the assessor and secretary of the office—also a headwoman—was at the office daily and engaged with the daily concerns of the community.

Similarly, the function and efficacy of Okombahe's Gender Office are contingent on the work of a single woman within the community and across various spaces. The Gender Office is primarily engaged with the distribution and management of child welfare grants as well as the myriad of issues that emerge from them. The most common concern is the abuse of welfare grants by parents. Both fathers and mothers will spend child welfare grants at *tombo* houses rather than their designated purpose in meeting the basic needs of children. The Gender Office is operated and managed by one woman who is consistently working towards fostering a sense of justice and responsibility in parents and taking better care of their children. When she is unable to instil this quality, she may refer the case to the one social worker who covers the region and frequents Okombahe only a few times a year.

In addition to executing the duties of an office or position, within and between formal and informal spaces, the quality of justice is further developed and inscribed in the pursuit of community engagement projects. The woman operating Okombahe's Gender Office is also in efforts of initiating a youth forum of key stakeholders to support youth empowerment projects. She also speaks of starting a community centre that will offer skills development opportunities for young people in the village. At Okombahe's Lutheran Church, we met with the pastor's wife who is also the secretary for the local high school and a women's leader in the ruling SWAPO party. In addition to her duties at school and church, she has taken initiatives with women in the community to develop a communal vegetable garden, a soup kitchen, and a sewing project. All of the women mentioned above are from Okombahe—unlike some of the men involved in the village, e.g. councillors, headmaster of the high school and clergy for the Catholic and Lutheran Churches who come from outside the village.

Amidst the sense of a community struggling to survive conditions of severe drought, Okombahe also carries an awareness of social change and development. The messenger of the court described how Okombahe had changed over the past few decades. She mentioned the lack of public institutions such as clinics, schools or public offices and how, in the past, conflicts were resolved underneath a large tree. The drive for modernization and the development of better infrastructure is highlighted by economic and environmental conditions which have also cultivated a desire for better institutions. With regard to judicial practice, on the one hand, the site for resolving local conflict has shifted and subsumed

within a greater framework of the magistrate system. On the other hand, for Okombahe's community court, the emergent quality of justice from such judicial practices is intended to retain a degree of continuity with its Damara traditions and heritage. As mentioned above, the quality of justice emerges from an intersubjective dynamic between persons that is not necessarily location specific. Although the objectification and reification of justice give allowance to the notion that justice occurs in particular spaces, the consideration of justice as an intersubjective quality extends the concept of justice into efforts of women on the ground that enable the incubation of such a relational quality. It is in this regard that justice on the ground can extend to the diligence of resolving conflicts on a farm, maintaining the duties of an office, working with community members, as well as taking initiatives to develop and engage the community.

CLOSING REMARKS

Less than 20 years have passed since the passing of Namibia's Community Court Act of 2003, and less than a decade since the establishment of Okombahe's community court. And yet, despite such recent legal formalisation, the merits of a community court are evident. Not only does it operate in the local language, but it is run by those who share a cultural and historical background. It also provides context-specific adjudication and sensitivity by authorities who are also concerned with the social ramifications of an offence. Addressing various conflicts on the ground also aims to maintain amicable social relations between community members and mitigates conflict prior to its escalation. The consequences of jail time and a criminal record can have detrimental effects on households that rely heavily on a single individual's income. Jail time suspends any source of income for the duration of a sentence. A criminal conviction can terminate employment and a criminal record could prevent future employability. The community court prevents such spiralling social and economic consequences.

The concern of jail and criminality has been repeatedly voiced in discussions on domestic abuse and violence; a number of such cases have gone to the magistrate's court in Omaruru. Women who endure abuse share a concern about losing their household's primary source of income and placing a financial burden on fellow community members. Both the Gender Office in Okombahe and the prosecutor in Omaruru, as well as others, have stated that many women will often withdraw reports of

domestic violence, out of fear of losing the primary breadwinner, before the accused can be prosecuted. Consequently, the local police no longer take accusations of domestic violence seriously; there have been too many experiences of processing all the paperwork, only to find that the case withdrawn. When this occurs, the surviving party does not receive any compensation or recourse while the offending party continues without a criminal record. In this regard, the community court would seem well-positioned to engage with cases of domestic violence without the punitive model of the magistrate's court and its socio-economic consequences. The surviving party may have access to compensation and disciplinary action against the accused, while preventing concern of jail time and a criminal record. Moreover, adjudication by the community court also gives notice to those within the community about individuals with histories of abuse. It is in the community members' interest to ensure that conflicts, no matter how trivial, are resolved within the community prior to escalation.

The issue of domestic violence illustrates the paradoxical position women occupy within Okombahe. On the one hand, they are subject to domestic abuse and are often survivors of it. On the other hand, they are the drivers of 'justice', with a greater concern for the well-being of the community. In this sense, they suffer for the household so that their partners may continue to support the family and retain employability. In other words, individual 'justice' is sacrificed for familial sustainability and social 'harmony'. Similarly, the women of Okombahe have positioned themselves in propagating and incubating a relational, intersubjective, quality of 'justice' that extends beyond the magistrate's punitive, individualist model with its legal, social and economic consequences.

At first glance, the structure of Okombahe's community courts and the primacy of the judges' voices and decisions may give the impression of patriarchy. However, this does not necessarily mean that women's voices are absent. While we can certainly raise questions about the extent to which women are taken seriously, their continuous and consistent presence within the community court system ensuring its functioning, as well as their presence outside the community court structure, suggests that the

line between patriarchal and judicial dominance is blurred.¹¹ As exemplified by the women discussed above, the advocacy of justice in Okombahe is more holistic and its relational emphasis further suggests that ‘justice’ is a quality that is developed between intersubjective and structural spaces. Not only are they the support that enables various structures to function, but they are also concerned social actors who take on community development initiatives, mediate conflicts and serve as drivers and leaders in cultivating justice on the ground. In other words, ‘justice’ is not confined to any single space, but also occurs within and between them.

Similarly, prejudice and bias can also propagate a form of injustice that seeps into the cracks of Namibian social structures. The notion that community courts are “backward”, “traditional” and “corrupt” is one that can be found in various offices in Omaruru. In other words, there seems to be little indication from many public officials, such as the magistrate’s court and regional government departments, that the community courts are effective or even necessary. Imagined and conditioned conceptions can often colour views of how traditional authorities and community courts operate. Several public officials in Omaruru and Okombahe were unconvinced of the value of local community courts. A relatively new young public official was unaware of the community court’s existence. Another official in Omaruru thought the community courts were backwards and susceptible to corruption. And another official did not think they were helping to reduce crime and violence. None of these public servants, however, had ever been to a community court hearing. That is, there is a bias of imagination and understanding.

The community courts are contemporary representations of customary practices and have evolved within particular environmental, social and economic circumstances, as well as in accordance with the histories of the land and its people. The merits of the court, on the one hand, include mitigation of jail time and criminal records in circumstances where

¹¹ On the one hand, this raises further questions about the extent to which the community court structure and customary laws are in themselves patriarchal. The issue becomes whether women are simply upholding the social embeddedness of patriarchy. The same question can be raised with regard to the magistrate’s court system. On the other hand, if the structure in itself is neither patriarchal nor matriarchal, the community court of Okombahe presents a case of blended involvement and operationalisation. Both instances require an investigation into customary law and community court structures and how they are, or are not, ‘patriarchal’, as well as the cultural variance characterising ‘patriarchy’; see footnote 10 (Angula 2010).

employment and income can be scarce. After years of colonialism, there is also merit in employing a system of conflict resolution through one's own language and involving local people. In its optimal state, not only does it resolve conflict between parties prior to an escalation in violence, which may require a referral to the magistrate, but it also informs the community of those who are prone to offend again. Moreover, for those cases that require flexibility to achieve resolution, the community court may, upon deliberation, accommodate such instances.

It is all too easy to assume what a social structure should be without considering its function on the ground. Such presumptions have fuelled many ineffective top-down approaches to development and hard definitions of justice. Without experience of the environment, its deprivation and the many actors on the ground, especially women, the disparity between deliberations at the top and everyday concerns of lived experiences at the bottom seldom converge. In the case of Okombahe, and of Namibia in general, it is worth building a greater alliance between community courts, magistrate's court systems and the women that enable them.

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